

May 21, 2010

The 720 Room, LLC  
Michael Pifher, Managing Member  
1805 SE 113<sup>th</sup> Avenue  
Portland, Oregon 97216

dba **THE 720 ROOM (F-Com)**  
720 SE Hawthorne Avenue  
Portland, Oregon 97214

CERTIFIED and REGULAR MAIL

**NOTICE OF PROPOSED LICENSE CANCELLATION**

Pursuant to ORS 471.315, the Commission may cancel or suspend your license or assess a civil penalty for any violation. The Public Safety Program proposes that the Commission cancel your license for the following violations:

Violation Number One

There is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises. This is a violation of ORS 471.315(1)(c). The problems include the following:

On October 9, 2005 at about 1:00 AM, patrons inside the premises fought. Licensee's employees broke up the fight and had the participants leave.

On October 29, 2005 at about 1:00 AM, a patron was upset with a promoter. There was an altercation inside the premises and some equipment was broken.

On October 30, 2005 at about 1:00 AM, there was racial tension between patrons. The patrons were separated and Licensee's employee had them leave.

On November 17, 2005, Licensee's employee found a male and a female patron engaged in inappropriate behavior in the women's restroom. The employee escorted the patrons from the premises and informed them that they were evicted from the premises.

On December 10, 2005, there was a fight between two patrons. Licensee's employee broke up the fight and police arrived later.

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On December 12, 2005, Licensee's employee was struck five times in the head by band members as he was removing a patron who had been strangling another patron during an altercation.

On December 26, 2005 at about 12:00 AM, a patron was escorted from the premises during a verbal altercation. Licensee's promoter's security claimed the patron hit his face with a writing pen, the patron then fell back as if she had been hit or pushed. Later the security person told Licensee's employee that that Licensee's employee did not understand what he had seen, and the promoter's security shoved Licensee's employee.

On January 7, 2006 at about 1:00 AM, an individual outside the premises attacked someone waiting in line to enter the premises.

On January 14, 2006 at about 1:00 AM, one patron hit another patron in the head, knocking her down as they were exiting the premises. The victim was bloody and upset. The aggressor took the victim's car and left.

On January 20, 2006 at about 1:00 AM, there was a verbal altercation at the premises involving gang members.

On February 18, 2006 at about 1:00 AM, security hired for an event at the premises started an altercation. Licensee's employee intervened and warned the security against starting further altercations.

On March 18, 2006, a patron grabbed the manager's arm and put his hands around the manager's neck. The same patron threw a glass at the bartender. The cook evicted the patron.

On April 16, 2006 at about 3:00 AM, patrons on the dance floor were involved in an altercation. Licensee's employee intervened.

On April 24, 2006, Licensee's employee spoke to a Portland Police Bureau (PPB) detective about a minor female who had been involved in an altercation at the premises on February 11 or 12, 2006. The minor told police that she was escorted upstairs and was abused there.

On April 28, 2006 at about 12:15 AM, Licensee's employee observed patrons and other employees trying to allow minors to enter the premises without identification or using identification that belonged to non-minors.

On May 27, 2006 at about 4:00 AM, a PPB officer on patrol observed a large crowd outside the premises. Two patrons had begun fighting in the second floor area of the premises. Additional patrons joined in the fight. Licensee's security sprayed the two patrons with

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pepper spray and then sprayed the entire crowd with pepper spray in order to get the crowd to settle down and disperse. One of Licensee's employees later claimed that a fighting patron had released the pepper spray, but this was contradicted by statements of the employee who released the pepper spray, other employees, and numerous patrons. There were multiple altercations inside the premises before the final altercation that involved the pepper spray.

On September 9, 2006 at about 2:30 AM, a gang initiated altercations inside the premises. Police and an ambulance were summoned.

On October 1, 2006 at about 4:55 AM, PPB officers doing a walk through arrested two patrons inside the premises. One patron was arrested for Possession of a Controlled Substance II (cocaine) and the other was arrested for Delivery of a Controlled Substance II and Possession of a Controlled Substance II (cocaine). When police initially arrived at the premises the bouncer closed the door and locked it when he saw police approaching. During this time the premises was not supposed to be open to anyone but the owner and building contractors based on a vacate order from the City of Portland for fire code violations.

