

Jenny Liaw

From: Fuentes, Paul@ABC <Paul.Fuentes@abc.ca.gov>
Sent: Wednesday, November 14, 2018 10:43 AM
To: Jenny Liaw
Cc: Kevin Colin
Subject: RE: Ave on the Mile at 2333 Pacific Avenue

Hello Jenny

CASE #18087090

Violation of Conditions (Noise)

Penalty is a 15 Day Suspension, with 5 Days of the suspension stayed for one year. This means the business will serve a 10 Day Suspension and the 5 Days that are stayed will be imposed if another violation of condition (noise) occurs within the next year (Nov. 1, 2019).

(For example: If the Department finds the business violated their noise condition with the next year, the Department would add the 5 days to the new penalty. If the Department would be seeking a 15 Day Suspension, we would ask the judge for the 15 Days plus the 5 days since the violation occurred within one year of the previous violation.)

CASE #18086964

Minor Violation

Penalty is a fine in lieu of serving a suspension. The amount of the fine will be comparable to ½ the businesses daily sales of alcoholic beverages for the past year. The fine will range from \$1500-\$6000. The fine cannot be less than the minimum (\$1500) or exceed the maximum (\$6000).

Paul A. Fuentes
Supervising Agent in Charge
Department of Alcoholic Beverage Control
Stockton District
(209) 948-7739

From: Jenny Liaw [mailto:Jenny.Liaw@stocktonca.gov]
Sent: Wednesday, November 14, 2018 10:08 AM
To: Fuentes, Paul@ABC
Cc: Kevin Colin
Subject: Ave on the Mile at 2333 Pacific Avenue

Paul:

Thank you for taking time to talk with me on the phone. Would you please provide me the hearing resolution (10/23/2018) for Ave on the Mile at 2333 Pacific Avenue. The resolutions will include alcohol sold to minor and noise issue. Also, Could you provide me an explanation regarding the license issued to respondent(s) for a period of 1 year from the effective date of the Department's decision until Nov. 1, 2019. Thank you

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION
AGAINST:**

AVENUE ULTRA LOUNGE LLC
AVE ON THE MILE
2333 PACIFIC AVE
STOCKTON, CA 95204

ON-SALE GENERAL PUBLIC PREMISES -
LICENSE

STOCKTON DISTRICT OFFICE

File: 48-475538

Reg: 18086964

**DECISION AND CERTIFICATE OF
DECISION**

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

The above-entitled matter having regularly come before the Department for decision and the respondent(s) having filed a stipulation and waiver, on October 23, 2018 (attached hereto and incorporated by reference herein), in connection with the accusation herein in which respondent(s) waives right to hearing, reconsideration and appeal, and good cause appearing, the Department hereby adopts the terms of the stipulation and waiver as its decision in this matter and further finds that, pursuant to said stipulation and waiver, cause for disciplinary action has been established.

Grounds for suspension or revocation have been established under Article XX, Section 22 of the State Constitution and Business and Professions Code section 24200(a&b).

It is hereby certified that the Department of Alcoholic Beverage Control adopted the foregoing as its decision in this matter, effective immediately.

Sacramento, California
Dated: November 5, 2018



Matthew D. Botting
General Counsel

NOTE: If the stipulation and waiver includes suspension or revocation of the license, the suspension or revocation does not start until the license certificate is picked up by the Department and a notice of suspension or revocation is posted at the licensed premises. A representative of the Department will contact you to make the necessary arrangements.

PETITION FOR PAYMENT OF FINE IN LIEU OF SUSPENSION AND FINANCIAL STATEMENT

Licensee: AVENUE ULTRA LOUNGE LLC File: 48-475538
DBA: AVE ON THE MILE Reg.: 18086964
Address: 2333 PACIFIC AVE
STOCKTON, CA 95204
District: STOCKTON

IMPORTANT INFORMATION-READ CAREFULLY**YOU MAY BE ELIGIBLE TO PAY A FINE IN LIEU OF THE SUSPENSION IMPOSED**

Business and Professions Code section 23095 establishes that in certain circumstances a licensee may file a petition requesting to pay a fine in lieu of serving a suspension. Fines range from \$750 to \$3,000 for a first offense, \$1,500 to \$6,000 for a second offense within 36 months, and \$2,500 to \$20,000 for a second sale to a minor within 36 months.

The Department will only authorize payment of a fine in lieu of suspension if:

- Allowing a fine would not be contrary to public welfare and morals
- A fine would serve the desired disciplinary purpose of the Department, and
- The records and books of the licensee are kept in such a manner that the fine amount can be properly calculated.

To request payment of a fine in lieu of suspension **YOU MUST SUBMIT A PETITION** stating the grounds for why you believe a fine is appropriate in your case. Space is provided below for your petition or you may attach a separate document. **YOU MUST ALSO** complete and submit the financial statement on page 3 below. Submit both documents together.

Your petition must be received by the Department no more than **TWENTY (20) DAYS** after the mailing of this notice. Mail your petition to the STOCKTON District Office at 31 East Channel Street, Room 168, Stockton, CA 95202 or contact them at (209) 948-7739 if you have any questions.

