

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
ALCOHOLIC BEVERAGE AND CONTROL BOARD**

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange serves as the Township of West Orange Board of Alcoholic Beverage Control; and

WHEREAS, Rustica Restaurant & Lounge (“Licensee”) is the holder of Plenary Retail Consumption License No. 0722-33-059-008, located at 274 Main Street, West Orange, New Jersey 07052; and

WHEREAS, by incident dated May 15, 2019, Licensee was charged with two Counts, the First Count charging failure to maintain true book or books of account available on the licensed premises and failure to produce same within seven (7) business days of request, contrary to N.J.A.C. 13:2-23.32 (first offense), and the Second Count charging failure to maintain a complete employee list, contrary to N.J.A.C. 13:2-23.13(a)(3) (first offense); and

WHEREAS, on October 21, 2019, the hearing date for the May 15, 2019 charges, the Licensee, its owner and operator, Yolanda J. Barreto, appearing *pro se*, having had more than sufficient opportunity to consult with a lawyer of her choosing, having been advised that the Licensee had a right to a hearing on the charges, determined to and did agree to waive any hearing and to enter a plea of guilty to both of the charged counts and voluntarily accepted and consented to the imposition of a ten (10) day suspension of the License under the following terms and conditions:

1. The ten (10) day suspension shall be held in abeyance subject to reinstatement in the event any new ABC charges of any kind are filed and sustained from the date of the Resolution adopting the Settlement Agreement to and including October 21, 2020; and
2. The ten (10) day suspension shall be held in abeyance subject to reinstatement in the event Licensee fails an ABC Inspection which shall be conducted within three (3) weeks of the date of the Resolution adopting the Settlement Agreement; and

WHEREAS, on October 24, 2019, the Licensee, failed the ABC Inspection conducted by detectives from the West Orange Police Department; and

WHEREAS, Licensee having failed to comply with the October 21, 2019 settlement agreement is subject to a reinstated ten (10) day suspension; and

WHEREAS, by incident dated October 24, 2019 Licensee was charged with one Count for failure to maintain true book or books of account available on the licensed premises and failure to produce same within seven (7) business days of request, contrary to N.J.A.C. 13:2-23.32 (second offense); and

WHEREAS, on October 6, 2020, the hearing date for the charges, the Licensee, its owner and operator, Yolanda J. Barreto, appearing *pro se*, having had more than sufficient opportunity to consult with a lawyer of her choosing, having been advised that the Licensee had a right to a hearing on the charges, determined to and did agree to waive any hearing and to enter a plea of guilty of the charged count and voluntarily accepted and consented to the imposition of a five (5) day suspension of the License and the ten (10) day reinstated suspension of the License;

WHEREAS, after hearing from the Licensee and from the Board's ABC Counsel, the West Orange ABC Board determined and agreed to accept the proposed plea and Settlement Agreement with its terms and conditions;

NOW, THEREFORE, BE IT RESOLVED BY THE ABC BOARD OF THE TOWNSHIP OF WEST ORANGE that by way of guilty plea by and Settlement Agreement with the Licensee, voluntarily entered and agreed upon by owner and operator Yolanda J. Barreto appearing *pro se* and having had full opportunity to consult with counsel of her choosing and waiving the right to a hearing on the charges, and the Board accepting the Licensee's plea and the terms of the Settlement Agreement, the following charges are sustained against Rustica Restaurant & Lounge ("Licensee"), the holder of Plenary Retail Consumption License No. 0722-33-059-008, located at 274 Main Street, West Orange, New Jersey 07052:

1. Count I – By incident dated May 15, 2019, Failure to maintain true book or books of account available on the licensed premises and failure to produce same within seven (7) business days of request, in violation and contrary to N.J.A.C. 13:2-23.32 (second offense); and
2. The Licensee is subject to the imposition of a ten (10) day suspension for violation of the Settlement Agreement entered into on October 21, 2019;
3. The Licensee waives all rights to a hearing or an appeal relative to the aforementioned charges.

BE IT FURTHER RESOLVED BY THE ABC BOARD OF THE TOWNSHIP OF WEST ORANGE that by virtue of the plea and Settlement Agreement entered into and accepted by the West Orange ABC Board, a five (5) day and ten (10) day suspension, totaling a fifteen (15) day suspension of the License is hereby imposed upon Plenary Retail Consumption License No. 0722-33-059-008, located at 274 Main Street, West Orange, New Jersey 07052, pursuant to the following terms and conditions:

1. The fifteen (15) day suspension shall begin at Midnight on Wednesday, October 7th, 2020 12:00 A.M. and continue through Thursday, October 22nd at 11:59 P.M.; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey for that Division's

records and shall be maintained in the Township's permanent Alcoholic Beverage Control records. A copy of this Resolution shall be served upon Licensee, Rustica Restaurant & Lounge.

