

ADMINISTRATIVE POLICY & PROCESS DIVISION
July 16, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR LIQUOR VIOLATION CASES

1. Ruiz Corporation, Inc.
Osvaldo Ruiz-Jaramillo, Pres/Treas/Sec/
Director/Stockholder
dba **GUADALAJARA FAMILY
MEXICAN RESTAURANT (F-COM)**
2332 Poplar Drive
Medford, OR 97504

ORS 471.168(1) and OAR 845-005-0400(1) –
From about October 31, 2019 to April 29,
2020, Licensee failed to maintain liquor
liability insurance or a bond with a corporate
surety authorized to transact business in this
state in an amount of not less than \$300,000
for Guadalajara Family Mexican Restaurant.

Note: Licensee was charged with this violation by Notice
dated May 27, 2020. The standard sanction for this
violation when the lapse in coverage is more than 90
days is license cancellation. Licensee wishes to
enter into this settlement agreement.

(Category I)

SYNOPSIS: This Licensee was under investigation for a History of Serious and Persistent Problems based on numerous police reports of disturbances at the premises from 2017 to early 2019. Before that report could be fully evaluated for possible charges by Staff, Licensee voluntarily closed the business and cancelled liquor liability insurance on October 31, 2019. However, Licensee did not surrender the license until April 29, 2020, resulting in this violation.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation.
2. The standard sanction for this violation when the lapse in coverage is more than 90 days is license cancellation. OAR 845-005-0400(8). Commission staff originally proposed a Letter of Reprimand for this violation because Licensee surrendered the license and surrender was accepted on April 29, 2020.
3. Licensee accepts a Letter of Reprimand for this violation. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for any license or permit by the licensee.
4. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their July 2020 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensee waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183) and to judicial review, or to otherwise challenge this agreement and the final order.

2. GTBS, LLC
Robert McAnally, Managing Member
John Kimberly Sanders, Member
dba **SPORTSMAN TAVERN (F-COM)**
145 S Redwood Highway
Cave Junction, OR 97523

OAR 845-006-0345(15) – On or about April 9, 2020, Licensee and/or Licensee’s employees, agents, or representatives offered or allowed consumption of alcoholic beverages on the licensed premises, and/or offered or allowed consumption of food on the licensed premises, in violation of Executive Order 20-07 issued on March 17, 2020, and/or Executive Order 20-14 issued on April 7, 2020.

(1st Level Category II)

OAR 845-006-0345(12) - On or about April 9, 2020, Licensee and/or Licensee’s employees, agents, or representatives allowed six individuals in the premises, identified by Licensee as employees and/or contractors, to mix, dispense, and/or serve alcoholic beverages for or to themselves for on-premises consumption.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated May 13, 2020. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because the violation involved more than one employee or patron. Also, Staff added four days of aggravation because the violation involved more than one employee or patron, and because Licensee was involved.

SYNOPSIS: The premises violated the Governor’s Executive Orders closing down on-premises sales during the COVID emergency by permitting on-premises consumption of alcohol by patrons who entered through the back door. Licensee claimed that the patrons were all employees or contractors, but there is no exception for that type of on-premises consumption. Licensee admitted that the patrons had served themselves. This premises was also subject to an order of immediate suspension which was withdrawn when Josephine County was permitted to enter Phase One.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. This was Licensee’s first Category II violation and first Category III violation within two years. These violations will become a permanent part of each licensee’s Commission file and may be considered in any future application for any license or permit by that licensee. Any subsequent Category II or Category III violation within the same two years will be charged at the second level.
2. The standard sanction for Violation Number One is a 30-day suspension. The Commission added two days of aggravation because the violation involved more than one employee or patron. The Commission will allow a civil penalty option, and impose a 32-day suspension **OR** \$5,280.00 civil penalty.
3. The standard sanction for Violation Number Two is a 10-day suspension or a \$1,650.00 civil penalty. The Commission added four days of aggravation because the violation involved more than one employee or patron, and because Licensee was involved. The Commission will reduce the sanction by three days and impose either an 11-day suspension **OR** a \$1,815.00.00 civil penalty.
4. Licensee will pay a \$7,095.00 civil penalty before 5:00 PM on August 17, 2020 **OR** serve a 43-day license suspension beginning at 7:00 AM on August 24, 2020 and ending at 7:00 AM on October 6, 2020.

(continue **SPORTSMAN TAVERN**)

5. Licensee withdraws the request for hearing.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the allegations, the licensee agrees to accept a Letter of Reprimand for these violations. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for any license or permit by the licensee.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their July 2020 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensees waive any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183) and to judicial review, or to otherwise challenge this agreement and the final order.

3. **BRIAN WILBERT**

(Service Permit #11L78H)

(DONNIE VEGAS)

OAR 845-006-0345(11)(a)(F) – On or about March 4, 2019, Permittee dispensed, poured, or otherwise served an alcoholic beverage directly into a person’s mouth with a punctured alcoholic beverage can.

(1st Level Category III)

OAR 845-006-0345(1) - On or about March 16, 2019, Permittee drank alcoholic beverages while on duty at Donnie Vegas (licensed premises).

(1st Level Category III)

OAR 845-006-0425(1) - On or about March 16, 2019, Permittee permitted alcoholic liquor to be sold, dispensed, served, or consumed on the licensed premises between the hours of 2:30 am and 7:00 am.

(1st Level Category IV)

Note: Permittee was charged with these violations by Notice dated January 28, 2020. The total proposed sanction was a 29-day suspension or \$725.00 civil penalty. Permittee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because the violation involved more than one employee or patron.

SYNOPSIS: Inspector observation at the premises and review of video surveillance revealed several violations by this Permittee, including drinking alcoholic beverages on duty and permitting alcoholic beverages to be consumed on the premises after 2:30 am. Additionally, this Permittee was observed pouring an alcoholic beverage directly into a patron’s mouth from a punctured beer can. The case against the licensee was resolved by settlement at the June 2020 Commission Meeting.

TERMS OF AGREEMENT

1. Permittee accepts responsibility for the violations as set out in the Notice. These were Permittee’s first and second Category III violations within two years (charged at the first level), and first Category IV violation within two years. Any subsequent Category III or IV violation within the same two years will be charged at the second level.
2. The standard sanction for Violations Number One and Number Two is a 10-day suspension or a \$250.00 civil penalty for each.
3. The standard sanction for Violation Number Three is a seven-day suspension or a \$175.00 civil penalty. Staff added two days of aggravation because the violation involved more than one employee or patron.
4. The total proposed sanction was a 29-day suspension or a \$725.00 civil penalty. The Commission will reduce the sanction by eight days.

(continue **BRIAN WILBERT SP #11L78H**)

5. Permittee may pay a \$525.00 civil penalty before 5:00 PM on August 17, 2020, **OR** serve a 21-day suspension beginning at 7:00 AM on August 24, 2020 and ending at 7:00 AM on September 14, 2020.
6. Notwithstanding paragraph 5, Permittee may offset against the 21-day suspension the number of days during which his employer's on-premises privileges were preempted by operation of the Governor's Executive Order 20-07, and/or 20-14.
7. Permittee withdraws the request for a hearing.
8. If Permittee's interest in the permit expires before the Commission issues a final order on this allegation, Permittee agrees to accept a Letter of Reprimand for the violations. This reprimand will become a permanent part of Permittee's Commission file and may be considered in any future application for any permit by the Permittee.
9. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their July 2020 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Permittee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Permittee waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183) and to judicial review, or to otherwise challenge this agreement and the final order.