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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91244503
Party	Defendant Will Cody Whipple
Correspondence Address	JERRY M SNYDER LAW OFFICE OF JERRY SNYDER LAW 429 PLUMB LN RENO, NV 89509 UNITED STATES Jerry@jerrysnyderlaw.com, Nevadajerrysnyder@gmail.com 775-499-5647
Submission	Testimony For Defendant
Filer's Name	Jerry Snyder
Filer's email	nevadajerrysnyder@gmail.com
Signature	/Jerry Snyder/
Date	12/05/2019
Attachments	Whipple Declaration.pdf(2638576 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE TRADEMARK TRIAL AND APPEAL BOARD

\*\*\*\*\*

MIGUEL TORRES, S.A.,

Opposer,

VS.

WILL CODY WHIPPLE

Applicant,

Opposition No.: 91244503A

Serial No.: 87780256

## DECLARATION OF WILL CODY WHIPPLE IN SUPPORT OF APPLICATION

Applicant Will Cody Whipple (“Whipple”)

1. I am the Applicant for the “10 Torr Distilling and Brewing Company” mark at issue in these proceedings (the “10 Torr Mark.”) I am a member and a manager of Whipple Brewing and Distilling, LLC (“Whipple Brewing,”) an entity that produced beer and distilled spirits branded with the 10 Torr Mark. In addition, I am a chemical engineer by training and occupation. I have first-hand knowledge of the matters set forth in this Declaration. If called upon, I could and would provide competent testimony as to the matters set forth herein.

1           2.       Whipple Brewing has been producing beer and spirits under the 10  
2 Torr Mark since 2017. Whipple Brewing produces various beers and this mark,  
3 as well as vodka, flavored vodka, gin, a coffee liquor, and various flavors of  
4 canned cocktails using our vodka. Whipple Brewing has never produced or sold  
5 brandy, and has no plans to do so. Whipple Brewing currently sells its products  
6 in Nevada and California.  
7

8           3.       I chose the 10 Torr Mark because our spirits are distilled using a  
9 state of the art vacuum distilling process which has significant advantages over  
10 other such processes. The word “Torr” is defined in the English language as “a  
11 unit of pressure used in measuring partial vacuums, equal to 133.32 pascals.”  
12 Because “Torr” is a unit of vacuum measurement, it was fitting to use that unit of  
13 measurement as a name for spirits distilled using a vacuum process. The number  
14 “10” at the beginning of the mark is not reflective of the actual process used – our  
15 spirits are not distilled under 10 Torrs of pressure. Rather, the number was  
16 selected to evoke a high level of quality – a perfect “10.” Thus, the 10 Torr Mark  
17 is used to convey the idea that our spirits are distilled using a vacuum process  
18 and are of a high quality.  
19  
20

21           4.       Attached hereto as **Exhibit 1** is a collection of labels that Whipple  
22 Brewing has applied to our products. These labels further show that spirits sold  
23 under the 10 Torr Mark are advertised as being “cold vacuum distilled.” This  
24 reinforces the message of the mark, that the spirits are distilled using a vacuum  
25 process.  
26

27           5.       Attached hereto as **Exhibit 2** is a printed copy of a portion of our  
28

1 website describing our spirits and the processes used to make them.

2 6. Attached hereto ad **Exhibit 3** is a printed copy of a portion of our  
3 website describing our beers.

4 7. Attached hereto ad **Exhibit 4** is a printed copy of a portion of our  
5 website describing our canned cocktails.

6 8. The English word "Torr" is derived from the name Evangelista  
7 Torricelli, the Italian physicist and mathematician who in 1644 set forth the  
8 design for the mercury barometer.

9 9. This above statements are true and correct to the best of my  
10 knowledge and made under penalty of perjury.

11 DATED: December 5, 2019

12  
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16   
17 WILL CODY WHIPPLE  
18  
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## **EXHIBIT 1**

## **EXHIBIT 1**



# 10 TORR

DISTILLING AND BREWING

88 PROOF

*Quality*

750ML

PRECISION MASHED & FERMENTED  
LONDON DRY STYLE

PREMIUM

# GIN

LIMITED

MADE IN RENO, NEVADA

— COLD —  
VACUUM DISTILLED

44% ALC./VOL.

