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## Notice of Proposed Disciplinary Action

**To:** Rocco's Restaurant and Reilly's Lounge EELL No. 004122/Lounge No. 003263  
(313 Prince Albert Road, Dartmouth, Nova Scotia)

**From:** John R. MacDonald, Executive Director, Alcohol and Gaming Division  
Service Nova Scotia & Municipal Relations

**Date:** June 25, 2012

**Subject:** Notice of Disciplinary Action Against – Rocco's Restaurant and Reilly's Lounge  
Reference #: 2010\_11\_09\_004122

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### Current Situation

An Agreed Statement of Facts was submitted to this office on May 14, 2012, wherein the licensee acknowledged violations of sections 33(1), 34(1), 34(2), 44(1), 45(a)(b)(c), 64(1) and 80(b) of the *Nova Scotia Liquor Licensing Regulations* on November 9, 2010 and June 2, 2011 and agreed on the following penalty:

***The Eating Establishment Liquor License No. 004122 and Lounge Liquor License No. 003263 be suspended for a period of four (4) consecutive days, commencing on Wednesday June 27, 2012 to Saturday, June 30, 2012, inclusive.***

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia and Municipal Relations, has considered the matter and issued a Notice of Disciplinary Action on June 19, 2012, pursuant to section 47B of the *Nova Scotia Liquor Control Act*; Document: 2010\_11\_09\_004122.

### Objection Process

The licensee may object in writing to the above proposed action in accordance with section 81A subsections (3) and (4). To object to a proposed action, the permanent licensee on whom the notice of proposed action was served must file a written notice of objection with the Executive Director no later than 14 days after the date the notice of proposed action was served on the permanent licensee.

A notice of objection may be in any form, but it must be in writing and include all of the following:

- (a) the name, address and phone number of the permanent licensee;
- (b) a copy of the notice of proposed action; and
- (c) the reason the permanent licensee objects to the proposed action.

After considering any objection to a notice of proposed action, the Executive Director must do one of the following:


- (a) take the proposed action;
- (b) rescind the notice of proposed action;

- (c) vary the proposed action, but only if the action taken is permitted by clause 47(1)(b), (c) of the *Liquor Control Act*; or
- (d) refer the matter to the Review Board in accordance with subsection 47B(1)(b) of the Act.

#### Notice of Action

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia and Municipal Relations has concluded that a four (4) day suspension of Rocco's Restaurant and Reilly's Lounge, Dartmouth, NS: Eating Establishment Liquor License No. 004122 and Lounge Liquor License No. 003263, shall be served at the request of the licensee, from Wednesday, June 27<sup>th</sup>, 2012 to Saturday, June 30<sup>th</sup>, 2012, inclusive .

In accordance with sections 83(1) and (2) of the *Nova Scotia Liquor Licensing Regulations* a Suspension Notice will be posted at the premises stating that the Liquor Licenses have been suspended. This suspension does not prevent the business from providing the sale of food or other non-liquor related services.

  
John R. MacDonald  
Executive Director, Alcohol and Gaming  
Service Nova Scotia and Municipal Relations

IN THE MATTER OF the *Liquor Control Act*, R.S.N.S. 1989, c. 260, as amended

- and -

IN THE MATTER OF ALLEGED VIOLATIONS OF NOVA SCOTIA LIQUOR LICENSING REGULATIONS 33(1), 34(1), 34(2), 44(1), 45(a)(b)(c), 64(1) and 80(b) by holder of Eating Establishment Liquor License No. 004122 and Lounge License No. 003263 for premises known as Rocco's Restaurant and Reilly's Lounge, 313 Prince Albert Road, Dartmouth, Nova Scotia.

