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## Notice of Proposed Disciplinary Action

**To:** Dirty Nelly's Irish Pub EELL No. 004295/Lounge No. 004296  
(1646 Barrington Street, Halifax, Nova Scotia)

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

**Date:** July 20, 2012

**Subject:** Notice of Disciplinary Action Against – Dirty Nelly's Irish Pub  
Reference #: 2012\_03\_10\_004295

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### Current Situation

An Agreed Statement of Facts was submitted to this office on July 20, 2012, wherein the licensee acknowledged violations of section 61(2) of the *Nova Scotia Liquor Licensing Regulations* on March 10, 2012 and agreed on the following penalty:

***The Eating Establishment Liquor License No. 004295 and Lounge Liquor License No. 004296 be suspended for a period of one (1) day to be served on Friday, August 3, 2012.***

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 July 20, 2012, pursuant to section 47B of the *Nova Scotia Liquor Control Act*; Document: 2012\_03\_10\_004295.

### 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 one (1) day suspension of Durty Nelly's Irish Pub, Halifax, NS: Eating Establishment Liquor License No. 004295 and Lounge Liquor License No. 004296, shall be served at the request of the licensee, on Friday, August 3<sup>rd</sup>, 2012.

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 AN ALLEGED VIOLATION OF NOVA SCOTIA LIQUOR LICENSING REGULATION 61 (2) by the holder of Eating Establishment Liquor License No. 004295 and Lounge Liquor License No. 004296 for the premises known as Dirty Nelly's Irish Pub, 1646 Barrington Street Halifax, Nova Scotia**

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**AGREED STATEMENT OF FACTS**

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1. Dirty Nelly's is the holder of Eating Establishment Liquor License No. 004295 and Lounge Liquor License No. 004296 which covers the premises known as Dirty Nelly's Irish Pub, 1646 Barrington Street Halifax, Nova Scotia ("the Licensed Premises").
2. The Licensee acknowledges that it has violated Regulation 61 (2) of the *Nova Scotia Liquor Licensing Regulations* and accepts responsibility for the violation.
3. The circumstances of the violation are as follows:
  - a. On March 10, 2012 at 01:27 hrs Rob Suffron, a compliance officer working within and for the Nova Scotia Alcohol and Gaming Division, conducted a routine inspection of the licensed premises. During the course of Mr. Suffron's inspection he observed a male patron with his head resting on the main bar and sleeping with several staff members working around him. Compliance Officer Suffron alerted the night manager, Michael Carey, and pointed the patron out to him.
  - b. Mr. Carey approached the patron and woke him up. When the patron woke up Compliance Officer Suffron observed that the patron was showing visible signs of intoxication such as red, blood shot eyes, slurred speech and unsteadiness on his feet as he could not stand without assistance. Based on these observations Compliance Officer Suffron concluded that the patron found sleeping at the main bar was heavily intoxicated and could no longer remain in the licensed premises. The patron was escorted out of the bar with assistance from his friends. Halifax Regional Police attended the scene and took the patron into their care.
  - c. The male patron was identified by Compliance Officer Suffron.

- d. Compliance Officer Suffron obtained video surveillance footage of the main bar location where the male patron was found sleeping. The video footage was twenty-five minutes in length. The video footage depicts the male patron sleeping at the main bar, and displaying signs of intoxication while in clear view of several staff members who continued to serve liquor around him, while making no visible attempt to rectify the situation.
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 section 61 (2) 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 section 61(2) of the *Nova Scotia Liquor Licensing Regulations* :

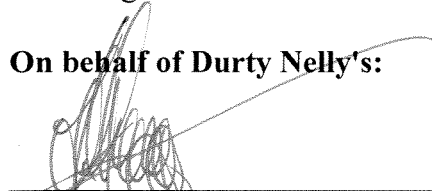
**That Eating Establishment Liquor License No. 004295 and Lounge Liquor License No. 004296 be suspended for a period of one (1) day to be served on Friday, August 3, 2012.**

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

## 6. ENTIRE AGREEMENT

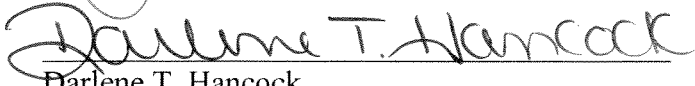
This Agreed Statement of Facts contains the entire agreement between the parties. There are no undertakings or representations expressed or implied, other than those contained in this agreement.

**On behalf of Durty Nelly's:**

  
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Joe McGuinness  
Licensee, Durty Nelly's

  
\_\_\_\_\_  
Date

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

  
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Darlene T. Hancock  
Regional Manager, Western and Metro Region  
Investigation and Enforcement Division

  
\_\_\_\_\_  
Date