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7 **BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

8 IN THE MATTER OF:

9 SWIMMERS, INC. d/b/a  
10 HERB'S  
80 1<sup>ST</sup> STREET S  
FRIDAY HARBOR, WA 98250

11 LICENSEE

12 LICENSE NO. 350658-3D  
13 AVN NO. 3D1336A

LCB NO. 23,933

FINAL ORDER OF THE BOARD  
APPROVING STIPULATED  
SETTLEMENT AGREEMENT

~~PROPOSED~~

14 THIS MATTER having come before the Washington State Liquor Control Board  
15 (Board) and the Washington State Liquor Control Board Education and Enforcement Division  
16 (Enforcement) by and through its attorneys, ROBERT M. MCKENNA, Attorney General, and  
17 MARISA E. BROGGEL, Assistant Attorney General, and SWIMMERS, INC. d/b/a HERB'S  
18 (Licensee), represented by and through SHELLEY BORAHAN, President, and the parties  
19 having voluntarily entered into a stipulated settlement agreement for Administrative Violation  
20 Notice (AVN) No. 3D1336A, Case No. 23,933, and the Board having considered the stipulated  
21 settlement agreement and Enforcement's memorandum recommending acceptance of the  
22 stipulated settlement agreement, and the Board having had the opportunity to review the file  
23 materials maintained in this case, now, therefore:

24 IT IS HEREBY ORDERED that the allegation set forth in AVN No. 3D1336A, to wit:  
25 that on or about December 2, 2011, the above-named Licensee or employee(s) thereof  
26

1 permitted an apparently intoxicated person to possess and/or consume liquor in violation of  
2 WAC 314-16-150, is sustained.

3 IT IS FURTHER ORDERED that the Licensee shall pay a monetary penalty of one  
4 thousand five hundred dollars (\$1,500). The Licensee agrees to pay this amount in two equal  
5 installments of seven hundred and fifty dollars (\$750) each, the first payment due within thirty  
6 (30) days of the date of the Final Order of the Board, no later than 4:00 p.m. on the applicable  
7 date; and the second payment due within sixty (60) days of the date of the Final Order of the  
8 Board, no later than 4:00 p.m. on the applicable date. Payments shall be sent to:

9 **Washington State Liquor Control Board**  
10 **Enforcement and Education Division**  
11 **3000 Pacific Ave. SE**  
12 **PO Box 43085**  
13 **Olympia, WA 98504-3085**

14 IT IS FURTHER ORDERED that the Licensee and each of its employees will  
15 participate in a Responsible Liquor Sales training class with its assigned Liquor Enforcement  
16 Officer(s) within sixty (60) days of this order.

17 In the event the Licensee fails to make full and timely payment of the monetary  
18 penalty, the Licensee shall serve a seven (7) day suspension of its liquor license, the dates and  
19 time of which shall be set by the Washington State Liquor Control Board.

20 DATED this 24 day of May, 2012.

21 WASHINGTON STATE LIQUOR CONTROL BOARD

22 Ruthann Kurose  
23 Sharon Foster  
24 Chris  
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7 IN THE MATTER OF:

LCB NO. 23,933

8 SWIMMERS, INC. d/b/a  
9 HERB'S  
80 1<sup>ST</sup> STREET S  
FRIDAY HARBOR, WA 98250

STIPULATED SETTLEMENT  
AGREEMENT

10 LICENSEE

11 LICENSE NO. 350658-3D  
12 AVN NO. 3D1336A

13 The Washington State Liquor Control Board Education and Enforcement Division  
14 (Enforcement), by and through its attorneys, ROBERT M. MCKENNA, Attorney General,  
15 and MARISA E. BROGGEL, Assistant Attorney General, and SWIMMERS, INC. d/b/a  
16 HERB'S (Licensee), represented by and through SHELLEY BORAHAN, President, hereby  
17 enter into this stipulated settlement agreement for Washington State Liquor Control Board  
18 (Board) Case No. 23,933, arising from Administrative Violation Notice (AVN) No. 3D1336A.