The Department will commence an investigation into your request that may include a request for sales records. If your petition is accepted you will be notified of the fine amount and payment instructions. If your petition is denied you will be notified of the start date for your suspension.

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION AGAINST

AVENUE ULTRA LOUNGE LLC
AVE ON THE MILE
2333 PACIFIC AVE
STOCKTON, CA 95204

STOCKTON

FILE 48-475538

REG. 1808696

STIPULATION
AND WAIVER
FOR PREHEARING
SETTLEMENT

RECEIVED
NOV 05 2018
Alcoholic Beverage Control
Office of Legal Services

Respondent(s)

Licensee(s) under the Alcoholic Beverage Control Act

The above-named respondent(s) does hereby:

- (1) Acknowledge receipt of the accusation and stipulation and waiver in the above-entitled action.
- (2) Stipulate that disciplinary action may be taken on the accusation and that such discipline may be determined on the basis of the facts contained in the investigative reports on file with the Department.
- (3) Waive all rights to a hearing, reconsideration and appeal, and any and all other rights which may be accorded pursuant to the Alcoholic Beverage Control Act or the Administrative Procedure Act.
- (4) Acknowledge that the licensee(s) understand(s) that by waiving said rights the Director of the Department of Alcoholic Beverage Control may, without further notice, enter an order suspending the On-Sale General Public Premises License(s) at the above-mentioned premises for a period of 10 days, the effective date to be set by further order of the Director of the Department of Alcoholic Beverage Control.

☐ (I) (We) wish to serve the suspension

☒ (I) (We) wish to pay the fine in lieu of serving the suspension

Signed: Albert D. Jomua Dated: 10/23/18 20

2087 Grand Canal Blvd Ste 8 Stockton CA 95207
ADDRESS (Street number and name) City State Zip Code

(209) 465-6633
TELEPHONE NUMBER (including area code)

(If licensee is an individual, he/she must sign. If licensee is a partnership, at least one general partner must sign. If licensee is a corporation, an executive officer must sign showing his/her title.) This prehearing settlement offer is made solely to promote an early resolution and to eliminate the uncertainty and cost of litigation. If you choose not to accept this settlement offer and, instead, take this matter to hearing, the penalty recommended by the Department may be more or less severe depending upon the evidence presented at hearing. This offer shall expire 15 days from the date this form was mailed to you.

PETITION FOR PAYMENT OF FINE IN LIEU OF SUSPENSION AND FINANCIAL STATEMENT

Describe why 1) allowing your business to pay a fine instead of serving a suspension would not be contrary to public welfare and morals and 2) how paying a fine will achieve the desired disciplinary purpose of a suspension. You may use a separate sheet or may attach additional pages if necessary.

Signed: _____

Position: _____

Printed Name: _____

Date: _____

Licensee: AVENUE ULTRA LOUNGE LLC

File: 48-475538

PETITION FOR PAYMENT OF FINE IN LIEU OF SUSPENSION AND FINANCIAL STATEMENT*Estimate of alcoholic beverage sales, including all State and local sales taxes:*

1. Gross sales of all alcoholic beverages for the preceding
12 full months:

(1) \$ _____

(If sales of alcoholic beverages are not separated from total sales or you have not operated for a full 12-month period, you may offer a reasonable formula for figuring the amount.)

Period covered in computing offer _____ (Example: 4/1/04 thru 3/31/05)

If offer is based upon markup of purchases, show percentage markup or cost: _____

2. Estimated daily average gross sales:
(Figure in (1) divided by 365 days or the actual number of sales
days used in figuring (1))

(2) \$ _____

If open less than 365 days, show number of days
used in your computation: _____

3. 50% of estimated daily average gross sales:
(Figure in (2) multiplied by 50%.)

(3) \$ _____

4. Basic offer in compromise:
(Figure in 3 multiplied by the number of days (____) upon
which I am proposing to pay the offer in compromise.)

(4) \$ _____

5. You must use either Method (a), (b) or (c), below, for computing the amount for Item 6 below. Department records show you should use Method _____.

Method (a)	Method (b)	Method (c)
Use this method if you <i>have not</i> had another accusation filed against your license within three years prior to the date you first requested permission to petition the Department.	Use this method if you <i>have</i> had an accusation filed against your license within three years prior to the date you first requested permission to petition the Department.	Use this method if this petition involves a violation of Section 25658 and you have had a previous violation of Section 25658 within 36 months.
If amount in Item (4) is more than \$3,000, enter \$3,000 in Item (6) below. If amount in Item (4) is less than \$750, enter \$750 in Item (6) below. If amount in Item (4) is less than \$3,000, and more than \$750, enter that amount in Item (6) below.	If amount in Item (4) is more than \$6,000, enter \$6,000 in Item (6) below. If amount in Item (4) is less than \$1,500, enter \$1,500 in Item (6) below. If amount in Item (4) is less than \$6,000, and more than \$1,500, enter that amount in Item (6) below.	If amount in Item (4) is more than \$20,000, enter \$20,000 in Item (6) below. If amount in Item (4) is less than \$2,500, enter \$2,500 in Item (6) below. If amount in Item (4) is less than \$20,000 and more than \$2,500, enter that amount in Item (6) below.