10 TORR DISTILLING & BREWING





#### DISTILLED FROM GRAIN

10 TORR London Dry Gin contains a perfect blend of botanicals that are combined to create a bright, crisp gin. The proprietary vacuum distillation process allows for the true flavors and aromas of the botanicals to shine. With notes of cucumber and citrus, 10 TORR London Dry style gin has profound depth of flavor and finishes incredibly smooth.

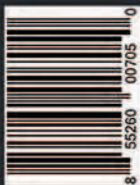
10 TORR Distilling and Brewing is located in Reno, Nevada and is the producer of 10 TORR Precision Crafted Beers and 10 TORR Vacuum Distilled Spirits. Our proprietary vacuum distillation process occurs at extremely low pressure and below room temperature. This allows for less chemical reactions from normal, heated distillation, that can produce harsh unwanted flavors. 10 TORR produces all of its products from grain to glass and is one of the handful of distilleries in the world that cold distills.

[10TORR.COM](http://10TORR.COM)

**DISTILLED & BOTTLED BY  
10 TORR DISTILLING & BREWING**

RENO, NV

**GOVERNMENT WARNING:** (1) According to the surgeon general, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.







# 10 TORR

DISTILLING AND BREWING

COLD  
VACUUM DISTILLED

# VODKA



MADE IN RENO NEVADA

80 PROOF

40% ALC./VOL.

750ML

10 TORR DISTILLING & BREWING



# 10 TORR

DISTILLED FROM GRAIN

10 TORR vodka is cold distilled from the finest two row barley malt. The result is a stunningly smooth spirit full of delicately balanced malty and sweet notes.

This is how vodka was meant to be.

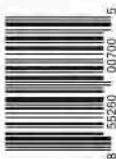
**TORR /tor/ n:** a unit of pressure used to measure vacuum, equal to 1/760 of a standard atmospheric pressure.

10 TORR Distilling and Brewing is located in Reno, Nevada. The proprietary vacuum distillation process used occurs at extremely low pressure and below room temperature, which prevents chemical reactions that produce harsh unwanted flavors. 10 TORR is one of the handful of distilleries worldwide that uses vacuum distillation and proudly produces all of its products from grain to glass.

10TORR.COM

DISTILLED & BOTTLED BY  
10 TORR DISTILLING & BREWING  
RENO, NV

**GOVERNMENT WARNING:** (1) According to the surgeon general, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.







# 10 TORR

DISTILLING AND BREWING

— COLD —

VACUUM DISTILLED

## HABANERO & JALAPEÑO VODKA



VODKA WITH ALL NATURAL FLAVORS

MADE IN RENO NEVADA

80 PROOF

40% ALC./VOL.

750ML







**VODKA WITH ALL NATURAL FLAVORS**

**10 TORR Habanero and Jalapeño Vodka is made from the finest two row barley malt and fresh peppers. This stunningly smooth Habanero and Jalapeño flavored spirit balances earthy and sweet pepper notes without the spicy heat.**

**TORR/tor/n:** a unit of pressure used to measure vacuum, equal to 1/760 of a standard atmospheric pressure.

10 TORR Distilling and Brewing is located in Reno, Nevada. Our proprietary vacuum distillation technology occurs at extremely low pressure and below room temperature, which prevents chemical reactions that produce harsh flavors. 10 TORR is one of handful of distilleries worldwide that uses vacuum distillation and proudly produces all of its products from grain to glass.

**10TORR.COM**

**DISTILLED & BOTTLED BY  
10 TORR DISTILLING AND BREWING  
RENO, NV**

**GOVERNMENT WARNING:** (1) According to the surgeon general, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.





READY TO DRINK  
CRAFT COCKTAIL

DISTILLED COLD  
ENJOY COLDER

BEST SERVED ON ICE

GENTLY TURN UPSIDE  
DOWN TO MIX

PLEASE



RECYCLE

BPA  
FREE  
CAN



355 ML  
12 FL OZ



8.0%  
ALC. BY VOL

# 10 TORR

DISTILLING AND BREWING

**GREYHOUND SODA**

GRAPEFRUIT FLAVORED VODKA, GRAPEFRUIT AND  
CARBONATED WATER

PRECISION CRAFTED, FROM GRAIN TO  
CAN, WITH VACUUM DISTILLED  
SPIRITS, ALL NATURAL INGREDIENTS,  
AND PURE CANE SUGAR.

