

CITY OF LITTLETON LIQUOR LICENSING AUTHORITY

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STIPULATION, AGREEMENT AND ORDER

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IN THE MATTER OF:

The Shack JDR Restaurant and Bar Group  
d/b/a The Shack  
151 W. Mineral Ave  
Littleton, Colorado 80120

License No. 02684310000  
License Type: Hotel and Restaurant  
License Expiration Date: 12/13/18

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The City of Littleton Prosecutor and The Shack JDR Restaurant and Bar Group d/b/a The Shack, located at 151 W. Mineral Ave., Littleton, CO 80120, ("Licensee") hereby stipulate and agree as follows:

1. Licensee was issued an ORDER TO SHOW CAUSE AND NOTICE OF HEARING alleging a violation of Littleton Municipal Code Section 3-2-10(F) Sale to Intoxicated Persons and Colorado Revised Statutes Section 12-47-901(1)(a).

IT IS ALLEGED THAT:

- A. On October 14, 2017, starting at approximately 11:23 AM, Licensee sold three (3) mimosas, ten (10) well vodkas and one (1) Miller Light bottle to a patron over the course of approximately six and a one half (6.5) hours. The patron consumed thirteen (13) of the fourteen (14) drinks he purchased. Though the patron appeared visibly intoxicated, licensee continued to serve the patron drinks. Shortly after the patron left the Shack, he was contacted by the police and he was so intoxicated that he had trouble standing or walking without assistance.
- B. These facts as summarized would constitute a violation of Littleton Municipal Code 3-2-10(F) and C. R.S. § 12-47-901(a).

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 Order to Show Cause and Notice of Hearing, by entering into this Stipulation, Agreement and Order.

3. The Prosecutor and Licensee have discussed the merits of the violation and allegations and have come to a mutual agreement and understanding and jointly propose to the Littleton Liquor Licensing Authority ("Authority") a resolution of the allegations in lieu of proceeding to a Hearing on the merits of the alleged violations as detailed in the Order to Show Cause that was issued by this Authority on February 7, 2018.

4. Licensee admits the violations as alleged above in paragraph 1 above.

5. Licensee agrees, in lieu of a Hearing on the Order to Show Cause, to submit to the following sanction:

- A. A ten (10) day suspension of Licensee's liquor license with three (3) days of actual suspension and seven (7) days held in abeyance for one (1) year from the date of the final Order. Licensee shall be allowed to pay a fine in lieu of the actual suspension.
- B. For purposes of permitting the Licensee to pay a fine in lieu of actual suspension, the parties to this Agreement state as follows:
  - 1. 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;
  - 11. That the books and records of the Licensee are kept in such a manner that the loss of sales of alcoholic beverages that the Licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
  - 111. Licensee has not had its license suspended or revoked, or paid a fine in lieu of such actions, within the prior two years.
- C. The fine shall be the equivalent of twenty percent (20%) of the Licensee's gross sales of alcohol beverages during the period of the proposed suspension; except that the fine shall not be less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00) pursuant to C.R.S. § 12-47-601. The period of proposed suspension for purposes of calculating the fine in lieu of suspension shall be: October 12, 2017 to October 14, 2017 (Thursday, Friday, Saturday), inclusive.
- D. Payment of this fine shall be in the form of cash, certified check, or money order, made payable to the City of Littleton. The fine shall be paid within ten (10) business days of notice from the City Clerk of the final determined amount. Upon payment of the fine the three (3) day active suspension shall be permanently stayed with the remaining days held in abeyance for one year from the date of this stipulation.

6. This Stipulation and 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 case or investigation that formed the basis for this Order against Licensee (and any defenses that Licensee may have to the underlying case and investigation) shall specifically not be an issue in the proceeding against Licensee for failing to comply with the terms of this Order. In the event that an alleged violation of this Order is taken to hearing, and the Authority determines that the allegations are proven, or Licensee enters into a Stipulation in lieu of such a hearing in which it admits such allegations, the Authority shall, in addition to any other penalty imposed, order Licensee to serve all of the 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 Authority determines that the allegations are unproven, then the Prosecutor shall take no further action and this Order shall remain operative and in full force and effect.

7. 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 C.R.S. Section 12-47-601, except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by this Authority.

8. 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.

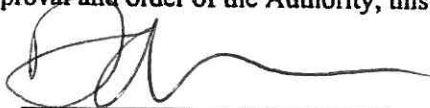
9. Upon execution by all parties, this Order shall represent the entire and final agreement of the parties. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of this Order shall be given full force and effect.

10. Licensee understands and knowingly and voluntarily enters into this Order. Licensee further understands and knowingly and voluntarily waives all the rights it would have had at a Show Cause Hearing.

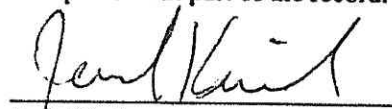
11. All the costs and expenses incurred by Licensee to comply with this Order shall be the sole responsibility of the Licensee, and shall not in any way be the obligation of the City of Littleton or the Authority.

12. This Order shall be effective on the date approved and ordered by the Authority and the Licensing Authority Chair. Should the Authority reject the terms hereof, Licensee's admissions herein shall be withdrawn, and the matter set for a continued Show Cause Hearing.

13. Upon approval and order of the Authority, this Order shall become a permanent part of the record.



Dahlia Olsher Tannen, # 46822  
City of Littleton Prosecutor



Jack Kisch  
President, for the Licensee

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**APPROVED AND ORDERED:**

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**Licensing Authority Chair**

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**Date**