On October 15, 2006 at about 5:00 AM, PPB officers attempted to enter the premises after they observed individuals entering the premises. The door was locked and there was no response when officers knocked on the door. Officers entered by force and discovered approximately 30 people inside and evidence of recent alcohol service. The doorman was cited for Criminal Trespass. Police also wanted to cite the manager, but they were unable to locate him. During this time the premises was not supposed to be open to anyone but the owner and building contractors based on a vacate order from the City of Portland for fire code violations. In addition, Managing Member Pifher had informed the Commission on October 10, 2006, that the premises would be closed for up to ninety days and would not be operating during that time.

On December 7, 2008 at about 1:30 PM, a PPB officer responded to a call from a patron who had been hit in the face with a bar glass at the premises during the early morning hours of December 6, 2008. The patron did not know her assailant, but had seen her at the premises. The patron described her assailant as intoxicated. Managing Member Pifher claimed that the victim was intoxicated but the assailant was not. The patron had bruising around her left eye and had five stitches to close the cut on her nose.

On February 13, 2009, there was a domestic dispute between two patrons at the premises.

On February 14, 2009, two patrons were ejected for fighting at the premises.

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On February 22, 2009 at about 1:10 AM, there was an altercation on the second floor of the premises. Multiple violent patrons attacked five employees, punching the employees multiple times. Managing Member Pifher was struck in the head with a candleholder and hyperextended his knee. One of the employees used a choke hold or sleeper hold to restrain the instigating patron. The employees moved the patrons outside, where they threatened to return and have the employees killed. One of the bouncers pepper sprayed a man, which caused the group to disperse, although the patrons continued to shout threats. Licensee's employee described the macing as excessive. Other patrons attempted to interfere both inside and outside the premises.

On March 6, 2009, there was a scuffle involving patrons inside the premises. The patrons involved were ejected.

On March 13, 2009 after 2:30 AM, there were two fights inside the premises. The first fight took place upstairs and the second occurred on the stairwell as the bar was cleared. Licensee's employees broke up the fights.

On March 14, 2009, there was a scuffle upstairs. A bouncer broke it up.

On March 14, 2009, three patrons were ejected for smoking marijuana inside the premises.

On March 14, 2009 at about 4:29 AM, a PPB officer responded to a call from a patron who had been punched in the face inside the premises. The patron had a deep split on his upper lip. The patron was at Providence Hospital when he contacted police to report the assault.

On March 20, 2009, three patrons were ejected for smoking marijuana.

On March 20, 2009, there was a fight outside the premises.

On March 27, 2009, several people were involved in a large altercation outside the premises. One male was stomped on the head and torso by several other males. Licensee's employees used pepper spray to intervene. Some of the assailants continued to fight as they left the area and pepper spray was used to disperse the crowd. The employees called for police and medical assistance, but the injured man was removed before medics arrived.

On March 28, 2009 at about 2:06 AM, PPB officers responded to a hit and run accident. The driver and his passenger stated that they had been patrons at the licensed premises. The driver had consumed a beer at the premises. The patrons left the premises after a fight at the premises and hit and killed a motorcyclist. The driver and his passenger both showed

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signs of intoxication. The driver was arrested for DUII, Reckless Driving, Manslaughter II, Hit and Run – Property, and Hit and Run – Injury.

On April 3, 2009 at about 2:20 AM, PPB officers, medical response, and the fire department responded to a 911 call regarding a drunk patron in one of the bathrooms. They were unable to locate the patron in question.

On April 11, 2009 at about 12:40 AM, two patrons were escorted out for attempting to start a fight and exhibiting aggressive behavior.

On April 11, 2009 at about 1:10 AM, two patrons were escorted out for aggressive behavior and instigating a fight with security.

On April 12, 2009 at about 2:20 AM, Licensee's employee roused an unconscious and bleeding patron inside the premises. While the employee led the patron to the door, the patron grew increasingly aggressive. Police arrived as the employee and patron exited the premises. The patron was taken to a medical facility.

