

**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
ALCOHOL AND GAMING DIVISION**

**IN THE MATTER OF:
838, LLC., Licensee
d/b/a HOUSE OF BOOZE
838 AGUA FRIA ST.
SANTA FE, NM 87501
Liquor License No. 0649**

**Represented by Aaron Boland, ESQ.
311 Montezuma Avenue
Santa Fe, New Mexico 87501**

REGARDING: Citation No. 39488, 40189, 40354

Respondent.

STIPULATED AGREEMENT AND ORDER

This Stipulated Agreement is made between the State of New Mexico, Alcohol and Gaming Division (AGD) Prosecutor Melchior F.R. Savarese, and 838, LLC, OWNER d/b/a HOUSE OF BOOZE, Santa Fe, New Mexico represented by their attorney Aaron Boland, Esq.

The parties have the following understanding:

1. The Alcohol and Gaming Division (AGD), of the Regulation and Licensing Department (RLD), of the State of New Mexico, is the administrative agency responsible for adjudication of violations of the licensing provisions, as provided for under New Mexico State Statutes, Liquor Control Act, §60-3A-2 through §60-8A-19 NMSA 1978, as amended, (Act) and the related Rules and Regulations of the New Mexico Administrative Code, 15.10.2.1 through 15.11.31.13 (NMAC).
2. It is the policy of the Liquor Control Act that the sale, service and public consumption of alcoholic beverages in the state shall be licensed, regulated and controlled so as to protect the public health, safety and morals of every community in the state; and it is the responsibility of the director to investigate the qualifications of all applicants for licenses under the Act, to investigate the conditions existing in the community in which the premises for which any license is sought are located before the license is issued. It is the intent of the Act that each person to whom a license is issued shall be fully liable and accountable for the use of the license, including but not limited to liability for all violations of the Act and for taxes charged against the license. (paraphrased §60-3A-2A & B NMSA 1978) The AGD shall, to the best of its ability, balance these public interests in the course of regulating liquor licenses and enforcing violations alleged.

3. The Respondent is a holder of a liquor license, pursuant to the Act, and licensed by the State of New Mexico for the sale, service, and/or public consumption of alcoholic beverages and, admits that it is subject to the jurisdiction of the Liquor Control Act §60-6A-1 *et. seq.*; §60-6B-1 *et. seq.*; §60-6C-1 *et. seq.*; §60-7A-1 *et. seq.*; §60-7B-1 *et. seq.*; NMSA 1978 and 15.10.2.1 *et. seq.* NMAC.
4. Respondent understands and acknowledges that when violations are sustained for two or more citations involving Service to an Intoxicated person in violation of §60-7A-16 NMSA 1978 and/or 15.10.51.A NMAC or Sale to a Minor in violation of §60-7B-1 NMSA 1978 and/or 15.10.33.11 NMAC, the Respondent's Liquor License may be suspended, revoked, or a monetary penalty may be assessed pursuant to §60-6C-1(B)(1).
5. Citation(s) were issued against the above-cited liquor license, and an AGD Prosecutor has been delegated to negotiate any type of settlement within the guidelines as set by the AGD Director within her authority to suspend, revoke and/or levy administrative fines, pursuant to Section §60-6C-1(A)(1) NMSA 1978 and within his authority to determine what is in the best interest of the State pursuant to Section §60-6C-9 NMSA 1978
6. The AGD Prosecutor has reviewed and determined that this agreement is in the best interest of the state and Respondent has determined that it is in the best interest of the licensee to enter into this Stipulated Agreement.
7. By agreeing to this agreement, both Respondent and AGD Prosecutor agree to the fine, suspension, or revocation terms and additional conditions and that such terms will be followed in the manner as stated in this agreement to resolve this matter.
8. If a refresher course is ordered by the Director for a licensee dispenser, Respondent acknowledges that this is required of all employees, including managers, doormen, and/or anyone who handles and/or serves alcohol. Respondent may arrange for a free SID course if available OR employ an independent trainer. To coordinate the free SID course, please contact Sally Archuleta at SID (505)-841-8053 or sally.archuleta@state.nm.us A sign-in sheet is mandatory, with name, signature and current address; and the trainer/agent shall sign and verify the attendance sheet. Respondent shall mail or fax a copy of sign in sheet to AGD employee Rebecca Archuleta e-mail rebecca.archuleta@state.nm.us fax: (505) 476-4595.
9. If this agreement is between AGD Prosecutor and a server, the server will be required to take a refresher course upon renewal of server's license.

