



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S SUPPLEMENTAL ORDER

CITY OF PORTLAND, Petitioner, vs. N & T, LLC, Respondent

CASE NO. 2110010

PROPERTY: Gossip Bar and Grille, 11340 NE Halsey Avenue  
City of Portland, Multnomah County, Oregon

DATE OF HEARING: March 13, 2012

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Hearings Officer issued an Order in this case on March 14, 2012 ("The Order"). On March 26, 2012, the Hearings Officer received a letter from N&T, LLC, Tuan Truong ("Truong"), member. (Exhibit 43). The Hearings Officer admits Exhibit 43 into the evidentiary record.

A hearing on March 13, 2012, where the City was represented by Mr. Benjamin Walters ("Walters"), attorney, and Respondent N&T, LLC was represented by Mr. Michael Mills ("Mills"), attorney. At the March 13, 2012, hearing, Walters and Mills presented, for the Hearings Officer's review, a proposed stipulated agreement. (Exhibit 41a – hereafter the "Stipulated Agreement"). The Hearings Officer, at the March 13, 2012, hearing, requested clarification of the Stipulated Agreement. Walters and Mills agreed to clarification language and the Hearings Officer agreed to enter the clarified Stipulated Agreement as his order in this case.

The letter from Truong (Exhibit 43) indicates that as a member of N&T, LLC (Respondent), he "would like a chance to discuss to come to a better understanding and fair agreement." Truong concludes Exhibit 43 by stating that "we'd like to ask for another hearing or meeting with the City to clarify and make this Stipulated Order more reasonable and fair."

Truong raised three specific points of contention with the Stipulated Agreement:

1. "The contradiction between conditions in the 'compliance plan', for instance, item B1 and item H, etc.

2. The stipulation is to be enforced for 1 year. This is going to create an economic hardship for us and our business. It's already created a huge hardship for us since we've discontinued the promotions, and hired more securities; eventhough we have still had no restrictions.
3. The disclosure for City of Portland to waiver full responsibility for N&T LLC business impacts."

The Hearings Officer re-reviewed the Stipulated Agreement, as modified by The Order. The Hearings Officer finds no contradiction between Stipulated Agreement items B1 and H. The Hearings Officer agrees that the term of the Stipulated Agreement is for one year and that the terms and conditions of the Stipulated Agreement may create some economic hardship upon Respondent's business. The Hearings Officer does not understand Truong's concerns stated in item #3 as quoted above.

The Hearings Officer, based upon a review of Exhibit 43, finds no reason to believe that Mills lacked authority to represent Respondent at the March 13, 2012, hearing.

The Hearings Officer treats Exhibit 43 as a request for reconsideration (Portland City Code 22.03.115). The Hearings Officer finds no good cause or sufficient reason to reconsider the decision as set forth in The Order. The Hearings Officer finds no good reason to schedule another hearing.

#### ORDER AND DETERMINATION:

1. The Hearings Officer denies the request for reconsideration; The Order stands.
2. This Supplemental Order has been mailed to the parties on April 10, 2012, and shall become final and effective on April 24, 2012. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date.
3. This Supplemental Order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 10, 2012

  
Gregory J. Frank, Hearings Officer

GJF:rs

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Complaint	Reese, Chief Michael	Received
2	Parties to Be Notified	Reese, Chief Michael	Received
3	OLCC Limited Liability Company Questionnaire	Reese, Chief Michael	Received
4	OLCC Individual History: Truong, Tuan Anh	Reese, Chief Michael	Received
5	OLCC Individual History: Nguyen, Yung Duc	Reese, Chief Michael	Received
6	10/11/11 Letter to Tuan Truong	Reese, Chief Michael	Received
7	PPB Special Report: 11-069116	Reese, Chief Michael	Not Offered
8	PPB Special Report: 11-069116	Reese, Chief Michael	Not Offered
9	PPB Investigation Report: 11-075619	Reese, Chief Michael	Received
10	PPB Custody Report: 11-075619	Reese, Chief Michael	Received
11	PPB Investigation Report: 11-75964	Reese, Chief Michael	Received