6. Sum offered in payment:

(6) \$ _____

If this form is prepared or reviewed by a public accountant, the account must sign the statement below:

THIS FORM PREPARED IN ACCORDANCE WITH RULES PRESCRIBED BY THE CALIFORNIA STATE BOARD OF ACCOUNTANCY.

License Number _____

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION
AGAINST:**

AVENUE ULTRA LOUNGE LLC
AVE ON THE MILE
2333 PACIFIC AVE
STOCKTON, CA 95204

ON-SALE GENERAL PUBLIC PREMISES -
LICENSE

STOCKTON DISTRICT OFFICE

File: 48-475538

Reg: 18087090

**DECISION AND CERTIFICATE OF
DECISION**

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

The above-entitled matter having regularly come before the Department for decision and the respondent(s) having filed a stipulation and waiver, on October 23, 2018 (attached hereto and incorporated by reference herein), in connection with the accusation herein in which respondent(s) waives right to hearing, reconsideration and appeal, and good cause appearing, the Department hereby adopts the terms of the stipulation and waiver as its decision in this matter and further finds that, pursuant to said stipulation and waiver, cause for disciplinary action has been established.

Grounds for suspension or revocation have been established under Article XX, Section 22 of the State Constitution and Business and Professions Code section 24200(a&b).

It is hereby certified that the Department of Alcoholic Beverage Control adopted the foregoing as its decision in this matter, effective immediately.

The license(s) issued to respondent(s) at the above-mentioned premises is hereby revoked, with said revocation stayed for a period of 1 year from the effective date of the Department's decision until November 1, 2019 upon the conditions listed on the stipulation and waiver attached.

ON OR AFTER JANUARY 3, 2019, A REPRESENTATIVE OF THE DEPARTMENT WILL CONTACT YOU TO ARRANGE TO PICK UP THE LICENSE CERTIFICATE.

Sacramento, California
Dated: November 1, 2018

RECEIVED

NOV 02 2018

**Alcoholic Beverage Control
STOCKTON DISTRICT**



Matthew D. Botting
General Counsel

NOTE: If the stipulation and waiver includes suspension or revocation of the license, the suspension or revocation does not start until the license certificate is picked up by the Department and a notice of suspension or revocation is posted at the licensed premises. A representative of the Department will contact you to make the necessary arrangements.

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST

AVENUE ULTRA LOUNGE LLC
AVE ON THE MILE
2333 PACIFIC AVE
STOCKTON, CA 95204

STOCKTON

FILE 48-475538

REG. 18087090

**STIPULATION
AND WAIVER
FOR PREHEARING
SETTLEMENT**

Respondent(s)

Licensee(s) under the Alcoholic Beverage Control Act

The above-named respondent(s) does hereby:

- (1) Acknowledge receipt of the accusation and stipulation and waiver in the above-entitled action.
- (2) Stipulate that disciplinary action may be taken on the accusation and that such discipline may be determined on the basis of the facts contained in the investigative reports on file with the Department.
- (3) Waive all rights to a hearing, reconsideration and appeal, and any and all other rights which may be accorded pursuant to the Alcoholic Beverage Control Act or the Administrative Procedure Act.
- (4) Acknowledge that the licensee(s) understand(s) that by waiving said rights the Director of the Department of Alcoholic Beverage Control may, without further notice, enter an order suspending the On-Sale General Public Premises License(s) at the above-mentioned premises for a period of 15 days, the effective date to be set by further order of the Director of the Department of Alcoholic Beverage Control, with execution of 5 days of said suspension stayed upon the condition that no subsequent final determination be made, after hearing or upon stipulation and waiver, that cause for disciplinary action based upon the same or similar violation occurred within one year from the effective date of this decision; that should such determination be made, the Director of the Department of Alcoholic Beverage Control may, in the Director's discretion and without further hearing, vacate this stay order and reimpose the stayed portion of the penalty; and that should no such determination be made, the stay shall become permanent. The 10 day suspension, not including 5 days stayed pursuant to this section, shall begin on January 3, 2019, and continue day-to-day thereafter, up to and through January 12, 2019.

Page 2

AVENUE ULTRA LOUNGE LLC
48-475538

Signed: Albert D. Jomura Dated: 10/23/18 20
2087 Grand Canal Blvd Ste 8 Stockton CA 95207
ADDRESS (Street number and name) City State Zip Code
(209) 465-6633
TELEPHONE NUMBER (including area code)

(If licensee is an individual, he/she must sign. If licensee is a partnership, at least one general partner must sign. If licensee is a corporation, an executive officer must sign showing his/her title.) **This prehearing settlement offer is made solely to promote an early resolution and to eliminate the uncertainty and cost of litigation. If you choose not to accept this settlement offer and, instead, take this matter to hearing, the penalty recommended by the Department may be more or less severe depending upon the evidence presented at hearing. This offer shall expire 15 days from the date this form was mailed to you.**