On April 17, 2009 at about 12:32 AM, PPB officers responded to a report of shots fired outside the licensed premises. Officers found shell casings at addresses on either side of the premises and bullet fragments in front of the premises. The window of the business next door to the premises was shattered.

On May 2, 2009, there was an altercation inside the premises. Both groups involved were denied reentry. Shots were fired two or three blocks south of the premises.

On May 8, 2009, a patron who was asked to leave had to be escorted out when he became physical.

On May 9, 2009 at about 2:41 AM, PPB officers responded to a report of shots fired outside the licensed premises. A business across the street from the licensed premises was damaged and an expended bullet was found nearby.

On June 13, 2009 at about 1:59 AM, PPB officers responded to a call from a patron who had been attacked in the bathroom at the premises. The victim was strangled and hit, and the assault only stopped when some male patrons entered the bathroom and broke up the fight. The victim had four raised lumps on the top of her head and her left cheek was swollen. The patron was at Emanuel Hospital when she contacted police to report the assault.

On July 4, 2009 at about 12:29 AM, PPB officers responded to a call from a patron who had been assaulted at the premises. The patron had fallen while dancing and when she got

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up her head was bleeding. The patron's friend indicated that while she was on the ground the patron had been kicked in the head. The patron was very intoxicated and was transported to Oregon Health Sciences University (OHSU) for stitches to the cut across her left eyebrow.

On July 18, 2009 at about 1:30 AM, PPB officers responded to a call from a patron who had been assaulted at the premises. The patron was assaulted by multiple individuals and sustained cuts, scratches, bruises, and swelling to numerous areas of her head and body. The patron was treated at Emanuel Hospital and contacted police to report the assault after she returned home. A male patron was arrested for Assault IV in connection with the incident. PPB officers responded separately to another report of this same altercation. The patron in that report had a three-quarter inch gash on her temple. After the parties fought inside the premises, security escorted the victim from the premises. The parties met again in the parking lot and they fought again. The patron stated that the victim struck her with a shoe.

On July 18, 2009 at about 3:20 AM, PPB officers responded to a report of shots fired in the immediate vicinity of the premises.

On August 15, 2009 at about 8:12 AM, a PPB officer responded to a call from a patron who had been involved in a fight at the premises at about 2:00 AM. Two patrons fought inside the premises and after bouncers intervened, they fought again outside the premises. The patron who contacted the police had a cut on her nose, a headache, and a sore upper lip. Another patron was taken to the hospital to get stitches for the cut on her lip.

On September 4, 2009, a patron slapped another patron and had to be escorted from the premises.

On September 6, 2009 at about 11:06 AM, a PPB officer responded to a call regarding a woman yelling for help in the courtyard of an apartment complex near the premises. The woman informed police that she had been at the premises on the previous evening, and while there she was drugged and blacked out. When the woman awoke she was being chased. The patron was not wearing shoes and her clothing was wet. The patron was transported to the hospital. The patron's boyfriend, who works at the premises, stated that she was intoxicated when he saw her at the premises, and at some point in the evening she had left the premises.

On September 18, 2009, police responded to an altercation at the premises. Two patrons were ordering drinks on the tab of a third patron who had not agreed to pay for multiple drinks.

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On October 3, 2009 at about 2:26 AM, PPB officers responded to a report of a rape at the premises. An intoxicated, minor female patron was taken to the unisex bathroom on the second floor of the premises by an employee of the promoter. The VIP Lounge Host kicked open the locked bathroom door and found the patron and the promoter's employee engaging in sexual intercourse. The female patron's recollection of the incident had gaps due to her intoxication and she declined to press charges. As the female patron was escorted out by friends, the promoter's employee grabbed one of the friends by the throat and pushed her. The promoter's employee told police that he had sex with a lot of girls in the bathroom at the premises. The female patron's vagina was bleeding and a sexual assault examination was performed at OHSU.