19 **I. INTRODUCTION**

20 The Washington State Liquor Control Board Enforcement and Education Division  
21 issued AVN No. 3D1336A to the Licensee, alleging that on or around December 2, 2011, the  
22 Licensee or employee(s) thereof permitted an apparently intoxicated person to possess and/or  
23 consume liquor on the licensed premises, in violation of WAC 314-16-150.

24 **II. AGREEMENT OF THE PARTIES**

25 Prior to scheduling an administrative hearing in this matter, Enforcement and the  
26 Licensee have agreed to enter into the following Stipulated Settlement Agreement

STIPULATED SETTLEMENT  
AGREEMENT  
SWIMMERS, INC. D/B/A HERB'S  
23,933

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ATTORNEY GENERAL OF WASHINGTON  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 664-9006

ORIGINAL

1 (Agreement) concerning the above-referenced AVN. Enforcement and the Licensee agree to  
2 the following:

3 1. Enforcement and the Licensee enter into this Agreement to avoid the time and  
4 expense of further litigation.

5 2. The Licensee explicitly waives the right to further administrative review of all  
6 matters related to the above-referenced AVN. Furthermore, the Licensee hereby voluntarily  
7 withdraws its request for a hearing in this matter.

8 3. This Agreement constitutes the final written expression of all the terms of this  
9 Agreement and is a complete and exclusive statement of these terms.

10 4. The Licensee stipulates to the violation set forth in the above-referenced AVN.  
11 Specifically, the Licensee admits that or around December 2, 2011, the Licensee or  
12 employee(s) thereof permitted an apparently intoxicated person to possess and/or consume  
13 liquor on the licensed premises, in violation of WAC 314-16-150.

14 5. The Licensee admits that the violation to which it stipulates is the Licensee's  
15 second violation of this type within a twenty-four (24) month period, for which the standard  
16 penalty is suspension of the Licensee's liquor license for seven (7) days.

17 6. The Licensee agrees to pay a monetary penalty of one thousand five hundred  
18 dollars (\$1,500) for the violation stipulated to in Section II, Paragraph 4. The Licensee agrees  
19 to pay this amount in two equal installments of seven hundred and fifty dollars (\$750) each,  
20 the first payment due within thirty (30) days of the date of the Final Order of the Board, no  
21 later than 4:00 p.m. on the applicable date; and the second payment due within sixty (60) days  
22 of the date of the Final Order of the Board, no later than 4:00 p.m. on the applicable date.

23 Payments shall be sent to:

24 **Washington State Liquor Control Board**  
25 **Enforcement and Education Division**  
26 **3000 Pacific Ave. SE**  
**PO Box 43085**  
**Olympia, WA 98504-3085**

1           7.     In the event that the Licensee fails to make the full payment of the monetary  
2 penalty on time, as set out and required by Section II, Paragraph 6, the Licensee shall be  
3 subject to a seven (7) day suspension of its liquor license, the dates of suspension to be  
4 determined by the Board.

5           8.     The Licensee further agrees that within sixty (60) days of the date of the Final  
6 Order of the Board, the Licensee and each of its employees will participate in a Responsible  
7 Liquor Sales training class through Enforcement. The Licensee is responsible for  
8 coordinating the date, time and location of the training class through its assigned Liquor  
9 Enforcement Officer.

10          9.     The parties recognize that this Agreement is subject to approval by the Board.

11          10.    The undersigned parties declare that the terms of this Agreement are  
12 completely read, wholly understood, and voluntarily accepted for the purpose of making a full  
13 and final compromise and settlement of any and all violations arising from the above-  
14 referenced AVN.