PRODUCED AND CANNED IN RENO, NEVADA

BY 10 TORR DISTILLING AND BREWING

10TORR.COM

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

READY TO DRINK  
CRAFT COCKTAIL

DISTILLED COLD  
ENJOY COLDER

BEST SERVED ON ICE

GENTLY TURN UPSIDE  
DOWN TO MIX

355 ML  
12 FL OZ



8.0%  
ALC. BY VOL

# 10 TORR

DISTILLING AND BREWING

## TORR UP TEA

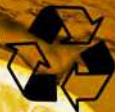
VODKA WITH BLACK TEA AND LEMON

PRECISION CRAFTED, FROM GRAIN TO CAN, WITH  
VACUUM DISTILLED SPIRITS, ALL NATURAL  
INGREDIENTS, AND PURE CANE SUGAR.

PRODUCED AND CANNED BY  
10 TORR DISTILLING AND BREWING • RENO, NEVADA

10TORR.COM

PLEASE



RECYCLE



GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND CAN CAUSE HEALTH PROBLEMS.



**BPA  
FREE  
CAN**

**READY TO DRINK  
CRAFT COCKTAIL**

**DISTILLED COLD  
ENJOY COLDER**

BEST SERVED ON ICE

GENTLY TURN UPSIDE  
DOWN TO MIX

PLEASE



RECYCLE



355 ML  
12 FL OZ



8.0%  
ALC. BY VOL

# 10 TORR

DISTILLING AND BREWING

**SPICED APPLE**

VODKA WITH APPLE JUICE, CINNAMON,  
BROWN SUGAR AND CARBONATED WATER

PRECISION CRAFTED, FROM GRAIN TO CAN, WITH  
VACUUM DISTILLED SPIRITS, ALL NATURAL  
INGREDIENTS, AND PURE CANE SUGAR.

PRODUCED AND CANNED BY  
10 TORR DISTILLING AND BREWING • REMO, NEVADA

[10TORR.COM](http://10TORR.COM)

**GOVERNMENT WARNING:** (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

READY TO DRINK  
CRAFT COCKTAIL

DISTILLED COLD  
ENJOY COLDER

BEST SERVED ON ICE

GENTLY TURN UPSIDE  
DOWN TO MIX

355 ML  
12 FL OZ



8.0%  
ALC. BY VOL

# 10 TORR

DISTILLING AND BREWING

## CUCUMBER COOLER

CUCUMBER FLAVORED VODKA WITH LIME,  
NATURAL FLAVORS, AND CARBONATED WATER

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

PLEASE



RECYCLE

BPA  
FREE  
CAN



PRECISION CRAFTED, FROM GRAIN TO CAN, WITH  
VACUUM DISTILLED SPIRITS, ALL NATURAL  
INGREDIENTS, AND PURE CANE SUGAR.

PRODUCED AND CANNED BY  
10 TORR DISTILLING AND BREWING · RENO, NEVADA

10TORR.COM



GOVERNMENT WARNING: (1) ACCORDING TO THE SWEDEN GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

READY TO DRINK  
CRAFT COCKTAIL

DISTILLED COLD  
ENJOY COLDER

BEST SERVED ON ICE

GENTLY TURN UPSIDE  
DOWN TO MIX

PLEASE



RECYCLE

BPA  
FREE  
CAN



355 ML  
12 FL OZ



8.0%  
ALC. BY VOL

# 10 TORR

DISTILLING AND BREWING

## LAVENDER LEMONADE

LEMON AND LAVENDER FLAVORED VODKA  
WITH LEMON AND CARBONATED WATER

PRECISION CRAFTED, FROM GRAIN TO CAN, WITH  
VACUUM DISTILLED SPIRITS, ALL NATURAL  
INGREDIENTS, AND PURE CANE SUGAR.

