

ADMINISTRATIVE HEARINGS DIVISION

January 21, 2021

**STIPULATED SETTLEMENT AGREEMENTS FOR LIQUOR VIOLATION CASES**

1. JK Enterprise Incorporated  
Josephine Kiraz, Pres/Dir/Stockholder  
dba **CABARET II (F-COM)**  
17544 SE Stark  
Portland, OR 97233

OAR 845-006-0345(17)(a) - On or about July 24, 2020 and/or on or about August 28, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated the Oregon Health Authority's (OHA) Statewide Mask, Face Shield, Face Covering Guidance issued on July 24, 2020 (Mask Guidance), when they failed to require employees, contractors, volunteers, customers and/or visitors to wear a mask, face shield, or face covering at the licensed premises in indoor spaces open to the public, at times and under circumstances in which the exceptions to the Mask Guidance did not apply.

(1<sup>st</sup> Level Category II)

OAR 845-006-0345(17)(b) - On or about July 24, 2020 and/or on or about August 28, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated OHA's Phase Two Reopening Guidance for Restaurants and Bars, issued on July 24, 2020 (Phase Two Guidance), when patrons and/or parties of patrons were not required to maintain at least six (6) feet distance between one another; employees failed to maintain at least six (6) feet distance from patrons while taking orders or providing services, both in the dance area and at the bar area.

(1<sup>st</sup> Level Category II)

Note: Licensee was charged with these violations by Notice dated October 21, 2020. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Commission staff added eight days of aggravation because Violations One and Two involved more than one employee or patron and were repeated.

(continue **CABARET II**)

**SYNOPSIS:** On two separate occasions business operations were observed not complying with OHA's mask and social distancing requirements despite inspector's previous verbal warnings. Subsequently, Licensee temporarily closed its premises to make proactive changes, including placing five-foot partitions with Plexiglas throughout the interior, removal of chairs and rearrangement of tables, reducing the number of entertainers to ensure social distancing requirements are met, and holding staff meetings on its COVID policy.

### **TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second Category II violations within two years, charged at the first level. Any subsequent Category II violation 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.
2. The standard sanction for Violations One and Two is a 30-day suspension each. Commission staff added eight days of aggravation because Violations One and Two involved more than one employee or patron and were repeated.
3. The Commission will reduce the sanction and impose a 50-day license suspension. Licensee has the option of paying a \$7,425.00 civil penalty in lieu of 45 days, with five days mandatory.
4. Licensee will pay a \$7,425.00 civil penalty before 5:00 PM on February 16, 2021, and the five-day suspension will begin at 7:00 AM on February 23, 2021 and end at 7:00 AM on February 28, 2021, **OR** serve a 50-day suspension beginning at 7:00 AM on February 23, 2021 and ending at 7:00 AM on April 14, 2021.
5. Licensee withdraws its requests 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 the 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 by the licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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, 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.

2. Se7en Group, Inc.  
Brian Timme, Pres/Director/Stockholder  
Megan Kleck, Sec/Director/Stockholder  
dba **SEVEN NIGHTCLUB**  
1033 NW Bond St.  
Bend, OR 97703

**(Immediate Suspension)** OAR 845-006-0345(17)(a) On or about October 30, 2020 and/or October 31, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated the Oregon Health Authority's (OHA) Statewide Mask, Face Shield, Face Covering Guidance issued on July 24, 2020 (Mask Guidance), when they failed to require customers and/or visitors to wear a mask, face shield, or face covering at the licensed premises in indoor spaces open to the public, at times and under circumstances in which the exceptions to the Mask Guidance did not apply.

(1<sup>st</sup> Level Category II)

**(Immediate Suspension)** OAR 845-006-0345(17)(b) On or about October 30, 2020 and/or October 31, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated OHA's Phase Two Reopening Guidance for Restaurants and Bars, issued on July 24, 2020, when patrons and/or parties of patrons were not required to maintain at least six feet distance between one another; employees failed to maintain at least six feet distance from patrons while taking orders or providing services, both in the dance area and at the bar area; parties of patrons were not limited to 10 people or fewer; and/or frequent disinfecting of touch points was not implemented.

(1<sup>st</sup> Level Category II)

OAR 845-006-0345(17)(a) - On or about October 30, 2020 and/or October 31, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated the Oregon Health Authority's (OHA) Statewide Mask,

Note: Licensee was charged with these violations by an Order of Immediate Suspension dated November 5, 2020 and a Notice of Proposed License Suspension, dated November 19, 2020. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Commission staff added eight days of aggravation because both violations involved more than one employee or patron and were repeated.

