

ADMINISTRATIVE HEARINGS DIVISION

September 26, 2024

STIPULATED SETTLEMENT AGREEMENTS - LIQUOR VIOLATION CASES

1. Trails End Spirits, LLC
Jerry Brennan, Managing Member
Sara Brennan, Member
dba **TRAIL DISTILLING**
21553 S Hwy 213
Oregon City, OR 97045

OAR 845-006-0345(2) – On or about June 10, 2023, while conducting a distilled spirit tasting in an OLCC retail liquor store, Licensee's employee, agent, or representative Donovan Fellows was under the influence of intoxicants while on duty

Note: Licensee was charged with this violation by Notice dated June 11, 2024. The total proposed sanction was a 30-day license suspension. Licensee wishes to enter into this settlement agreement.

(1st Level Category II)

SYNOPSIS:

Licensee holds a Distillery License. On June 10, 2023, Licensee's employee, Donavan Fellows, went to two retail agent locations to conduct tastings for Licensee. At these locations, Fellows appeared intoxicated and at Baseline Liquor, a manager saw Fellows pouring himself liquor and consuming it. After being told to leave by the manager, Fellows refused and got into a physical altercation with employees as they removed him from the store. Permittee was charged separately for this incident.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II violation within two years. Any subsequent Category II violation within the same two years will be charged starting at the second level. This violation 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 the licensee.
2. Commission staff proposed the standard sanction of a 30-day license suspension for this violation.
3. The Commission will reduce the penalty for the violation by nine days. Licensee will have the option to pay a civil penalty of \$2,475.00 in lieu of 15 days of suspension, with the remaining six days of suspension mandatory.
4. Licensee will pay a \$2,475.00 civil penalty before 5:00 PM on October 15, 2024, **AND** serve a six-day suspension beginning at 7:00 AM on October 22, 2024, and ending at 7:00 AM on October 28, 2024.
5. If Licensee fails to pay the \$2,475.00 civil penalty before 5:00 PM on October 15, 2024, licensee will serve a 21-day suspension beginning at 7:00 AM on October 22, 2024, and ending at 7:00 AM on November 12, 2024.
6. Licensee withdraws the request for hearing.

(continued **TRAIL DISTILLING**)

7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this incident, the licensee agrees to accept a Letter of Reprimand for the 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.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 2024 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. Pugh's, Inc.
Steven Pugh, Pres/Treas/Dir/Stkhldr
Betty Pugh, Vice Pres/Sec/Dir/Stkhldr
Steven Seidel, Stkhldr
Cheryl Bush, Stkhldr
dba **STEVE'S BKFST & MORE (F-COM)**
117 S 14th, Suite A
Springfield, OR 97477

OAR 845-006-0335(1)(a)(b)(c) – On or about December 8, 2023, Licensee's employee, agent, or representative Jenipher Williams failed to verify the age of a minor, before allowing them to buy or be served an alcoholic beverage, when they reasonably appeared to be under 26 years of age.

(1st Level Category II(b))

OAR 845-006-0335(1)(a)(b)(c) - On or about February 9, 2024, Licensee Cheryl Bush failed to verify the age of a minor, before allowing them to buy or be served an alcoholic beverage, when they reasonably appeared to be under 26 years of age.

(2nd Level Category II(b))

ORS 471.360(a) and (b) - From about January 1, 2020, to about January 24, 2024, Licensee failed to make sure that its employee, agent, or representative Cheryl Bush had a valid service permit issued by the Commission prior to allowing them to mix, sell, or serve alcoholic beverages or supervise those who do.

(1st Level Category III)

Note: Licensee was charged with this violation by Notice dated July 10, 2024. The proposed penalty for Violation Number One was the standard sanction of a 10-day license suspension or a civil penalty of \$2,500.00. The standard sanction for Violation Number Two is a 30-day suspension or a civil penalty of \$4,950.00. The standard sanction for Violation Number Three is a 10-day suspension or a \$1,650.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Commission staff added two days aggravation to Violation Number Two because it was committed by Licensee Cheryl Bush. Commission staff added two days aggravation to Violation Number Three because the employee, agent or representative worked without a valid service permit for more than six months.

SYNOPSIS:

During a Minor Decoy Operation, it was discovered that Licensee Cheryl Bush was selling/serving alcohol without a valid service permit. Licensee had worked without a valid service permit from about January 1, 2020, to January 24, 2024.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violations Number One and Number Two were Licensee's first and second Category II(b) violations within two years. Violation Number Three was Licensee's first Category III violation within two years. Any subsequent Category II(b) violation within the same two years will be charged starting at the third level. Any subsequent Category III violation within the same two years will be charged starting at the second level. These violations will become a permanent part of each

(continued **STEVE'S BKFST & MORE**)

licensee's Commission file and may be considered in any future application for any license or permit by the licensee.

2. The standard sanction for Violation Number One is a 10-day suspension or a civil penalty of \$2,500.00. The standard sanction for Violation Number Two is a 30-day suspension or a civil penalty of \$4,950.00. The standard sanction for Violation Number Three is a 10-day suspension or a \$1,650.00 civil penalty. Commission staff added two days aggravation to Violation Number Two because it was committed by Licensee Cheryl Bush. Commission staff added two days aggravation to Violation Number Three because the employee, agent or representative worked without a valid service permit for more than six months. The total proposed penalty was a 54-day license suspension; Licensee was given the option to pay a \$9,430.00 civil penalty in lieu of 52 days, with the remaining two days mandatory.
3. Licensee will have the option to install age verification equipment (AVE) by October 1, 2024. In the event Licensee installs AVE, Licensee will utilize the equipment to verify the age of every patron who reasonably appears to be under 26 years of age. All alcohol sales will be run through registers at which age verification equipment is installed. Installation of age verification equipment that meets all standards set forth in this agreement and in OAR 845-009-140(2) is done in lieu of 10 days of the suspension or \$2,500.00 of the civil penalty.
4. If AVE is installed by October 1, 2024, and certified by Commission staff to meet all the standards identified in OAR 845-009-0140(2) by 5:00PM on October 10, 2024, Licensee will pay a \$5,280.00 civil penalty before 5:00 PM on October 15, 2024, or serve a 32-day license suspension beginning at 7:00 AM on October 22, 2024, and ending at 7:00 AM on November 23, 2024.
5. If AVE is not installed by October 1, 2024, or AVE that meets all the standards identified in OAR 845-009-0140(2) is not in use by October 10, 2024, Licensee will either pay a \$7,780.00 civil penalty before 5:00 PM on October 15, 2024, **OR** serve a 42-day suspension beginning at 7:00 AM on October 22, 2024, and ending at 7:00 AM on December 3, 2024.
6. Licensee understands that it is eligible for a credit for installation of AVE only one time, that the equipment is expected to remain in good order, and that the equipment must be used for as long as Licensee has a liquor license at this premises. Licensee understands that failure to use the equipment, whether by human error or malfunction in future violations, may result in increased penalties and, if applicable, removal from the Responsible Vendor Program.
7. Licensee withdraws the request for hearing.
8. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this incident, the licensee agrees to accept a Letter of Reprimand for the 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.
9. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 2024 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.