On October 3, 2009 at about 3:10 AM, a PPB officer on patrol observed an individual driving erratically. The driver had thick and slow speech, bloodshot, watery eyes, and smelled strongly of an alcoholic beverage. He stated that he had been drinking at the premises, and gave differing accounts of where he was going. The patron failed field sobriety tests, blew a .16% BAC, and was arrested for DUII.

On October 3, 2009, Licensee's employee found patrons smoking in the premises' bathroom. When one of the patrons was asked to leave he became violent and made racist remarks towards Licensee's staff.

On October 16, 2009 at 10:18 PM, OLCC inspectors observed two females urinate on the sidewalk outside the premises and then enter the premises.

On October 17, 2009, PPD responded to a call for assistance regarding a domestic dispute and altercation outside the premises.

On October 24, 2009 at about 11:53 PM, OLCC inspectors visited the premises to notify the manager of a minor who was reported to be a regular at the premises. While at the premises the inspectors observed that the kitchen was closed and staff had difficulty locating a menu. Licensee's staff also said they were running low on food.

On October 25, 2009 at about 1:00 AM, a patron who had been cut off passed out in the bathroom at the premises. A medical response team responded and took the patron to the hospital.

On October 31, 2009 at about 2:42 AM, PPB officers responded to a report of shots fired in the immediate vicinity of the premises. While premises security was attempting to disperse a fighting crowd of about 30 patrons, a car pulled up, the passenger door opened and multiple shots were fired. The car drove further and fired a few more shots. One of the combatants got into another car and swerved towards the shooter's car before crashing into a pole and then driving away.

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On November 21, 2009 at about 1:11 PM, a PPB officer responded to Kaiser Medical Center to take a report from a patron who was stabbed at the premises. The patron was leaving the premises at 2:30 AM when he and his friends were attacked by twelve males. The patron had a wound on his right thigh which required stitches.

On November 22, 2009 at about 2:13 AM, a PPB officer on patrol in the area was flagged down by a patron to assist a female patron who was being restrained by a male. The female patron was very intoxicated and did not understand what was happening; she did not know the male. The male had also been drinking at the premises and showed signs of visible intoxication and had a strong odor of alcoholic beverage on his person. The male patron refused to follow police commands, and said to the officer "Fuck you nigga bitch," "You don't want to see me again, bitch" and similar statements. He was arrested for Disorderly Conduct II and Interfering with Police. He was also cited for possession of marijuana and officers noted that he had \$216.00 in cash with him.

On November 28, 2009 at about 2:53 AM, a PPB officer on patrol in the area observed an intoxicated woman near the premises yelling "Fuck you" at police as they drove by. The woman fell as she tried to walk, slurred her speech, and smelled of alcohol. The PPB officer determined that the woman was unable to care for herself and took her to a detoxification center (detox). The woman had been a patron at the premises, and Licensee's staff had called a taxi for her.

On December 12, 2009 at about 1:50 AM, PPB officers responded to a request for assistance from security at the premises. Security told police that there had been tension between two groups at the premises. Security had told one group to leave, and they did so after making a threat to the remaining group. Multiple patrol cars circled the area at closing time to maintain order.

On December 13, 2009 at about 2:31 AM, a PPB officer on patrol in the area observed an intoxicated patron standing in the street in front of the premises yelling and exhibiting threatening behavior towards a group of individuals on the sidewalk. The woman was making her way to the driver's side door of a car. The car door was already opened. The woman admitted she was coming from the premises and had had several drinks there. She was arrested for Disorderly Conduct II, and upon arrival at the detention center she became aggressive with corrections deputies.

On December 13, 2009 at about 2:45 AM, a PPB officer on patrol in the area observed a crowd of 50-80 people blocking the sidewalk in front of the premises. Some of the crowd was walking in the street and several cars were stopped in the street and playing music loudly. The officer did not observe any individuals that he could identify as security staff attempting to disperse the crowd. On one side of the street the officer observed two females yelling at each other; one of the women was holding a shoe in the air. By the time

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the officer reached them, one of the women was lying in a puddle of her own vomit. The woman said she had been drinking at the premises all night and had not consumed alcohol prior to entering the premises. The woman continued to yell and scream. The officer looked for black X marks on her hands which would indicate that the premises had cut her off, but saw none. The woman had extremely slurred speech and had difficulty standing without assistance.