(continue **SEVEN NIGHTCLUB**)

Face Shield, Face Covering Guidance issued on July 24, 2020 (Mask Guidance), when they failed to require customers and/or visitors to wear a mask, face shield, or face covering at the licensed premises in indoor spaces open to the public, at times and under circumstances in which the exceptions to the Mask Guidance did not apply.

(1<sup>st</sup> Level Category II)

OAR 845-006-0345(17)(b) - On or about October 30, 2020 and/or October 31, 2020, Licensee and/or Licensee's employees, agents or representatives engaged in or permitted activity that violated OHA's Phase Two Reopening Guidance for Restaurants and Bars, issued on July 24, 2020, when patrons and/or parties of patrons were not required to maintain at least six feet distance between one another; employees failed to maintain at least six feet distance from patrons while taking orders or providing services, both in the dance area and at the bar area; parties of patrons were not limited to 10 people or fewer; and/or frequent disinfecting of touch points was not implemented.

(1<sup>st</sup> Level Category II)

**SYNOPSIS:** After the Deschutes County public health department received a complaint that the licensed premises was not enforcing mask or distancing requirements from an individual who had been to the premises and tested positive for COVID-19, Inspectors went to the premises on October 30<sup>th</sup> and witnessed non-compliance with the guidelines. On October 31<sup>st</sup>, Inspectors provided training before opening on how to get and stay in compliance with the mask and distancing requirements. When Inspectors returned that night after the training, Licensee had not implemented any of the proposed changes and the Inspectors observed the same non-compliance. Licensee had also received prior warnings about non-compliance in July. The license was immediately suspended and Licensee was issued a Notice of Violation proposing license suspension. Licensee submitted evidence of steps they will take to stay in compliance once they are able to operate again.

#### **TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Immediate Suspension and the Notice. These were Licensee's first and second Category II violations within two years, charged at the first level. Any subsequent Category II violation 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.

(continue **SEVEN NIGHTCLUB**)

2. The standard sanction for each violation is a 30-day suspension. Commission staff added eight days of aggravation because both violations involved more than one employee or patron and were repeated.
3. The Commission will reduce the sanction and impose a 50-day license suspension.
4. Licensee will serve a 50-day suspension beginning immediately upon ratification of this agreement by the Commission on January 21, 2021, and ending at 7:00am on March 12, 2021. Licensee agrees that the Immediate Suspension was proper and that it will remain in effect until the 50-day penalty suspension begins.
5. Licensee will also accept the imposition of the following restriction on the license identified in this agreement, without any conditions or reservations: At all times while there is a declared State of Emergency in the State of Oregon and/or Deschutes County due to the COVID-19 pandemic, Licensee will comply with all applicable Executive Orders issued by the Governor, and applicable public health laws, rules, and guidance, including but not limited to OHA statewide mask and face covering guidance, OHA guidance for eating and drinking establishments, and/or Commission rules regarding operation during the COVID-19 pandemic.
6. Licensee withdraws its request for a hearing in the two contested cases.
7. 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 the 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 by the licensee.
8. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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, 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. Johman, Inc.  
Manjo Aneja, President/Director/Stkhldr  
Kumar, Secretary/Director/Stkhldr  
dba **STOP N GO MARKET**  
2362 Antelope Rd.  
White City, OR 97503

ORS 471.425(1) - On February 7, 2019, Licensee Kumar made a false statement to the Commission in order to induce or prevent action by the Commission when he stated to OLCC Inspector Gray that he was unaware of the alcohol sales training requirements for store employees

(1<sup>st</sup> Level Category II)

OAR 845-009-0130(2) On the dates indicated below, Licensee permitted the listed employees, agents, servants or representatives to sell alcoholic beverages for off-premises consumption without providing the employees, agents, servants or representatives with training that satisfied the requirements of the Commission-approved training described in OAR 845-009-0130(3)(a) or the licensee-provided training described in OAR 845-009-0130(3)(b), or without verifying that the employees satisfied the requirements of the service permit training options described in OAR 845-009-0130(3)(c).  
Autumn Reyes from September 20, 2018 to February 7, 2019 and Nikita Yadav from April 13, 2018 to February 7, 2019.

