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

8 IN THE MATTER OF:

NO. 24,963

9 LUMMI NATION  
10 d/b/a 260 TOBACCO & FINE SPIRITS  
11 4940 RURAL AVE  
12 FERNDALE, WA 98248

FINAL ORDER OF THE BOARD

~~PROPOSED~~

LICENSEE

13 LICENSE NO. 409191  
14 AVN NO. 3B3346C

15 THIS MATTER having come before the Washington State Liquor Control Board  
16 (Board) and the Washington State Liquor Control Board Education and Enforcement Division  
17 (Enforcement) by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and  
18 JENNIFER ELIAS, Assistant Attorney General, and LUMMI NATION., d/b/a 260  
19 TOBACCO AND FINE SPIRITS (Licensee) by and through its representative, DAVID  
20 ZERBY, and the parties having voluntarily entered into a stipulated settlement agreement for  
21 case number 24,963, and the Board having considered the Stipulated Settlement Agreement  
22 and Enforcement's Memorandum recommending acceptance of the Stipulated Settlement  
23 Agreement, and the Board having had the opportunity to review the file materials maintained  
24 in this case, now therefore:

25 IT IS HEREBY ORDERED that the Stipulated Settlement Agreement in the above  
26 captioned case is adopted in its entirety; and the AVN for Case Number 24,963 is sustained.

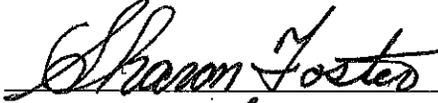
1 Licensee shall pay four thousand two-hundred dollars (\$4,200.00) no later than thirty (30) days  
2 after the date of the Final Order of the Board. **The payments shall be sent to:**

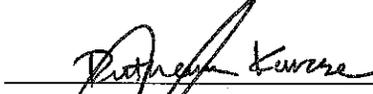
3 **Washington State Liquor Control Board**  
4 **P.O. Box 43085**  
5 **Olympia, WA 98504-3085**

6 In the event that the Licensee fails to make full and timely payment of the four  
7 thousand two-hundred dollar (\$4,200.00) monetary penalty, a fourteen (14) day suspension of  
8 the Licensee's liquor license will go into effect, the dates and time of which shall be set by the  
9 Washington State Liquor Control Board.

10 DATED this 30 day of July, 2014.

11 WASHINGTON STATE LIQUOR CONTROL BOARD

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26 260 TOBACCO & FINE SPIRITS  
LICENSE 409191  
LCB NO. 24,963

FINAL ORDER OF THE BOARD

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

~~[PROPOSED]~~

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**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

LCB NO. 24,963

LUMMI NATION  
d/b/a 260 TOBACCO & FINE SPIRITS  
4940 RURAL AVE  
FERNDALE, WA 98248

STIPULATED  
SETTLEMENT AGREEMENT

LICENSEE

LICENSE NO. 409191  
AVN NO. 3B3346C

The Washington State Liquor Control Board Enforcement and Education Division (Enforcement), by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and JENNIFER ELIAS, Assistant Attorney General, and the LUMMI NATION, d/b/a 260 TOBACCO AND FINE SPIRITS (Licensee) by and through its attorney, DAVID ZERBY, hereby enter into this stipulated settlement agreement for Liquor Control Board (LCB) case number 24,963.

**I. INTRODUCTION**

The Washington State Liquor Control Board, Enforcement and Education Division issued administrative violation notice (AVN) 3B3346C to the Licensee alleging that on or about December 12, 2013, the Licensee or an employee(s) thereof gave, sold and/or otherwise supplied liquor to a person under twenty-one years of age, contrary to RCW 66.44.270(1).

1 **II. AGREEMENT OF THE PARTIES**

2 Enforcement and the Licensee agree to the following:

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

5 2. The Licensee explicitly waives the right of further administrative review of all  
6 matters related to the above-referenced AVN. The Licensee hereby voluntarily withdraws its  
7 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 it is a complete and exclusive statement of these terms.

10 4. The Licensee admits to the violations set forth in AVN 3B3346C. Specifically,  
11 that on or about December 12, 2013, the Licensee or an employee(s) thereof gave, sold and/or  
12 otherwise supplied liquor to a person under twenty-one years of age, contrary to  
13 RCW 66.44.270(1).

14 5. The Licensee acknowledges that the above referenced violation is the  
15 Licensee's second violation within a twenty-four (24) month period, for which the penalty is  
16 suspension of the Licensee's liquor license for fourteen (14) days with no monetary option.  
17 See WAC 314-02-108(6).