PRODUCED AND CANNED BY  
10 TORR DISTILLING AND BREWING · RENO, NEVADA

10TORR.COM

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

PLEASE



RECYCLE



8 55260 00722 7



# WICKED WITCH

OF THE NORTHEAST

1 PINT • 16 FL OZ

## INDIA PALE ALE

Brewed on International Women's Day for the Collaboration Brew Day, our badass hop wizards used Laurel and Pink Boots Proprietary blend hops to produce this witchy concoction. This IPA has a destructive vortex of flavor that will taste like a house of hops landed on you. Click your heels together, repeat "there's no taste like 10 TORR" and be transported into the Northeast lands of India Pale Ales.



IBU	SRM
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PRODUCED AND CANNED  
IN RENO, NEVADA  
BY 10 TORR DISTILLING  
AND BREWING

10TORR.COM

GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



  
10 TORR  
DISTILLING AND BREWING

# THREATING VIBRATIONS

BOURBON BARREL-AGED IMPERIAL STOUT

NOTES OF COFFEE, CHOCOLATE, OAK AND VANILLA

355 ML - 12 FL OZ. / 11% ALC BY VOL

PRODUCED AND CANNED IN RENO, NEVADA BY  
10 TORR DISTILLING AND BREWING | 10TORR.COM

65 45  
IBU SRM



GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.



# 10 TORR

PRECISION CRAFTED

## HAZEWAGON IPA

INDIA PALE ALE

### JUICY & TROPICAL

This crushable India Pale Ale is dry hopped not once but twice to maximize the juicy tropical aromas of Mosaic hops. Oats and wheat contribute to the body of this unfiltered hazy IPA. All aboard the Hazewagon!

50.0	6.0
IBU	SRM

PRODUCED AND CANNED  
IN RENO, NEVADA  
BY 10 TORR DISTILLING  
AND BREWING  
[10TORR.COM](http://10TORR.COM)

1 PINT • 16 FL OZ  
6.4% ALC BY VOL





## **EXHIBIT 2**

## **EXHIBIT 2**

# SPIRITS

# VACUUM

# DISTILLED

---

VODKA | LONDON DRY-STYLE GIN | COFFEE LIQUEUR | HABANERO & JALAPEÑO  
VODKA

## VACUUM DISTILLED

### Vodka

Our award-winning vacuum distilled vodka comes from the finest 2-row barely malt. The same 100% grain neutral spirits. We use a house yeast to create the exact flavor profile we want. Due to the esters produced and the natural barely flavor we choose to showcase, the result is a stunningly smooth spirit full of sweet notes.

## AWARDS

2018 American Distilling Institute Bronze Medal

2018 San Francisco World Spirits Competition Bronze Medal

2018 San Diego Spirits Festival Silver Medal



VACUUM DISTILLED

## London Dry-Style Gin

contains a perfect blend of eight different botanicals including juniper, cucumber, lemon, grape  
vacuum distilled separately and then blended post distillation to ensure quality and consistency  
for the true flavors of these botanicals to shine through creating a profound depth of flavor and

WARDS

2018 San Diego Spirits Festival Bronze Medal



ACUUM DISTILLED

offee Liqueur



and roasted coffee grounds brewed into cold brew concentrate and then blended with our award-winning brown sugar and Madagascar vanilla beans creates this elegant liqueur. The concoction sits clear and bottled. Due to the all-natural ingredients there may be some settling so we suggest turning the bottle before drinking. We think our Coffee Liqueur pairs well with your morning coffee, chocolate or cherry beverages.

## AWARDS

2018 San Diego Spirits Festival Silver Medal



ACUUM DISTILLED

# Habanero & Jalapeno Vodka

Our Habanero & Jalapeno Vodka is made with the finest 2 row barely malt and fresh peppers. The precision crafted beers. We use a house yeast to create the exact flavor profile we want. The result is a jalapeno flavored spirit that balances earthy and sweet pepper notes without the spicy heat.