On December 13, 2009 at about 3:20 AM, PPB officers on patrol observed a car driving erratically. They followed the car for some time and then pulled over the vehicle. The driver had an odor of alcoholic beverage, was swaying, and had bloodshot, watery eyes; he told police he was coming from the premises. He was arrested for DUII and Reckless Driving.

On December 19, 2009 at about 1:39 AM, a PPB officer on patrol in the area of the premises observed a car driving without its lights on. The officer pulled over the car. The driver had droopy, watery, red eyes, flaccid facial muscles, thick, slow, slurred speech, and a moderate odor of alcoholic beverage. The driver stated she had been at the premises and "only had one drink." The driver was wearing only one shoe. The driver was arrested for DUII.

On December 19, 2009 at about 1:59 AM, a PPB officer on patrol in the area of the premises observed a crowd of 100-150 people blocking the sidewalk in front of the premises. Several cars were stopped in the street, blocking lanes of travel, and playing music loudly. The officer did not observe any individuals that he could identify as security staff attempting to disperse the crowd. The officer told the car drivers to move, and then 50-60 individuals started to cross the street and then stopped and stood in the street mingling. The officer requested additional cover to monitor the crowd and clear the street. The crowd was dancing, yelling, pushing and shoving in the street. There were several people posturing as if they were going to fight. As the officer drove up he heard several subjects within the group say "Fuck the police!" The officer used his public address system to instruct the crowd to disperse. The officer noted that there were no other clubs open at that time and the entire group seemed to be coming from the premises.

On December 20, 2009 at 12:37 AM, OLCC inspectors visited the premises and observed multiple patrons showing signs of intoxication and being unruly. Two patrons were yelling at each other. Inspectors also observed a patron grinding her body against another patron sitting on a couch.

On December 26, 2009 at about 2:22 AM, PPB officers parked near the premises observed a car driving erratically. They followed the car for some time and then pulled over the vehicle. The driver had red, watery eyes, mumbled, and the officer smelled an odor of an alcoholic beverage on the driver's breath. The driver said he was coming from the premises

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and had consumed three drinks there. The driver was arrested for DUII and Reckless Driving.

On December 26, 2009 at about 3:28 AM, PPB officers responded to a request for assistance from a woman whose car was stuck on railroad tracks near the premises. The woman claimed that two men had been driving her home when the car got stuck and the men ran off. One of the officers who responded recognized the woman and had seen her getting out of the driver's seat of the vehicle in front of the premises earlier. The woman admitted that she had been driving the car. The woman was displaying signs of intoxication and said she had had two drinks at the premises. The patron was arrested for DUII and Reckless Driving. At the Central Precinct her BAC was measured at 0.15%.

On December 27, 2009 at about 2:31 AM, PPB officers observed patrons entering the premises. The officers later heard shots fired in the immediate vicinity of the premises and found shell casings where the patrons they had observed entering the premises were parked. The officers learned that problems started inside the premises and involved rival gang members. Licensee's incident log indicates that there was a fight inside the premises. Staff broke up the fight and moved the combatants outside.

On January 9, 2010 at about 1:09 AM, a PPB officer on patrol in the area observed a very drunk patron stagger from the premises onto the sidewalk. She was hardly able to stand and had to brace herself against a car to maintain balance. The female admitted to drinking before going to the premises and then had a couple drinks at the premises. The patron also smelled of alcohol and had slurred speech. The officer left her in the care of a sober friend, but said she would have been taken to detox had she not had someone available to care for her.

On January 9, 2010 at about 1:13 AM, a PPB officer on patrol in the area observed two patrons in the immediate vicinity of the premises begin fighting. Officers separated the parties. Both combatants indicated that they had been in the premises. One of the patrons was visibly intoxicated and slurred his speech; he said he had several drinks at the premises. Licensee's incident log indicates that the patrons fought inside the premises before security escorted them outside. A female patron intervened after police had separated the parties and grabbed an officer's shoulder. The patron had poor balance, glassy, bloodshot eyes, and smelled of alcohol. She said she had a few drinks at the premises. She was transported to detox.