18 6. The Licensee agrees to pay a monetary penalty of four thousand, two hundred  
19 dollar (\$4,200) in lieu of the fourteen (14) day suspension, and that payment shall be made  
20 within thirty (30) days of the Final Order of the Board, no later than 4:00 p.m. on the  
21 applicable date, for the violation stipulated to in Section II, paragraph 4. **Payment shall be**  
22 **sent to:**

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

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

1 subject to a fourteen (14) day suspension of its liquor license, the date and time of suspension  
2 to be set by the Board.

3 8. The Licensee agrees that it will install and utilize a Point of Sale system (POS)  
4 if it does not have one in place, within 30 days of the Board's approval of this agreement. The  
5 POS will either scan the document or require age verification.

6 9. The Licensee agrees that all employees will request identification for anyone  
7 appearing to be under thirty years of age. In addition, the Licensee agrees to conduct monthly  
8 compliance checks with legal-aged operatives not known to staff who appear to be under thirty  
9 years of age. This requirement is a means of verification of the POS and identification policy  
10 and shall remain in effect for a period of two years after the Board approves this agreement.

11 10. The Licensee agrees to have all employees complete Responsible Vendor  
12 Training within their first thirty (30) days of employment. Copies of the Responsible Vendor  
13 Trainer Workbook and Employee Workbook have been provided to the Licensee.

14 11. The Washington State Liquor Control Board acknowledges that the execution  
15 and approval of this Stipulated Settlement Agreement is not intended as and does not constitute  
16 or imply a waiver of sovereign immunity by the Lummi Nation, the Lummi Commercial  
17 Company, or any of their tribal enterprises.

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

20 STIPULATED AND AGREED TO by:

21 ROBERT W. FERGUSON  
22 Attorney General

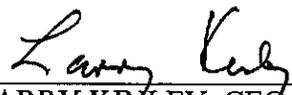
23   
24 \_\_\_\_\_  
25 JENNIFER ELIAS, WSBA #36334  
26 Assistant Attorney General  
Attorney for Washington State  
Liquor Control Board Education and  
Enforcement Division

DATE 7/8/14

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DAVID ZERBY, WSBA #41255  
Attorney for Lummi Nation  
d/b/a 260 Tobacco & Fine Spirits, Licensee

06/30/14  
DATE

  
LARRY KINLEY, CEO  
Lummi Commercial Company

6/26/14  
DATE



Washington State  
Liquor Control Board

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July 31, 2014

David Zerby,  
Attorney for Lummi Nation  
2616 Kwina Rd  
Bellingham, WA 98226-9291

Larry Kinley, CEO  
Lummi Commercial Company  
Lummi Nation d/b/a 260 Tobacco & Fine Spirits  
2751 Haxton Way #1  
Bellingham, WA 98226-7213

Jennifer Elias, 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: Lummi Nation**  
**TRADE NAME: 260 Tobacco & Fine Spirits**  
**LOCATION: 4940 Rural Ave, Ferndale, WA 98248-7825**  
**LICENSE NO. 409191**  
**ADMINISTRATIVE VIOLATION NOTICE NO. 3B3346C**  
**LCB HEARING NO. 24,963**  
**UBI: 601-831-050-001-0003**

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 Tuesday, September 2, 2014. If payment is not received timely, then suspension will take place from 9:00 a.m. on Thursday, September 25, 2014 until 9:00 a.m. on Thursday, October 9, 2014.** 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  
Jamie Marshall, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

LUMMI NATION  
d/b/a 260 TOBACCO & FINE  
SPIRITS  
4940 RURAL AVE  
FERNDAL, WA 98248-7825

LICENSEE

LICENSE NO. 409191  
AVN NO. 3B3346C

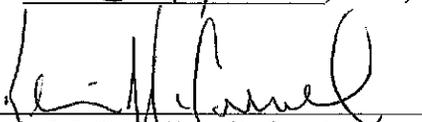
LCB NO. 24,963

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:

DAVID ZERBY, ATTORNEY FOR LUMMI NATION 2616 KWINA RD BELLINGHAM, WA 98226-9291	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION JENNIFER ELIAS, ASSISTANT ATTORNEY GENERAL
LARRY KINLEY, CEO LUMMI COMMERCIAL COMPANY LUMMI NATION D/B/A 260 TOBACCO & FINE SPIRITS 2751 HAXTON WAY #1 BELLINGHAM, WA 98226-7213	LARRY KINLEY, CEO LUMMI COMMERCIAL COMPANY LUMMI NATION D/B/A 260 TOBACCO & FINE SPIRITS 4940 RURAL AVE FERNDAL, WA 98248-7825

DATED this 31<sup>st</sup> day of July, 2014, at Olympia, Washington.

  
Kevin McCarroll, Adjudicative Proceedings Coordinator