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AGREED STATEMENT OF FACTS

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1. Rocco's Restaurant / Reilly's Lounge is the holder of Eating Establishment Liquor License No. 004122 and Lounge License No. 003263. Rocco's Restaurant / Reilly's Lounge is located at 313 Prince Albert Road, Dartmouth, Nova Scotia (hereinafter "the Licensed Premises").
2. The Licensee acknowledges that it has violated Regulations 33(1), 34(1), 34(2), 44(1), 45(a)(b)(c), 64(1) and 80(b) of the *Nova Scotia Liquor Licensing Regulations* and accepts responsibility for the violations.
3. The circumstances of the violations are as follows:
  - a. On November 10, 2010, at approximately 00:05 hrs, Sgt. Poirier and Cst's Brown, Wilson, Manley, and Barkhouse of the Halifax Regional Police attended the Quality Inn Hotel located at 313 Prince Albert Road, Dartmouth. The officers attended the Quality Inn Hotel in response to a complaint of intoxicated persons inside the licensed premises. The complainant was an employee of the hotel.
  - b. Upon arrival Cst. Brown observed a female in the parking lot stumbling about with no shoes on. Cst. Brown spoke with the female and observed that her speech was slurred and that she had a strong odour of alcohol on her breath.
  - c. While Cst. Brown was speaking to the intoxicated female a male exited the hotel and approached Cst. Brown. Cst. Brown observed that this male had blood shot eyes, and a strong odour of alcohol on his breath. A third male was found by Cst. Brown passed out in the hallway of the hotel. All three individuals were transported to booking.
  - d. It was determined by Police that all three individuals who were transported to booking consumed alcohol in the licensed premises and were served alcohol by the

- bartender. One of the males identified by the police officers was 17 years of age.
- e. On April 28, 2011, Compliance Officer Stephen Timmons, working within and for the Alcohol and Gaming Division, conducted a routine inspection of the licensed premises. Compliance Officer Timmons determined that the status of the manager and/or owner of the licensed premises was outdated.
  - f. The principle person named on the license was given until June 2, 2011 to submit documentation to the Alcohol and Gaming Division with respect to the change in management, lease agreement or ownership of the licensed premises.
  - g. On June 13, 2011 Compliance Officer Timmons consulted with the Manager of Licensing, Alcohol and Gaming Division, with respect to the submission of documentation by the licensee in accordance with the June 2, 2011 deadline. Compliance Officer Timmons confirmed with the Manger of Licensing that no documentation had been submitted by the licensee.
4. This matter has been brought before the Executive Director of the Alcohol and Gaming Division, Investigation and Enforcement Section, Service Nova Scotia and Municipal Relations, for the imposition of a penalty in respect of the Licensees violation of sections 33(1), 34(1), 34(2), 44(1), 45(a)(b) (c), 64(1) and 80(b) of the *Nova Scotia Liquor Licensing Regulations*.
  5. The Licensee and the Alcohol and Gaming Division have agreed to the following penalty for the Licensees violation of sections 33(1), 34(1), 34(2), 44(1), 45(a)(b)(c), 64(1) and 80(b) of the *Nova Scotia Liquor Licensing Regulations*:

**That Eating Establishment Liquor License No. 004122 and Lounge License No. 003263 will be suspended for a period of four (4) consecutive days, commencing on a Wednesday. Video game lottery devices shall not be operated during the period of suspension.**

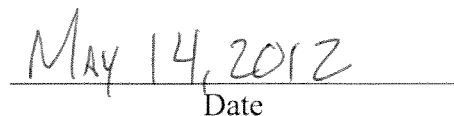
**The Licensee agrees to update all of the information and to submit supporting documentation in relation to the change of management, lease agreement, and/or ownership of the licensed premises within 30 days of the date of this agreement.**

## 6. ENTIRE AGREEMENT

This Agreed Statement of Facts contains the entire agreement between the parties. There are no undertakings or representations expressed or implied, other than those contained in this agreement.

**On behalf of Rocco's Restaurant / Reilly's Lounge**

  
Michael Melenchuk

  
Date

**On behalf of the Alcohol and Gaming Division:**

  
Darlene Hancock, Acting Regional Manager

  
Date