12	PPB Special Report: 11-078343	Reese, Chief Michael	Received
13	PPB Investigation Report: 11-080669	Reese, Chief Michael	Received
14	PPB Special Report: 11-080668	Reese, Chief Michael	Received
15	PPB Special Report: 11-080668	Reese, Chief Michael	Received
16	Notice of Hearing	Hearings Office	Not Offered
17	Mailing List	Hearings Office	Not Offered
18	11/23/11 letter	Mills, Michael	Not Offered
19	11/23/11 letter	Mills, Michael	Not Offered
20	11/30/11 Fax to Marchetti	Hearings Office	Not Offered
21	Mailing List	Hearings Office	Received
22	Notice of Hearing	Hearings Office	Received
23	Declaration of tuan Truong	Mills, Michael	Received
24	Motion for Summary Determination and Dismissal	Mills, Michael	Received
25	1/11/12 Request to postpone hearing	Marchetti, Theresa	Received
26	Complaint: City Code Violation, dated 11-3-11	Marchetti, Theresa	Received
27	Notice of Hearing	Hearings Office	Received
28	1/12/12 Request for Postponement	Mills, Michael	Received
29	Notice of Hearing	Hearings Office	Received
30	1/10/12 letter with attachments	Mills, Michael	Received
30a	E-mail - contents unreadable	Mills, Michael	Received
30b	Summary	Mills, Michael	Received
30c	Envelope addressed to Gossip Restaurant & Bar	Mills, Michael	Received
30d	Envelope addressed to Gossip Restaurant & Bar	Mills, Michael	Received
30e	6/29/10 letter, Reese to Gossip Restaurant and Bar	Mills, Michael	Received
30f	Memo	Mills, Michael	Received
30g	8/9/10 Memo, Gossip Bar to Marchetti	Mills, Michael	Received
30h	8/9/10 Memo, Yung Nguyen/Tony Truong to Marchetti	Mills, Michael	Received
30i	12/11/11 Memo, Nguyen/Truong to Marchetti	Mills, Michael	Received
30j	8/19/10 E-mail, Marchetti to Gossip Bar	Mills, Michael	Received
30k	8/16/10 document	Mills, Michael	Received
30l	E-mails	Mills, Michael	Received
30m	E-mails	Mills, Michael	Received
30n	Page 8/1	Mills, Michael	Received
30o	Page 8/2	Mills, Michael	Received
30p	Page 8/3	Mills, Michael	Received
30q	12/1/10 Memo, Gossip Restaurant & Lounge to OLCC -- Liquor License Renewal	Mills, Michael	Received
30r	E-mails	Mills, Michael	Received
30s	E-mails	Mills, Michael	Received
30t	7/20/11 E-mail, Sarah Morgan to gossipbar	Mills, Michael	Received
30u	Proposed Restrictions	Mills, Michael	Received
30v	E-mails	Mills, Michael	Received
30w	Letter	Mills, Michael	Received
30x	E-mails	Mills, Michael	Received
30y	E-mails	Mills, Michael	Received
30z	8/5/11 E-mail, Morgan to gossipbar - Proposed Restrictions	Mills, Michael	Received
31	1/12/12 letter, Marchetti to Frank	Marchetti, Theresa	Received
32	1/12/12 letter, Marchetti to Frank	Marchetti, Theresa	Received
33	Petition for Order for Production and to Inspect and Copy	Mills, Michael	Not Offered
34	First Request for Production of Documents	Mills, Michael	Received
35	Certificate of Service	Mills, Michael	Not Offered
36	Certificate of Service	Mills, Michael	Not Offered
37	Declaration of Michael Mills	Mills, Michael	Not Offered
38	Certificate of Service	Mills, Michael	Not Offered
39	2/16/12 Letter from Hearings Officer to Michael Mills	Hearings Office	Received
40	Petitioner's Reply To Respondent's Motion For Summary		

	<u>Determination and Dismissal</u>	<u>Walters, Benjamin</u>	<u>Received</u>
<u>40a</u>	<u>Certificate of Service</u>	<u>Walters, Benjamin</u>	<u>Received</u>
<u>41</u>	<u>3/12/12 Fax Cover Sheet</u>	<u>Walters, Benjamin</u>	<u>Received</u>
<u>41a</u>	<u>Stipulated Order</u>	<u>Walters, Benjamin</u>	<u>Received</u>
<u>42</u>	<u>Business Cards</u>	<u>Mills and Walters</u>	<u>Not Offered</u>
<u>43</u>	<u>3/21/12 letter</u>	<u>Truong, Tuan</u>	<u>Received</u>