AGREEMENT

THE AGD PROSECUTOR AND THE RESPONDENT AGREE TO THE FOLLOWING:

Admission:

Respondent admits to the violation as alleged in citation: #39488 Sale to an Intoxicated Person contrary to §60-7A-16 NMSA 1978 and/or 15.10.51.11 NMAC, and agrees that the Director of AGD can find that this violation is sustained. (BAC.275)

Admission:

Respondent admits to the violation as alleged in citation: #40189 Sale to an Intoxicated Person contrary to §60-7A-16 NMSA 1978 and/or 15.10.51.11 NMAC, and agrees that the Director of AGD can find that this violation is sustained. (BAC.279)

Admission:

Respondent admits to the violation as alleged in citation(s): #40354 Sale to a Minor contrary to §60-7B-1 NMSA 1978 and/or 15.10.33.11 NMAC, and agrees that the Director of AGD can find that this violation is sustained.

Terms:

1. The Respondent and AGD Prosecutor accept the following penalty and additional conditions as follows in regards to Citation Number 39488, 40189 and 40354:
 - a. A fine in the amount of ten thousand dollars (\$10,000.00) to be paid in full within 30 days of the date this agreement is signed by the Director;
 - b. Liquor license #0649 must be sold within 60 days after this agreement is signed by the Director or said license will be revoked.
 - c. Liquor license #0649 will be placed under voluntary suspension and thereby taken out of operation beginning on the date this agreement is signed by the Director and until the license has been sold or revoked if a sale has not occurred.

Non-compliance Remedy: Respondent agrees that if the Respondent does not comply with all of the terms of the Order as outlined in this Agreement, Respondent will be in violation of this Order. A Charge will be sent to Respondent regarding additional penalties to be assessed. It will be the Respondent's responsibility to request a Show Cause hearing within 30 days to contest the allegations of non-compliance and/or additional penalties to be assessed. Prior payment(s) of fines and efforts to comply will be taken into consideration.

No Future Application of Agreement. This agreement does not bind the AGD licensee as a precedent in any future Administrative proceeding(s) and/or prosecution(s). This Agreement only applies to the referenced citation's facts and circumstances.

I have read and I understand this agreement. I understand that when I agree that these violations will be sustained, that I give up the following rights: right to a full administrative hearing as provided in §60-6C-1 through 9 NMSA 1978; and/or §60-6E-8 through 10 NMSA 1978 and also all rights to appeal this matter to the District Court for review. I agree to the terms and

conditions set forth in this agreement. I also understand that if I violate or do not comply with the terms and conditions of the order, that the current penalty terms may be harsher than originally ordered.


Respondent
838, LLC, OWNER
d/b/a HOUSE OF BOOZE

2/27/13
Date

I have reviewed the agreement with my client. I believe that the agreement is appropriate under the facts of this case. I agree with this agreement and its terms and conditions.


Attorney for the Respondent
Aaron Boland, Esq.

2/25/13
Date

I have reviewed this matter and agree that the agreement is appropriate, falls within the policy and goals of the AGD, and is in best interests of the State of New Mexico.


Melchior F.R. Savarese III, Esq.
Prosecutor, Office of General Counsel

2/25/2013

February 22, 2013
Date

This Agreement is effective the date the Director signs the Order.

conditions set forth in this agreement. I also understand that if I violate or do not comply with the terms and conditions of the order, that the current penalty terms may be harsher than originally ordered.


Respondent
838, LLC, OWNER
d/b/a HOUSE OF BOOZE



Date

I have reviewed the agreement with my client. I believe that the agreement is appropriate under the facts of this case. I agree with this agreement and its terms and conditions.


Attorney for the Respondent
Aaron Boland, Esq.


Date

I have reviewed this matter and agree that the agreement is appropriate, falls within the policy and goals of the AGD, and is in best interests of the State of New Mexico.


Melchior F.R. Savarese III, Esq.
Prosecutor, Office of General Counsel


Date

2/25/2013
February 22, 2013

This Agreement is effective the date the Director signs the Order.

ORDER OF THE DIRECTOR

THIS MATTER having come before the Director of AGD, after review and careful consideration, the settlement agreement terms as reached by the parties above is accepted.

IT IS HEREBY ORDERED,

1. The citation # 39488, Sale to an Intoxicated Person, is sustained against the Respondent.
2. The citation # 40189, Sale to an Intoxicated Person, is sustained against the Respondent.
3. The citation # 40354, Sale to a Minor, is sustained against the Respondent.
4. For the violation of Citation Number 39488, 40189 and 40354, all 2nd offenses, the fine shall be ten thousand dollars, (\$10,000.00).
 - a. The ten thousand dollar (\$10,000) must be paid in full within 30 days of this signed agreement.
 - b. Liquor license #0649 must be sold by April 27th, 2013, which is 60 days from today's date, or said license will be revoked.
 - c. Liquor license #0649 must be placed under voluntary suspension and thereby taken out of operation beginning on the date this agreement is signed and until the license has been sold or revoked if a sale has not occurred.

