

BEFORE THE EXECUTIVE DIRECTOR, DEPARTMENT OF REVENUE

STATE OF COLORADO

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STIPULATION, AGREEMENT, AND ORDER  
SA 17-293

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IN THE MATTER OF:

**Retail Liquor Store License No.**

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The State of Colorado, Liquor Enforcement Division ("Division") and \_\_\_\_\_ ("Licensee")  
hereby stipulate and agree as follows:

1. Licensee has been the subject of an investigation conducted by the Division. Agents of the Division allege violations of the Colorado Liquor Code, Sections 12-47-901(1)(a.5)(I), and 12-47-901(10)(a), C.R.S.

IT IS ALLEGED THAT:

- A. On July 15, 2017, the Licensee, by and through its employee/agent \_\_\_\_\_, permitted the selling, serving, giving, or procuring of an alcohol beverage (New Belgium and malt liquor) to 16WM18589, a eighteen-year-old Liquor Enforcement Division underage purchaser.
  - B. Owner, \_\_\_\_\_, failed to verify that the consumer was at least twenty-one (21) years of age by requiring the consumer to present a valid identification and who appeared to be under the age of fifty (50).
  - C. This case is aggravated due to the owner, \_\_\_\_\_, being directly involved in the sale of the alcohol beverage to the underage purchaser.
2. Licensee acknowledges receipt of sufficient notice, advisement of rights, and process of the proceedings and wishes to resolve all issues which were the subject of the investigation, by entering into this Stipulation, Agreement, and Order ("Order").

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3. The Division and Licensee have discussed the merits of the investigation and allegations, and they have come to a mutual agreement and understanding to jointly propose to the State Licensing Authority a resolution of the allegations in lieu of proceeding to the issuance by the State Licensing Authority of an Order to Show Cause and conducting a hearing to determine the merits of such allegations. The terms and conditions of this Order are subject to approval by the State Licensing Authority.
4. Licensee admits the violations as alleged above in paragraph 1.
5. Licensee agrees, in lieu of the issuance of an Order to Show Cause, and subsequent proceedings, to submit to the following sanctions:
  - A. A **fifteen (15) day** suspension of Licensee's **retail liquor store license** to take place as follows:
    - i. License to be actively suspended for **seven (7) days** from 12:01 a.m. on **November 8, 2017** until 11:59 p.m. on **November 14, 2017**.
    - ii. During any period of active license suspension, Licensee shall post signs on its premises in compliance with Regulation 47-600(F), 1 C.C.R. 203-2.
    - iii. **Eight (8) days** of the suspension to be held in abeyance for a period of one (1) year, from the date of approval of this agreement by the state licensing authority, pending no further violations of the Colorado Liquor Code, Section 12-47-901(1)(a.5)(I), C.R.S., during this period.
6. The Licensee has filed a written petition to the Division in accordance with 12-47-601(3), C.R.S. requesting the Licensee be allowed to pay a fine in lieu of active suspension. The Division finds that the petition supports the following:
  - A. That the public welfare and morals would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and
  - B. That the books and records of the Licensee are kept in such a manner that loss of sales of alcohol beverages which the Licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.
7. The parties agree that the fine shall be the equivalent of twenty percent (20%) of the Licensee's estimated gross revenues from the sales of alcohol beverages during a period

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of seven (7) days, except that the fine shall not be less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00). The parties agree that the average days' sales for the month of July 2017 shall be the appropriate measure of said estimated gross revenues. Based upon these records, the amount of the fine has been determined to be \$3,927.00.