On January 9, 2010 at about 2:20 AM, three patrons began fighting inside the premises. Licensee's security separated the patrons and escorted them out.

On January 9, 2010 at about 2:30 AM, a PPB officer on patrol in the area observed a crowd of over 80 people walking on the sidewalk in front of the premises. Several people in black

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jackets with the word "Security" printed on the back were waving flashlights and yelling for the patrons to leave. Several police cars began patrolling the area and the crowd slowly dispersed. Vehicle traffic on the street had to slow to allow the group to cross in several times.

On January 16, 2010 at about 2:30 AM, there was a domestic argument as patrons exited and police assisted in addressing the situation. There was also a separate verbal disturbance that Licensee's security resolved.

On January 23, 2010 at about 12:00 AM, OLCC inspectors observed two males urinate on the corner of the building outside the premises and then enter the premises. The inspectors also observed patrons in line to enter the premises shouting and yelling. A car driving around the premises had music so loud that the inspectors' car vibrated when it passed. The car parked in front of the inspectors and its occupants got in line to enter the premises.

On January 23, 2010 at about 2:24 AM, a PPB officer on patrol in the area observed eight to ten patrons from the premises squaring off in the middle of the road. There was yelling and pushing in the group. The officer turned on his lights and drove towards the fight; as he approached, security from the premises dispersed the crowd.

On January 23, 2010, a patron refused to give up his drink. He threw his drink at Licensee's staff. Staff had to restrain him and escort him out.

On January 23, 2010, a patron refused to leave the premises with her friends. Staff escorted her out and physically put her into the car.

On January 23, 2010, a patron reported to staff that another patron had her keys. Police helped to recover her keys.

On January 24, 2010 at about 12:36 AM, PPB officers on patrol in the area observed two women crossing the street. One of the women was crawling on the ground and the other was trying to help her up. The crawling woman was visibly intoxicated and unable to get up on her own. The other woman said they had both been drinking at the premises and they were going to catch a bus home. Officers called a cab and assisted them into the cab.

On January 24, 2010 at about 2:06 AM, PPB officers on patrol in the area observed a crowd of about 75 people gathered around a pair of individuals fighting in the parking lot adjacent to the premises. The crowd was very noisy and a number of them were in the street. Multiple patrol cars responded. They used their overhead lights to disperse the crowd, although for the next 15-20 minutes smaller fights broke out and the crowd slowly dissipated. Some of Licensee's employees were yelling for people to leave the area.

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On January 30, 2010 at about 1:29 AM, PPB officers responded to a car crash near the premises. The driver hit three parked cars. She had bloodshot, watery eyes, slurred speech, a dazed look, and smelled of alcohol. She said she had had two drinks at the premises. The patron was arrested for DUII and Reckless Driving. At the traffic office her BAC was measured at 0.16%.

On February 5, 2010 at about 2:10 AM, there was a fight inside the premises. One patron was escorted from the premises.

On February 7, 2010 at about 1:25 AM, there was an altercation between six patrons in the premises. A drink was thrown, as were punches. Licensee's security broke up the fight and escorted the patrons out.

On February 13, 2010 at about 1:02 AM, PPB officers responding to a report of a fight at the premises were harassed by promoters hired by the Licensee.

On February 13, 2010 at about 1:05 AM, there was a fight between five patrons. Security broke up the fight and escorted the patrons out. The participants were evicted from the premises.

On February 20, 2010, there was an incident between two patrons as they were exiting the premises. Security then escorted them out in different directions.

On February 28, 2010 at about 1:35 AM, PPB officers responded to a report of an assault. The victim told police she had been assaulted by her husband in front of the premises. The victim and her husband had been at the premises. When the victim said she was going to leave, her husband hit her on the left side of her forehead, eye, and mouth. The husband also threatened to kill her and dragged her across the street. The victim had a half-inch cut on her lip.

