



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION

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IN RE: BIRDIES INDOOR GOLF & BAR, LLC

COMPLAINT NO. CV-509013

BUSINESS ID NO. 261308

974-980 N LAPEER RD  
OXFORD, MI 48371  
OAKLAND COUNTY

CLASSC SS (AM & PM) ENT

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

- (1) On January 29, 2021, Birdies Indoor Golf & Bar, LLC, 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 persons to participate in indoor gatherings at the licensed premises without requiring them to wear face masks, contrary to section 7(c) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated January 13, 2021.
- (2) On January 29, 2021, Birdies Indoor Golf & Bar, LLC, 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: as a lower risk recreational facility it allowed persons of different households to sit together without maintaining six-feet of social distancing contrary to section 3(a)(3) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated January 13, 2021.
- (3) On January 29, 2021, Birdies Indoor Golf & Bar, LLC, 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: as a lower risk recreational facility it sold food and beverage and allowed persons to consume food and beverage inside the licensed premises, contrary to section 3(a)(4) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated January 13, 2021.
- (4) On January 29, 2021, Birdies Indoor Golf & Bar, LLC, 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: as a lower risk recreational facility it operated at greater than the permitted capacity limits, contrary to Section 3(a)(5) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated January 13, 2021.

**NEGOTIATED SETTLEMENT**

Kelly Allen, Attorney at Law, on behalf of the above-noted Licensed Corporation, and Assistant Attorney General Jason Geissler representing the Commission and all law enforcement agencies involved in this matter submitted a Stipulation for Proposed Negotiated Settlement. The Corporation entered a Negotiated Settlement acknowledging charges 1, 2 and 3 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 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 1, 2, and 3 as cited in the complaint.
- (2) 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.
- (3) As a penalty, the Licensee will agree to pay a fine of \$300 for each of the three acknowledged charges for a total fine of \$900 and serve a twenty-one (21) day suspension from the date of the scheduled hearing: until March 1, 2021.
- (4) The Licensee will be given ninety (90) days to pay the fine rather than the standard 45 days.
- (5) Charge 4 will be dismissed with prejudice.

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

**ORDER**

The summary suspension is hereby dissolved.

In determining whether to approve the Negotiated Settlement as proposed above, the Administrative Law Judge considered the Licensee's total record, which shows no prior violations since being licensed on March 19, 2019, 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 1, 2, and 3 as cited.

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 also notes with serious concern the Findings of Fact in the Summary Suspension and the Investigation Report included in the Licensee's file. Particularly, it is seriously concerning that 1) the Licensee had been previously warned and had received previous requests to cease and desist indoor gatherings but continued to operate at least throughout the month of January 2021, 2) the Licensee's staff were not wearing face

masks, and 3) the Licensee's owners made comments to the Investigator that "I will not lay down" and expressed a belief that he was above the law and was not required to comply.

The Administrative Law Judge finds that, based on the Administrative Documents, on January 29, 2021 the Licensee allowed indoor dining/gatherings without facemasks and proper social distancing contrary to Rule 436.1011(1), contrary to the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated January 13, 2021.

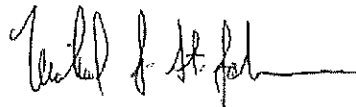
The Administrative Law Judge has some reservations about the limited length of the suspension given the extended period the Licensee remained in violation of the law despite warnings and a cease and desist and the Licensee's belief that they were above the law. However, this is mitigated by the Licensee's belated acknowledgment of (three of) the charges and lack of prior discipline over the last almost two years. The negotiated settlement between the parties is therefore accepted.

As agreed upon by the parties, the Administrative Law Judge Orders a fine of \$300 for each of the three admitted charges for a total fine of \$900 and a twenty-one (21) day suspension of the license from the date of the scheduled hearing: until 7:00 a.m. on March 1, 2021. Further, the Administrative Law Judge Orders that a suspension of forty-five (45) 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 ninety (90) days from the mailing date of this Order. Finally, the Administrative Law Judge Orders that Count 4 is dismissed with prejudice.

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: February 8, 2021

Date Mailed:           **FEB 08 2021**          

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