15  
16 ROBERT M. MCKENNA  
Attorney General

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18 \_\_\_\_\_  
19 MARISA E. BROGGEL, WSBA #41767  
20 Assistant Attorney General  
21 Attorneys for Washington State  
22 Liquor Control Board Education and  
23 Enforcement Division

5/17/2012  
\_\_\_\_\_  
DATE

22   
23 \_\_\_\_\_  
24 SHELLEY BORAHAN, President  
25 Swimmers, Inc. d/b/a Herb's  
26 Licensee

5/5/12  
\_\_\_\_\_  
DATE



**Washington State  
Liquor Control Board**

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May 25, 2012

Shelley Borahan, President  
Swimmers, Inc.  
d/b/a Herbs  
PO Box 914  
Friday Harbor, WA 98250-0914

Marisa Broggel, AAG  
GCE Division, Office of Attorney General  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100

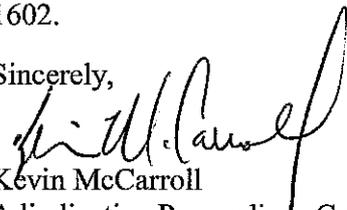
**RE: FINAL ORDER OF THE BOARD APPROVING STIPULATED SETTLEMENT AGREEMENT**  
**LICENSEE: Swimmers, Inc.**  
**TRADE NAME: Herbs**  
**LOCATION: 80 1<sup>st</sup> St S, Friday Harbor, WA 98250**  
**LICENSE NO. 350658-3D**  
**ADMINISTRATIVE VIOLATION NOTICE NO. 3D1336A**  
**LCB HEARING NO. 23,933**  
**UBI: 6026519560010002**

Dear Parties:

Please find the enclosed Declaration of Service by Mail and a copy of the Final Order of the Board in the above-referenced matter, as well as a copy of the Stipulated Settlement Agreement.

**The applicable monetary penalty is due in two payments. The first payment is due by June 25, 2012. The second payment is due by July 24, 2012. If the optional monetary penalty payments are not received timely, then suspension will take place from 12:00 p.m. on August 23, 2012 until 12:00 p.m. on August 30, 2012.** The address for payments is WSLCB, P.O. Box 43085, Olympia, WA 98504-3085. Please label the check with your License Number and Administrative Violation Notice Number listed above. If you have any questions, please contact me at (360) 664-1602.

Sincerely,

  
Kevin McCarroll  
Adjudicative Proceedings Coordinator

Enclosures

cc: Mt. Vernon Enforcement and Education Division, WSLCB  
Teresa Young, WSLCB

PO Box 43076, 3000 Pacific Ave. SE, Olympia WA 98504-3076, (360) 664-1602 [www.liq.wa.gov](http://www.liq.wa.gov)

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

LCB NO. 23,933

SWIMMERS, INC.  
d/b/a HERBS  
80 1<sup>ST</sup> ST S  
FRIDAY HARBOR, WA 98250

DECLARATION OF SERVICE BY MAIL

LICENSEE

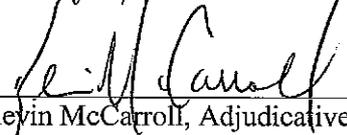
LICENSE NO. 350658-3D  
AVN NO. 3D1336A

I certify that I caused a copy of the FINAL ORDER OF THE BOARD APPROVING STIPULATED SETTLEMENT AGREEMENT in the above-referenced matter to be served on all parties or their counsel of record by US Mail Postage Prepaid via Consolidated Mail Service for Licensees, by Campus Mail for the Office of Attorney General, on the date below to:

SHELLEY BORAHAN, PRESIDENT  
SWIMMERS, INC.  
d/b/a HERBS  
PO BOX 914  
FRIDAY HARBOR, WA 98250-0914

OFFICE OF THE ATTORNEY GENERAL  
MAIL STOP 40100, GCE DIVISION  
MARISA BROGGEL, ASSISTANT ATTORNEY  
GENERAL

DATED this 25<sup>th</sup> day of May, 2012, at Olympia, Washington.

  
Kevin McCarroll, Adjudicative Proceedings Coordinator