On March 6, 2010 at about 11:25 PM, two patrons refused to show identification, or pay the cover charge, and entered the premises. When they were confronted by Licensee's staff they began punching the staff. Licensee's staff restrained them and they eventually left.

On March 20, 2010 at about 1:35 AM, two females got into a fight while Licensee's staff was clearing the area around the premises at closing time. Licensee's security escorted the women to their respective vehicles.

Willingness and Ability

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There have been 90 serious incidents at The 720 Room since October 9, 2005. Incidents have included public drunkenness, fights, altercations, harassment, criminal mischief, and disorderly conduct. Nearly every incident has required the involvement of one or more officers of the Portland Police Bureau. Numerous incidents included one or more patrons who were intoxicated. Eighteen incidents have involved harm or the threat of harm, with feet and fists frequently being used as weapons as well as guns. Several times shots have been fired, and one person was killed by an intoxicated driver after the driver drank at the premises.

In October 2006 Licensee notified the Commission that he was closing the business to re-concept the establishment. In October 2008 Licensee officially reopened the business. There were serious incidents before, during, and after this closure.

Licensee has had significant problems with the City of Portland. Due to fire code violations, the premises was closed for part of 2005 and 2006, although Licensee operated illegally for part of that time. Licensee has also had nuisance violations and since February 23, 2010 it has been operating under an abatement plan with the city. The abatement plan severely restricts Licensee's business operations in order to ameliorate Licensee's effect on neighborhood livability. Despite this abatement plan, there have been three additional incidents since it took effect.

On at least 14 occasions between January 2009 and March 2010, Licensee received verbal instructions from OLCC inspectors including instructions regarding disorder and/or neighborhood livability. Licensee also received written warnings for disorder in May 2006 and September 2009. On five occasions between October 2009 and March 2010, Licensee received verbal instructions from OLCC inspectors regarding the sale and service of alcohol to visibly intoxicated persons (VIPs). On four occasions between December 2009 and March 2010, Licensee received verbal instructions from OLCC inspectors regarding a history of serious and persistent problems. Licensee received a written warning for a history of serious and persistent problems on November 13, 2009. Between May 2006 and March 2010, Licensee also received written warnings from OLCC inspectors on unlawful activity, after hours consumption, denying access to the premises, and failure to evict. Between October 2009 and March 2010, Licensee also received verbal instructions from OLCC inspectors regarding false statements and food service. On March 3, 2010, OLCC staff taught a training class to licensee's employees on checking identification and visibly intoxicated persons.

On September 2, 2009, OLCC held an intervention meeting with Licensee and his attorney to discuss licensee's history of serious and persistent problems. Among other solutions, Licensee said he would impose a dress code, work with PPB's Gang Enforcement unit, have a soft close with mellow music to move the crowd out, hire new security, have security

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sweep the block on large crowd nights. Licensee confirmed these changes in a letter on September 8, 2009. In spite of Licensee's stated commitment to make the necessary changes to reduce the fights and to reduce problems, 45 additional serious incidents have occurred since that meeting. The largest crowds that were the most difficult for police to disperse occurred after this meeting. On December 9, 2009, Licensee sent OLCC a list of actions taken to reduce problems. Some of the actions on this list are the same as, or less restrictive, than those included in Licensee's letter of September 8, 2009. In spite of Licensee's stated intentions in the December list, there have been 31 additional serious incidents since that time.

Licensee has not been able to control the serious problems that have repeatedly occurred in and around the premises. Licensee's failure to take immediate and effective action to prevent such serious and persistent problems is evidenced by the on-going nature of these incidents. Numerous incidents have involved harm or the threat of harm and weapons.

Licensee has not demonstrated a willingness or ability to control adequately the licensed premises and patrons' behavior in the premises and its immediate vicinity. Licensee's unwillingness and inability to obey liquor laws on the licensed premises and in areas the Licensee controls make it a poor risk for future compliance.