The above Resolution was approved and adopted by the Township Council of the Township of West Orange sitting as the West Orange Board of Alcoholic Beverage Control at its meeting held on October 6, 2020.

Michelle Casalino, Council President and
ABC Board Chairman

Karen J. Carnevale, Municipal Clerk/
Secretary to the ABC Board

Adopted: October 6, 2020

ANTONELLI KANTOR, P.C.

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Union, New Jersey 07083

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Daniel Antonelli - (Attorney ID# 10020-2014)

Kyle A. Fisher - (Attorney ID# 27513-2018)

Attorneys for Petitioner,

Township of West Orange

RUSTICA RESTAURANT & LOUNGE,
HOLDER OF LICENSE NO.: 0722-33-059-008,
HEARING ON CHARGES OF ABC
VIOLATIONS,

TOWNSHIP OF WEST ORANGE
ALCOHOL BEVERAGE CONTROL
BOARD

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 3rd day of October 2020, by and between the Township of West Orange ("Petitioner"), having its offices at 66 Main Street, West Orange, New Jersey 07502 and represented by the law firm of Antonelli Kantor, P.C., Daniel Antonelli, Esq. appearing, and Rustica Restaurant & Lounge ("Licensee") holder of Plenary Retail Consumption License No.: 0722-33-059-008, located at 274 Main Street, West Orange, New Jersey 07502 and appearing *pro se*; and

WHEREAS, by incident dated May 15, 2019, Licensee was charged with the following violations: Count I – Failure to maintain true book or books of account available on the licensed premises and failed to produce within seven (7) business days of violation, contrary to N.J.A.C. 13:2-23.32 (first offense); Count II– Failure to maintain a complete employee list, contrary to N.J.A.C. 13:2-23.13(a)(3) (first offense); and

WHEREAS, on October 21, 2019, the hearing date for the charges, the Licensee, its owner and operator, Yolanda J. Barreto, appearing *pro se*, having had more than sufficient opportunity to consult with a lawyer of her choosing, having been advised that the Licensee had a right to a hearing on the charges, determined to and did agree to waive any hearing and to enter a plea of

guilty to both of the charged counts and voluntarily accepted and consented to the imposition of a ten (10) day suspension of the License under the following terms and conditions:

1. The ten (10) day suspension shall be held in abeyance subject to reinstatement in the event any new ABC charges of any kind are filed and sustained from the date of the Resolution adopting the Settlement Agreement to and including October 21, 2020; and
2. The ten (10) day suspension shall be held in abeyance subject to reinstatement in the event Licensee fails an ABC Inspection which shall be conducted within three (3) weeks of the date of the Resolution adopting the Settlement Agreement; and

WHEREAS, on October 24, 2019, the Licensee failed the ABC Inspection conducted by detectives from the West Orange Police Department; and

WHEREAS, as Licensee failed to comply with the settlement agreement, the ten (10) day suspension held in abeyance pursuant to the October 21, 2019 settlement agreement shall be reinstated; and

WHEREAS, by incident dated October 24, 2019, Licensee was charged with the following violation: Count I- Failure to maintain true book or books of account available on the licensed premises and failure to produce same within seven (7) business days of request, contrary to N.J.A.C. 13:2-23.32 (second offense) for the above incident that occurred on October 24, 2019; and

WHEREAS, Licensee enters a plea of guilty as to the October 24, 2019 incident and accepts and consents to the imposition of a five (5) day suspension; and

WHEREAS, Licensee is subject to the imposition of a ten (10) day suspension for violation of the Settlement Agreement entered into on October 21, 2019; and

WHEREAS, a suspension totaling fifteen (15) days shall be imposed upon Licensee;

WHEREAS, the fifteen (15) day suspension shall begin at Midnight on Wednesday, October 7th, 2020 12:00 A.M. and continue through Thursday, October 22nd at 11:59 P.M.; and

NOW, THEREFORE, BE IT RESOLVED in consideration of the mutual promises of the parties to this Agreement, the Licensee waives all rights to a hearing or an appeal relative to the aforementioned charges; and

IN WITNESS WHEREOF, the parties have signed this Agreement and it is effective as of the date first written on page 1 of this Agreement, and subject to the approval by the City's Alcohol Beverage Control Board.

TOWNSHIP OF WEST ORANGE

By: _____
Karen J. Carnevale, RMC

RUSTICA RESTAURANT & LOUNGE

By:  . 10.05.2020
Yolanda J. Barreto