## TORR UP RECIPES

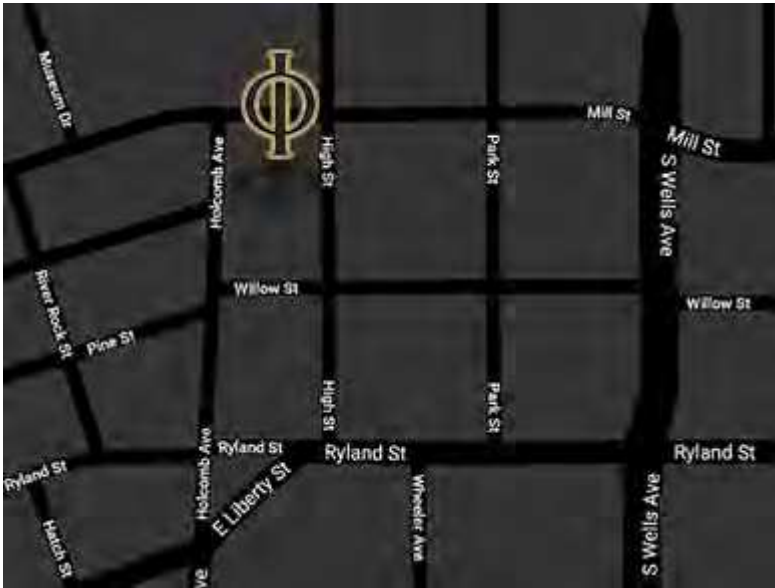


Using 10 Torr Vodka

## VALLEY OF FIRE

*In a shaker place the following ingredients:*

- 2 oz. 10 Torr Vodka
- ½ oz. Citrus Simple Syrup
- 1 oz. Organic Carrot Juice
- 1 oz. Orange Juice
- Half rim of paprika



490 MILL STREET, RENO NV 89502

DIRECTIONS

TAPROOM HOURS

Monday-Tuesday: 3-9pm  
Wednesday-Thursday: 12-10pm  
Friday-Saturday: 12-11pm  
Sunday: 12-6pm

QUICK LINKS

- Spirits
- Beer
- Retailers
- Distributors
- Canned Cocktails
- Recipes

ISTAGRAM

## **EXHIBIT 3**

## **EXHIBIT 3**

# PRECISION CRAFTED

FLAGSHIPS



SEASONALS



SPECIAL MONTHLY CAN RELEASES



TAP ROOM



## OUR PHILOSOPHY

THE CHANCES OF FINDING OUT WHAT'S REALLY GOING ON IN THE UNIVERSE  
THE ONLY THING TO DO IS HANG THE SENSE OF IT AND KEEP DRINKING



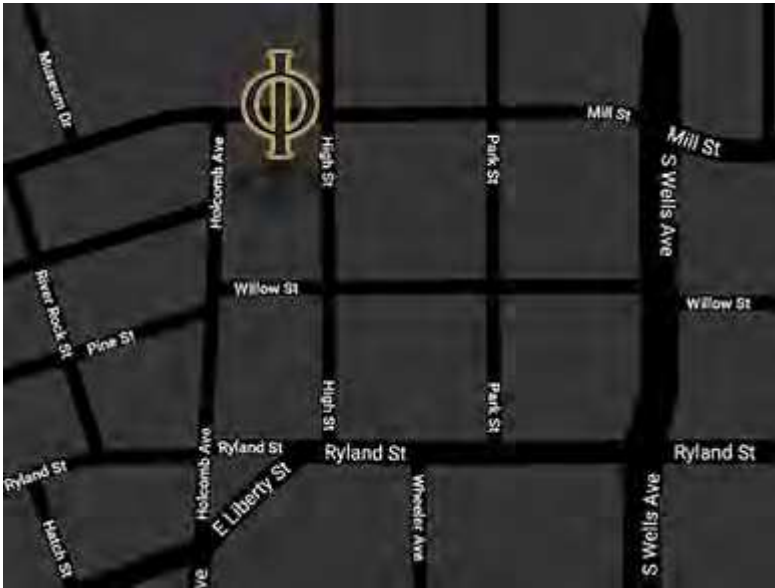
## TAY IN THE LOOP

WANT TO KNOW WHEN WE RELEASE A NEW BEER?  
SIGN-UP FOR OUR NEWSLETTER.

