



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION

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IN RE: 408, INC.  
D/B/A THE POST LOCAL BISTRO  
844 PENNIMAN AVE  
PLYMOUTH, MI 48170

HEARING: JANUARY 20, 2021  
PLACE: ZOOM PLATFORM  
COMPLAINT NO. CV-509003  
BUSINESS ID NO. 232456

CLASSC SDM SS (AM & PM)  
ADDBAR DANC-ENT OD-SERV2  
DIR-CON-1

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**CHARGES** – THE LICENSEE OR THE LICENSEE'S AGENT, CLERK OR EMPLOYEE:

- (1) On January 8, 2021, 408, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing non-residential outdoor gatherings in excess of the allowable capacity, contrary to Section 2(b)(2) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 18, 2020.
- (2) On January 8, 2021, 408, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing non-residential outdoor gatherings without requiring patrons to be seated at tables spaced 6 feet apart, contrary to Section 3(b)(2) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 18, 2020.
- (3) On January 8, 2021, 408, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing non-residential outdoor gatherings without limiting patrons to no more than six persons per table, contrary to Section 3(b)(2) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 18, 2020.
- (4) On January 8, 2021, 408, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing non-residential outdoor gatherings without requiring persons to wear face masks, contrary to Section 7(a),(c) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 18, 2020.

- (5) On January 8, 2021, 408, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing non-residential outdoor gatherings without requiring persons not from the same household to maintain six feet of distance from each other, contrary to Section 2(d) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 18, 2020.

### **NEGOTIATED SETTLEMENT**

Michael Brown, Attorney at Law, on behalf of the above-noted Licensed Corporation, appeared before this Administrative Law Judge. The Corporation entered into a Negotiated Settlement acknowledging the charges 2, 3, 4, and 5 as cited pursuant to Section 903 of the Michigan Liquor Control Code, MCL 436.1903, and Rule 436.1909(1) of the Michigan Liquor Control Commission (Commission); the Commission moved to dismiss charge 1 with prejudice. Assistant Attorney General Daniel Felder represented the Commission and all law enforcement agencies involved in this matter.

The Attorneys proposed the following Negotiated Settlement for the Administrative Law Judge to consider in pursuant to Section 903 of the Michigan Liquor Control Code, MCL 436.1903, and Rule 436.1909 of the Michigan Liquor Control Commission (Commission):

### **PROPOSED NEGOTIATED SETTLEMENT**

- (1) The Licensee will fully acknowledge charges 2, 3, 4, and 5 as cited in the complaint;
- (2) The Commission will dismiss, with prejudice, charge 1 of the complaint;
- (3) The Administrative Law Judge will enter the Violation Report and its attachments into the record as substantive evidence; the Administrative Law Judge further will take notice of the prior record of this Licensee, since being licensed by the Commission at the above-noted location under the current ownership;

(4) As a penalty, the Licensee will agree to pay a fine of \$300 for each acknowledged charge for a total fine of \$1200 and serve a suspension of 4 days from the date of the hearing, until 7:00 a.m. on January 24, 2021 for the four acknowledged charges in the complaint; and

(5) Both parties will agree that there shall be no appeals on these matters to the Appeal Board of the Commission or any court of law.

### ORDER

In determining whether to approve the Negotiated Settlement as proposed above, the Administrative Law Judge considered the Licensee's total record, which shows one prior warning (2016 cooperative advertising) two prior violations (a 2017 sale to minor and allowing consumption, and a 2018 sale to an intoxicated person and illegal consumption and occupation) since being licensed on December 11, 2013, at the above-noted location under the current ownership.

The Administrative Law Judge accepts the terms and conditions of the proposed Negotiated Settlement and Orders as follows:

The Administrative Law Judge accepts the Licensee's Plea of Acknowledgment to charges 2, 3, 4, and 5 as cited.

The Administrative Law Judge accepts the Commission's request to dismiss count 1 of the complaint.

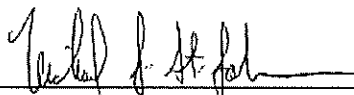
The Administrative Law Judge accepts the Violation Report and its attachments as substantive evidence. Further, the Administrative Law Judge accepts a true copy of this Licensee's record since being licensed by the Commission at the above-noted location under the current ownership.

The Administrative Law Judge finds that, based on the Administrative Documents, on January 8, 2021 the Licensee allowed non-residential outdoor dining/gatherings without proper spacing, occupancy, and facemasks contrary to Rule 436.1011(1), contrary to the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated December 7, 2020.

As agreed upon by the parties, the Administrative Law Judge Orders that count 1 is dismissed with prejudice. The Administrative Law Judge further Orders a fine of \$300 for each of the four admitted charges for a total fine of \$1200. Further the Administrative Law Judge Orders a suspension of four (4) continuous days from the date of the hearing, to 7:00 a.m. on January 24, 2021, with this suspension to run consecutively and not concurrently with any other suspension Ordered by the Commission. Further, the Administrative Law Judge Orders that a suspension of sixty (60) continuous days with this suspension to run consecutively and not concurrently with any other suspension Ordered by the Commission, if the fine is not paid within forty-five (45) days from the mailing date of this Order.

Further, the Administrative Law Judge Orders that this Negotiated Settlement is a full and final disposition of this matter before the Commission, that there is no further right of Administrative or Judicial Appeal, either to the Commission or any court of law, that the plea in this complaint has been entered voluntarily and with the full understanding of all consequences, that there are no promises, stipulations, understandings or agreements other than those stated as part of the official record herein, and that this Negotiated Settlement represents the final agreed settlement.

MICHIGAN LIQUOR CONTROL COMMISSION



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Michael J. St. John, Administrative Law Judge

Date Signed: January 21, 2021

Date Mailed: **JAN 25 2021** \_\_\_\_\_

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