IT IS FINALLY ORDERED that upon completion of the terms as set forth that this matter shall be closed.

Entered this 26 day of February 2013.



Director, Alcohol and Gaming Division



State of New Mexico
Regulation and Licensing Department
ALCOHOL and GAMING DIVISION



No 39488

State of New Mexico vs.

838, LLC

House of Booze

838 Agua Fria Santa Fe, NM

ADDRESS 87501

CITATION 5-5-12
DATE
CASE NO.: 12-22-0073
0649
LICENSE NO.
Santa Fe
COUNTY

On (day) 5th (date) May 2012 20 2105 at pm, licensee, agent, or person did unlawfully commit the following offense in violation of New Mexico Liquor Laws and Regulations:

Statute No.: NMAC 15.10.51.11

Offense: Sales to Intoxicated persons

Jose Aleman, server/cashier of House of Booze did sell alcoholic beverages to Daniel Gomez who was showing signs of intoxication and failed SFSTs
BAC .275

Special Investigations Division Agent
Department of Public Safety

I understand I will be contacted by the Alcohol and Gaming Division with reference to this matter.

Responsible party to be contacted by Alcohol & Gaming

Division: Jose A. Aleman Phone: 505 316 1413

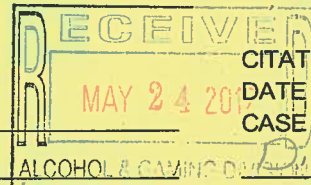
Licensee, Agent or Manager

DISTRIBUTION: White - Original, Licensee Canary - Alcohol & Gaming Division Pink - Agent's Records Goldenrod - Leave in Book

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State of New Mexico
Regulation and Licensing Department
ALCOHOL and GAMING DIVISION



No 40189

State of New Mexico vs.

838, LLC

House of Booze

838 Agua Fria Santa Fe, NM

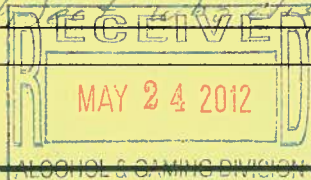
ADDRESS

CITATION
DATE 05/05/12
CASE NO.: 12-22-0073
Dispenser / 0649
LICENSE NO.
Santa Fe
COUNTY

On (day) Sat (date) May 5, 2012 20 9:00 at am, licensee, agent, or person did unlawfully commit the following offense in violation of New Mexico Liquor Laws and Regulations:

Statute No.: NMAC 15.10.51.11 / Sales to Intoxicated Persons

Offense: Above named establishment did sell an alcoholic beverage to a male subject who displayed signs of intoxication.
BAC: .279



Special Investigations Division Agent
Department of Public Safety

I understand I will be contacted by the Alcohol and Gaming Division with reference to this matter.

Responsible party to be contacted by Alcohol & Gaming

Division: Jose A. Aleman Phone: 505-972-8271

Licensee, Agent or Manager

DISTRIBUTION: White - Original, Licensee Canary - Alcohol & Gaming Division Pink - Agent's Records Goldenrod - Leave in Book

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State of New Mexico
Regulation and Licensing Department
ALCOHOL and GAMING DIVISION

No 40354

CITATION 09-07-12
DATE
CASE NO.: 12-22-0134
0649

State of New Mexico vs.

838, LLC
NAME OF LICENSEE
House of Booze
DBA
838 Agua Fria St Santa Fe NM Santa Fe
ADDRESS
COUNTY

On (day) 7th (date) September 2012 1500 am at pm, licensee, agent, or person did unlawfully commit the following offense in violation of New Mexico Liquor Laws and Regulations:

Statute No. 60-7B-1A
Offense: Selling or giving alcoholic beverages to minors
Clerk, Ramon Torres did sell 6 pk Budweiser to 18 yr old minor operative w/o verifying valid ID.

Subell M. J. 4935

Special Investigations Division Agent
Department of Public Safety

I understand I will be contacted by the Alcohol and Gaming Division with reference to this matter.

Responsible party to be contacted by Alcohol & Gaming Division: Phone: 982 8271

Ramon Torres
Licensee, Agent or Manager

DISTRIBUTION: White - Original, Licensee Canary - Alcohol & Gaming Division Pink - Agent's Records Goldenrod - Leave in Book

105- Sale to minor