BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF: THE O-RAIL INC. d/b/a CLUB 301 301 N PEARL ST ELLENSBURG, WA 989260 LICENSEE LICENSE NO. 355557 AVN NO. 4H2321B	LCB NO. 24,703 FINAL ORDER OF THE BOARD ~~[PROPOSED]~~

THIS MATTER having come before the Washington State Liquor Control Board (Board) and the Washington State Liquor Control Board Education and Enforcement Division (Enforcement) by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and ISAAC WILLIAMSON, Assistant Attorney General, and THE O-RAIL INC. d/b/a CLUB 301 (Licensee) by and through ERIK M. KUPKA, attorney, and the parties having voluntarily entered into a stipulated settlement agreement for case number 24,703, and the Board having considered the Stipulated Settlement Agreement and Enforcement's Memorandum recommending acceptance of the Stipulated Settlement Agreement, and the Board having had the opportunity to review the file materials maintained in this case, now therefore:

IT IS HEREBY ORDERED that the Stipulated Settlement Agreement in the above captioned case is adopted in its entirety; and the complaint for Case Number 24,703 is

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

sustained. Licensee shall pay three hundred dollars ($300.00) no later than thirty (30) days after the date of the Final Order of the Board. **The payment shall be sent to:**

Washington State Liquor Control Board
P.O. Box 43085
Olympia, WA 98504-3085

In the event that the Licensee fails to make full and timely payment of the monetary penalty, the Licensee shall be subject to a five (5) day suspension of its liquor license, the dates and time of which shall be set by the Washington State Liquor Control Board.

DATED this 24 day of MARCH, 2014.

WASHINGTON STATE LIQUOR CONTROL BOARD

JUSTIN NORDHORN, CHIEF
ENFORCEMENT AND EDUCATION DIVISION

RECEIVED
MAR 2 4 2014
Liquor Control Board
Board Administration

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF: THE O-RAIL INC. d/b/a CLUB 301 301 N PEARL ST ELLENSBURG, WA 989260 LICENSEE LICENSE NO. 355557 AVN NO. 4H2321B	LCB NO. 24,703 STIPULATED SETTLEMENT AGREEMENT

The Washington State Liquor Control Board Education and Enforcement Division (Enforcement), by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and ISAAC WILLIAMSON, Assistant Attorney General, and THE O-RAIL INC. d/b/a CLUB 301 (Licensee) by and through ERIK M. KUPKA, attorney, hereby enter into this stipulated settlement agreement for Liquor Control Board (LCB) case number 24,703.

I. INTRODUCTION

The Washington State Liquor Control Board, Enforcement and Education Division charged the above-named Licensee, with the following alleged violation of the Washington State Liquor Control Board rules and regulations, by its complaint dated April 8, 2013:

> That on or about November 11, 2012, the Licensee or an employee(s) thereof gave, sold and/or otherwise supplied liquor to an apparently intoxicated person, contrary to RCW 66.44.200(1) and/or WAC 314-16-150.

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II. AGREEMENT OF THE PARTIES

Enforcement and the Licensee agree to the following:

1. The parties enter into this Agreement to avoid the time and expense of further litigation.

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

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

4. The Licensee admits to the violations set forth in the complaint dated April 8, 2013. Specifically, that on or about November 11, 2012, the Licensee or an employee(s) thereof gave, sold and/or otherwise supplied liquor to an apparently intoxicated person, contrary to RCW 66.44.200(1) and/or WAC 314-16-150.

5. The Licensee acknowledges that the above referenced violation is the Licensee's first violation within a twenty-four (24) month period, for which the standard penalty is suspension of the Licensee's liquor license for five (5) days or a monetary penalty of five hundred dollars ($500).

6. The Licensee agrees to pay a monetary penalty of three hundred dollars ($300) within thirty (30) days of the date of the Final Order of the Board, no later than 4:00 p.m. on the applicable date, for the violations stipulated to in Section II, Paragraph 4. **Payment shall be sent to:**

Washington State Liquor Control Board
PO Box 43085
Olympia, WA 98504-3085

7. In the event that the Licensee fails to make the full payment of the monetary penalty on time, as set out and required by Section II, Paragraph 6, the Licensee shall be

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subject to a five (5) day suspension of its liquor license, the date and time of suspension to be set by the Board.

8. The Licensee further agrees that all of its employees will participate in a responsible liquor and tobacco sales class provided by Enforcement no later than sixty (60) days after the date of the Final Order of the Board. The Licensee is responsible for coordinating the date, time, and location of the training class through its assigned Liquor Enforcement Officer.

9. The parties recognize that this settlement agreement is subject to approval by the Washington State Liquor Control Board.

STIPULATED AND AGREED TO by:

ROBERT W. FERGUSON
Attorney General

ISAAC WILLIAMSON, WSBA #43921
Assistant Attorney General
Attorney for Washington State
Liquor Control Board Education and
Enforcement Division

3/18/14
DATE

ERIK M. KUPKA, WSBA #28835
Attorney for THE O-RAIL INC. d/b/a
CLUB 301, Licensee

03.06.14
DATE

JANIS KELLOGG
President, THE O-RAIL INC. d/b/a
CLUB 301, Licensee

3-6-14
DATE

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Washington State
Liquor Control Board

March 25, 2014

Erik M. Kupka
Attorney for Licensee
Ingram Zelasko & Goodwin LLP
120 E 1st St
Aberdeen, WA 98520-5246

Janice Kellogg
The O-Rail Inc
d/b/a Club 301
PO Box 952
Ellensburg, WA 98926-1925

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

RE: ***FINAL ORDER OF THE BOARD***
LICENSEE: The O-Rail Inc
TRADE NAME: Club 301
LOCATION: 301 N Pearl St, Ellensburg, WA 98926-3363
LICENSE NO. 355557-4H
ADMINISTRATIVE VIOLATION NOTICE NO. 4H2321B
LCB HEARING NO. 24,703
UBI: 603-022-017-001-0001

Dear Parties:

Please find the enclosed Final Order of the Board and Declaration of Service by Mail in the above-referenced matter, as well as a copy of the Stipulated Settlement Agreement. **The applicable monetary penalty is due by Thursday, April 24, 2014. If payment is not received timely, then suspension will take place from 8:00 p.m. on Thursday, May 15, 2014 until 8:00 p.m. on Tuesday, May 20, 2014.** If you have any questions, please contact me at (360) 664–1602.

Sincerely,

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures
cc: Spokane and Wenatchee Enforcement and Education Division, WSLCB
Jamie Marshall, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF: THE O-RAIL INC d/b/a CLUB 301 301 N PEARL ST ELLENSBURG, WA 98926-3363 LICENSEE LICENSE NO. 355557-4H AVN NO. 4H2321B	LCB NO. 24,703 DECLARATION OF SERVICE BY MAIL

I certify that I caused a copy of the FINAL ORDER OF THE BOARD 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 applicants and licensees, by campus mail for state offices, on the date below to:

ERIK M. KUPKA ATTORNEY FOR LICENSEE INGRAM ZELASKO & GOODWIN LLP 120 E 1ST ST ABERDEEN, WA 98520-5246	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION ISAAC WILLIAMSON, ASSISTANT ATTORNEY GENERAL
JANICE KELLOGG THE O-RAIL INC d/b/a CLUB 301 PO BOX 952 ELLENSBURG, WA 98926-1925	JANICE KELLOGG THE O-RAIL INC d/b/a CLUB 301 301 N PEARL ST ELLENSBURG, WA 98926-3363

DATED this 25th day of March, 2014, at Olympia, Washington.

Kevin McCarroll, Adjudicative Proceedings Coordinator