

ADMINISTRATIVE HEARINGS DIVISION

April 8, 2021

STIPULATED SETTLEMENT AGREEMENTS FOR LIQUOR VIOLATION CASES

1. Route 99 Enterprises, LLC
Tyson Bafford, Managing Member
Rachelle George, Member
dba **ROUTE 99 ROADHOUSE (F-COM)**
22842 S Hwy 99E
Canby, OR 97013

OAR 845-006-0345(15) On or about January 22, 2021 and/or for several weeks prior to that date, at a time when Clackamas County was designated "Extreme Risk," Licensee engaged in or permitted activity related to the manufacture, possession, sale, purchase, transportation, importation or delivery of alcoholic liquor that violated Executive Order 20-66 issued by the Governor, specifically EO 20-66 paragraphs 2(a)(b)(c) and (4)(c), when Licensee and/or Licensee's employees, agents or representatives allowed indoor on-premises consumption of food and/or drink; did not require patrons and/or staff to wear masks at all times except when eating or drinking or when other exceptions applied; and/or did not enforce or maintain six feet distance among parties/patrons and between parties/patrons and staff.

(1st Level Category II)

OAR 845-006-0347(1)(c), (2)(a). On or about January 22, 2021, Licensee permitted disorderly activities on the licensed premises or in areas the Licensee controls that are adjacent to or outside the premises, when Licensee repeatedly blocked an undercover OLCC inspector's ability to exit while the inspector attempted to leave the premises, and/or failed to prevent or stop patrons from surrounding the OLCC inspector, making physical contact with him, and/or prevent or stop patrons from removing the inspector's mask.

(1st Level Category III)

Note: Licensee was charged with these violations by Order Of Immediate Suspension dated February 2, 2021, which was rescinded on March 4, 2021, and a Notice of Proposed License Suspension/Civil Penalty dated February 9, 2021. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number One and Violation Number Three were aggravated because they were committed intentionally.

(continue **ROUTE 99 ROADHOUSE**)

OAR 845-006-0345(4)(a)(A) On or about January 22, 2021, Licensee and/or Licensee's employees, agents or representatives altered, removed, or concealed potential evidence, or attempted to do so, when a sign was posted on the front door stating, in part, "NOTICE TO GOVERNMENT AGENTS: Be advised that this is a private establishment. You need a warrant to lawfully enter this establishment," and/or when licensee told the OLCC inspector that he was not allowed to enter the premises.

(1st Level Category III)

SYNOPSIS: An inspector went to the premises to investigate potential violations of the Governor's COVID-related Executive Orders. While there, he observed multiple patrons not wearing masks, face shields or face coverings as required and/or not maintaining at least six feet distance between one another. Patrons made physical contact with the inspector in an effort to get him to delete pictures taken on his state issued phone. Licensee admitted that she made a mistake and explained that she received incorrect information from her friend about the mask rule.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Licensee agrees that the Immediate Suspension was proper.
2. This was Licensee's first Category II violation and Licensee's first and second Category III violations, charged at the first level because they were discovered concurrently. Any subsequent Category II or Category III violations within the same two years will be charged at the second level. 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.
3. The standard sanction for the Category II violation is a 30-day license suspension. The standard sanction for the Category III violations is a 10-day suspension or \$1,650.00 civil penalty each. Violation Number One and Violation Number Two were aggravated because they involved more than one patron or employee. Violation Number One and Violation Number Three were aggravated because they were committed intentionally. Violation Number Two was aggravated because the licensee personally committed the violation.
4. Commission staff recommended a 60-day suspension. Licensee had the option to pay a \$4,290.00 civil penalty in lieu of 26 days suspension.
5. The Commission will reduce the sanction for Violation Number One to a 25-day license suspension; Licensee may pay a \$2,475.00 civil penalty in lieu of 15 days of suspension, with the remaining 10 days of the suspension mandatory. The Commission will reduce the sanction for Violation Number Two to an eleven day license suspension or a \$1,815.00 civil penalty. The Commission will reduce the sanction for Violation Number Three to a nine-day license suspension or a \$1,485.00 civil penalty.

(continue **ROUTE 99 ROADHOUSE**)

6. Licensee will either pay a \$5,775.00 civil penalty before 5:00 PM on May 17, 2021 **and** serve a 10-day suspension beginning at 7:00 AM on May 24, 2021 and ending at 7:00 AM on June 3, 2021 **OR** serve a 45-day suspension beginning at 7:00 AM on May 24, 2021 and ending at 7:00 AM on July 8, 2021.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this allegation, the licensee agrees to accept 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 by the licensee.
8. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2021 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.