- A. Payment of the fine pursuant to the provisions of this agreement shall be in the form of a **certified check or a cashier's check** made payable to the Colorado Department of Revenue. Said fine shall be paid to the Department of Revenue on or before October 16, 2017.
  - B. Upon the timely payment of the fine agreed upon in this paragraph, Licensee's seven (7) day suspension as set forth in paragraph 4 of this stipulation and agreement shall be deemed automatically permanently stayed.
  - C. If the Licensee fails to make payment in a timely manner as detailed in this paragraph, the full seven (7) day suspension shall be served as detailed in paragraph 5.
8. This Order shall be admissible as evidence in future proceedings concerning any alleged violation of this Order. The matters at issue in said future proceeding shall be limited to the question of whether or not Licensee has failed to comply with the terms of this Order. Any issues relating to the underlying complaint or investigation that formed the basis for action against Licensee (and any defenses that Licensee may have to such complaint and investigation) shall specifically not be at issue in the proceeding against Licensee for failing to comply with the terms of this Order. In the event an alleged violation of this Order is taken to hearing and the State Licensing Authority determines that the allegations are proven, or Licensee enters into a stipulation in lieu of hearing in which it admits such allegations, the State Licensing Authority shall, in addition to any other penalty imposed, order Licensee to serve all or any days of suspension presently held in abeyance pursuant to this agreement. In the event an alleged violation of this Order is taken to hearing and the State Licensing Authority determines that the allegations are unproven, then the Division shall take no further action and this Order shall remain operative and in full force and effect.
9. Upon execution by all parties, this Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to § 12-47-601, C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the State Licensing Authority as set forth in §§12-47-103(9) (b) and 12-47-601, C.R.S.

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10. Licensee expressly agrees and acknowledges that Licensee has entered into this Order knowingly and voluntarily. Licensee acknowledges that the terms of this Order were mutually negotiated and agreed upon. After the opportunity to consult with legal counsel, Licensee affirms that Licensee has read this Order and fully understands its nature, meaning and content. Licensee agrees that upon execution of this Order, no subsequent action or assertion shall be maintained or pursued by Licensee asserting the invalidity in any manner of this Order.
11. Upon execution by all parties, this Order shall represent the entire and final agreement of the parties. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of this Order shall be given full force and effect.
12. Licensee understands and knowingly and voluntarily enters into this Order. Licensee further understands and knowingly and voluntarily waives the following rights:
  - A. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Order and the right to require the State Licensing Authority to meet its burden of proof in a formal hearing;
  - B. The right to cross-examine all witnesses against Licensee at a formal hearing;
  - C. The right to subpoena witnesses, present evidence and to testify on Licensee's own behalf at a formal hearing;
  - D. The right to be represented by counsel of Licensee's own choosing and at Licensee's expense at any stage of this proceeding;
  - E. The right to engage in pre-hearing discovery of the State Licensing Authority's evidence; and
  - F. The right to appeal this Order.
13. All the costs and expenses incurred by Licensee to comply with this Order shall be the sole responsibility of the Licensee, and shall not in any way be the obligation of the Division.
14. This Order shall be effective on the date approved and ordered by the Executive Director of the Department of Revenue, as the State Licensing Authority. Should the State

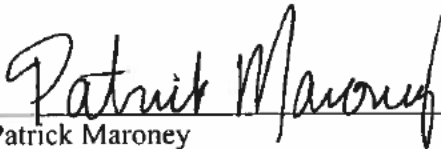
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Licensing Authority reject the terms hereof, Respondent's admissions herein shall be withdrawn, and the matter scheduled for a hearing after issuance of an Order to Show Cause.

15. Upon approval and order of the State Licensing Authority, this Order shall become a permanent part of the record, and shall be open to public inspection and published pursuant to the Division's standard policies and procedures or applicable law.

  
Patrick Maroney  
Director  
Liquor Enforcement Division

09-07-17  
Date

8/29/17  
Date

APPROVED and ORDERED this 26<sup>th</sup> day of September 2017.

  
Michael S. Hartman  
Executive Director  
Department of Revenue  
State Licensing Authority

*Telecopy or electronic versions of this stipulation which contain telecopy facsimiles of signatures shall be deemed duplicate executed originals of this stipulation. This stipulation may be executed in counterparts and delivered by facsimile, U.S. Mail (or private carrier), or pdf transmission.*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing **STIPULATION, AGREEMENT, AND ORDER** was placed in the United States Mail on September 26, 2017, addressed as follows:

	Sandra Lowman Liquor Enforcement Division 1881 Pierce Street, Suite 108 Lakewood, CO 80214 Sandra.Lowman@state.co.us
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By: 

Christine Lovato