### Violation Number Two

On February 13, 2010, Licensee permitted disorderly activity on the licensed premises when Licensee's agents or servants, Joshone Brown and Kenny Scott, threatened and harassed a PPB officer. This is a violation of OAR 845-006-0347(2)(a) as defined by OAR 845-006-0347(1)(a). OAR 845-006-0347(1)(a) defines "disorderly activities" as those that harass, threaten, or physically harm another person.

### **DETERMINING THE PENALTY**

OAR 845-006-0500 defines Violation Number One as a Category I violation and recommends cancellation for the first violation of this type within two years. This is your first.

OAR 845-006-0500 defines Violation Number Two as Category III violation and recommends a 10-day suspension or a \$1,650.00 civil penalty for the first violation of this type with two years. This is your first.

If the license is cancelled pursuant to Violation Number One, no separate penalty will be imposed for Violation Number Two.

### Aggravating Circumstances

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Licensee received a prior Notice of Warning regarding a history of serious and persistent problems.

Licensee received a prior Notice of Warning for permitting disorderly activity. Multiple agents or servants of Licensee were involved in Violation Number Two.

### **PROPOSED PENALTY**

The Public Safety Program proposes that the Commission cancel your Full On-Premises Sales license for these violations.

If a licensee's interest in the license expires before a Final Order is issued, the Commission's Public Safety Program recommends that under the authority of ORS 471.030, 471.040, 471.313 and 471.730, the Commission issue the licensee a Letter of Reprimand. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for a liquor license by the licensee.

### **RESPONSIBILITY FOR VIOLATIONS**

"Licensee" is defined as including any member of a limited liability company whose membership interest is 10% or more of the total membership interest (OAR 845-006-0301). Therefore, the licensee includes Managing Member Michael Pifher of The 720 Room, LLC. Additionally, The 720 Room, LLC is responsible for the acts and omissions of its employees and representatives in violation of any law affecting license privileges (OAR 845-006-0362).

### **HEARINGS RIGHTS**

You have the right to a hearing to dispute the charges or the proposed cancellation. If you want a hearing, please sign and date the enclosed form and return it to the address listed on the form by June 21, 2010. Individuals have a right to be represented by an attorney. **Per OAR 137-003-0550, limited liability companies must be represented by an attorney.**

Hearings are conducted by the Office of Administrative Hearings under the jurisdiction of the Oregon Liquor Control Commission, according to the Administrative Procedures Act (ORS Chapter 183), Attorney General's Rules for the Office of Administrative Hearings (OAR Chapter 137) and Commission Administrative Rules (OAR Chapter 845 Division 03). If you do not request a hearing, or if you request a hearing and then withdraw your request, a final order by default will be issued by the Commission Administrator. If you fail to appear

at a scheduled hearing, a final order by default will be issued by either the Administrative Law Judge or the Commission Administrator, as authorized by OAR 845-003-0670. In each

**THE 720 ROOM (F-COM)**

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of these instances, the Commission will designate its file or files in this matter, including all materials you have submitted, as part or all of the record supporting its final order by default.

Once a final order by default is issued, your license will be cancelled.

OREGON LIQUOR CONTROL COMMISSION

Stephen A. Pharo  
Executive Director

SAP:AD

If you have any questions, please call 503-872-5128 or 800-452-6522, extension 5128.

## CERTIFICATE OF SERVICE

I certify that on May 21, 2010, I served the attached Notice of Proposed License Cancellation by certified mail, in a sealed envelope, with first class postage prepaid and by regular mail, in a sealed envelope, with first class postage prepaid, addressed as follows:

The 720 Room, LLC  
Michael Pifher, Managing Member and **Registered Agent**  
dba **THE 720 ROOM**  
1805 SE 113<sup>th</sup> Avenue  
Portland, Oregon 97216

On the same date I also served Licensee's attorney by certified mail, in a sealed envelope, with first class postage prepaid, addressed as follows:

Michael Gottlieb  
8630 SW Scholls Ferry Road, Suite #302  
Beaverton, Oregon 97008

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Karen Maia  
Administrative Specialist  
Administrative Policy & Process Division  
OREGON LIQUOR CONTROL COMMISSION