### MAIL ADDRESS:







490 MILL STREET, RENO NV 89502

DIRECTIONS

TAPROOM HOURS

Monday-Tuesday: 3-9pm  
Wednesday-Thursday: 12-10pm  
Friday-Saturday: 12-11pm  
Sunday: 12-6pm

QUICK LINKS

- Spirits
- Beer
- Retailers
- Distributors
- Canned Cocktails
- Recipes

ISTAGRAM

## **EXHIBIT 4**

## **EXHIBIT 4**

# CANNED COCKTAILS

# ALL-NATURAL

LAVENDAR LEMONADE | GREYHOUND SODA | TORR UP TEA | SEASONAL  
COCKTAIL

ALL-NATURAL

## Lavender Lemonade

10% ABV

Available Year-Round

This isn't your grandma's lemonade! Made with our 10 Torr vacuum distilled vodka, all-natural lavender and lemon, carbonation makes this our most popular canned cocktail.



ALL-NATURAL

# Greyhound Soda

0% ABV

Available Year-Round

A little tart and a little sweet, this refreshing classic will get your tail wagging any time of day. The 10torr vacuum distilled vodka and all-natural grapefruit. A crowd pleaser cocktail to bring to any



ALL-NATURAL

# 10torr Up Tea

15% ABV

Available Year-Round

It's an Arnold Palmer in a can! Using our award-winning 10 Torr vacuum distilled vodka, all-natural lemonade and peach schnapps, this is the light and refreshing cocktail that Palmer would gladly stock his golf cart with.



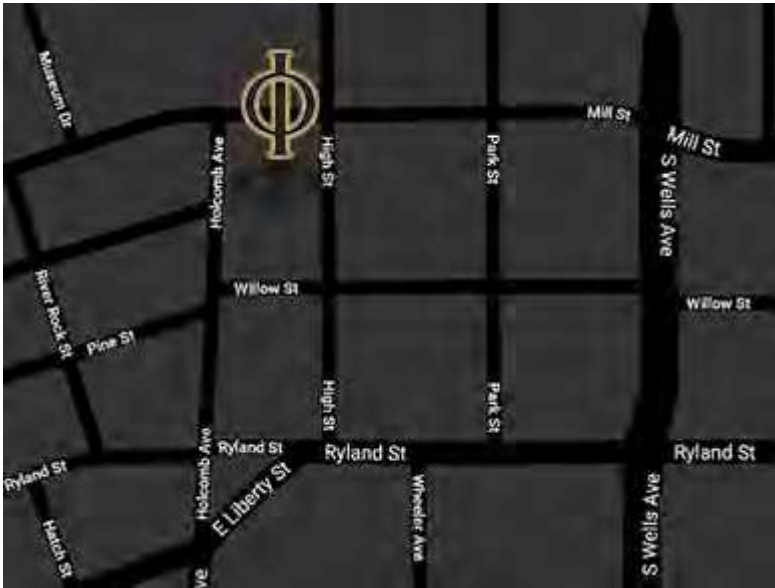
ALL-NATURAL

# Spiced Apple Cider

15% ABV

Seasonal

If this doesn't put the 'happy' into your holidays then you're a scrooge. Our Spiced Apple Cider is a hard-hitting, award-winning vacuum distilled vodka infused with all-natural cinnamon, apple juice from Appleton, and carbonated water.



490 MILL STREET, RENO NV 89502



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## DIRECTIONS

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### TAPROOM HOURS

Monday-Tuesday: 3-9pm

Wednesday-Thursday: 12-10pm

Friday-Saturday: 12-11pm

Sunday: 12-6pm

### QUICK LINKS

[Spirits](#)

[Beer](#)

[Retailers](#)

[Distributors](#)

[Canned Cocktails](#)

[Recipes](#)

### ISTAGRAM