(1<sup>st</sup> Level Category IV)

Note: Licensee was charged with these violations by Notice dated June 4, 2019. Licensee wishes to enter into this settlement agreement.

**AGGRAVATION**

Violation Number Two was aggravated because the violation occurred for over six months.

**SYNOPSIS:** Licensee made a false statement when he stated that he was unaware of the training requirements for employees that would sell alcohol. Two employees did not complete required training prior to selling alcohol

**TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first Category II and Category IV violations within two years. Any subsequent Category II or Category IV 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.
2. The standard sanction for the Category II violation is a 30-day license suspension. The standard sanction for the Category IV violation is a seven-day license suspension or a \$1,155.00 civil penalty. Violation Number Two was aggravated because the violation occurred for over six months. Commission staff recommended a 39-day suspension. Licensee had the option to pay a \$1,485.00 civil penalty in lieu of nine days suspension.

(continue **STOP N GO MARKET**)

3. The Commission will reduce the sanction for Violation Number One to a 21-day license suspension; Licensee may pay a \$2,145.00 civil penalty in lieu of 13 days of suspension, with the remaining 8 days of the suspension mandatory. The Commission will reduce the sanction for Violation Number Two to a seven-day license suspension or a \$1,155.00 civil penalty.
4. Licensee will pay a \$3,300.00 civil penalty before 5:00 PM on February 16, 2021, **AND** serve an 8-day suspension beginning at 7:00 AM on February 23, 2021 and ending at 7:00 AM on March 3, 2021; **OR** serve a 28-day suspension beginning at 7:00 AM on February 23, 2021 and ending at 7:00 AM on March 23, 2021.
5. Licensee withdraws its request for a hearing and any right it may have had to entry of a final order in this matter based on anything other than this Settlement Agreement.
6. In consideration of the forbearance stated herein, Licensee agrees to release and waive any and all claims of any kind, known or unknown, past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or agents arising out of the matters set forth in the Notices, the Proposed Order, or this Settlement Agreement and the final order based hereon, including but not limited to any claim under federal or state law for damages, declaratory or equitable relief, under 42 USC §1983 *et. seq.*, and for attorneys fees or costs.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these incidents, the licensee agrees to accept a Letter of Reprimand for the 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.
8. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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.

4. Bierhaus, Inc.  
Ryan Gengler, Pres/Dir/Stockholder  
Ben Rash, Sec/Dir/Stkhldr  
dba **BIERHAUS**  
315 N Main Street  
Mt Angel, OR 97362

OAR 845-006-0345(17)(a) On or about August 7, 2020, Licensee and/or Licensee's employees, agents, or representatives engaged in or permitted activity that violated the Oregon Health Authority's (OHA) Statewide Mask, Face Shield, Face Covering Guidance issued on July 24, 2020 (Mask Guidance), when they failed to require employees, contractors, volunteers, customers and/or visitors to wear a mask, face shield, or face covering at the licensed premises in indoor spaces open to the public, at times and under circumstances in which the exceptions to the Mask Guidance did not apply.

(1st Level Category II)

Note: Licensee was charged with this violation by Notice dated November 4, 2020. Licensee 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:** After receiving a warning about non-compliance with the Executive Orders regarding face coverings and social distancing from OLCC inspectors during a previous site inspection, Inspectors observed continued non-compliance and multiple patrons not wearing masks. The Inspectors observed the bartender not making an effort to get the patrons to comply with the guidelines. When the Inspectors contacted the licensee they described the difficulty of enforcing the mask requirements, but have since instituted multiple measures in the premises and with their employees to ensure future compliance.

**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 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 that licensee.
2. The standard sanction for the violation is a 30-day suspension. Staff added two days of aggravation because the violation involved more than one employee or patron. The total proposed sanction was a 32-day suspension.
3. The Commission will reduce the sanction and impose a 23-day suspension. Licensee may pay a \$2,970.00 civil penalty in lieu of 18 days, with the remaining five days mandatory.
4. Licensee will either pay a \$2,970.00 civil penalty before 5:00 PM on February 16, 2021, and serve a five-day license suspension beginning at 7:00 AM on February 23, 2021 and ending at 7:00 AM on February 28, 2021 **OR** serve a 23-day license suspension beginning at 7:00 AM on February 23, 2021 and ending at 7:00 AM on March 18, 2021.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the allegation, 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.



(continue **BIERHAUS**)

6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 2021 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensees' 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.