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## Notice of Proposed Disciplinary Action

**To:** Highland Mermaid Dining Room - EELL No. 004517 and  
Crown and Moose Pub - Lounge No. 004518  
Fortis Properties Corporation  
(300 Esplanade Street, Sydney, Nova Scotia)

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

**Date:** September 25, 2012

**Subject:** Notice of Disciplinary Action Against – Highland Mermaid Dining Room  
and Crown and Moose Pub  
Reference #: 2012\_05\_13\_004517

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### Current Situation

An Agreed Statement of Facts was submitted to this office on September 21, 2012, wherein the licensee acknowledged violations of sections 61(1)(a), 61(1)(b) and 61(2) of the *Nova Scotia Liquor Licensing Regulations* on May 13/14, 2012, and agreed on the following penalty:

***The Eating Establishment Liquor License No. 004517 and Lounge Liquor License No. 004518 be suspended for a period of two (2) consecutive days, commencing at 10:00am on Friday, October 12, 2012 and ending at 2:00am on Sunday, October 14, 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 September 25, 2012, pursuant to section 47B of the *Nova Scotia Liquor Control Act*; Document: 2012\_05\_13\_004517.

### 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 two (2) day suspension of Highland Mermaid Dining Room and Crown and Moose Pub, Sydney, NS: Eating Establishment Liquor License No. 004517 and Lounge Liquor License No. 004518, shall be served at the request of the licensee, commencing at 10:00am on Friday, October 12<sup>th</sup>, 2012 and ending at 2:00am on Sunday, October 14<sup>th</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 ALLEGED VIOLATIONS OF NOVA SCOTIA LIQUOR LICENSING REGULATIONS 61(1)(a), 61(1)(b), and 61(2) by the holder of Eating Establishment Liquor License No. 004517 and Lounge Liquor License No. 004518 for the premises known as Delta Sydney Hotel, 300 Esplanade Street, Sydney, Nova Scotia**

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**AGREED STATEMENT OF FACTS**

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1. Fortis Properties, doing business under the business name Delta Sydney, is the holder of:
  - (a) An Eating Establishment Liquor License No. 004517 which covers the premises known as Highland Mermaid Dining Room, and
  - (b) A Lounge Liquor License No. 004518 which covers the premises known as the Crown and Moose Pub.

Both located inside the Delta Sydney Hotel, 300 Esplanade Street, Sydney, Nova Scotia ("the Licensed Premises").

2. Allison Dolhanty, a compliance officer for the Nova Scotia Alcohol and Gaming Division (AGD), conducted an investigation into an incident which occurred between 7:00 p.m. and 1:00 a.m. at the Licensed Premises on May 13, 2011-May 14, 2011.
3. The AGD and Fortis Properties agree on the following facts regarding the incident in question:
  - A male patron by the name of M. G. entered the Crown and Moose Pub at approximately 7:00 p.m. on May 13, 2011 with at least two other male customers. M.G. was known to the server as he was a regular patron of the Licensed Premises. M.G. was not intoxicated upon his arrival.
  - M.G. was served alcohol between the hours of 7:00 p.m. and 1:00 a.m. on May 13, 2011 - May 14, 2011. When the Licensed Premises closed at 1:00 a.m. on May 14, 2011 M.G.'s bar tab

totaled \$862.86, which included a 20% gratuity going to the server. \$595.47 out of the \$862.86 accumulated charges were for alcohol purchases made by M.G. The receipt is attached as Exhibit A.

- After M.G. left the Licensed Premises after 1:00 a.m. on May 14, 2011 he was observed by the front desk clerk to be intoxicated and vomiting in the lobby.
- L.S. was a female patron who attended the Licensed Premises during the evening of May 13, 2011 - May 14, 2011. L.S. paid for a room for M.G. on May 14, 2011, at the Delta Sydney, after she observed M.G. in the lobby of the hotel attempting to make his way towards the parking lot. L.S. observed M.G. staggering with slurred speech. Based on her observations L.S. concluded that M.G. was intoxicated.

4. The Licensee acknowledges that it has violated Regulations 61(l)(a), 61(l)(b), and 61(2) of the Nova Scotia Liquor Licensing Regulations by serving alcohol to M.G. on the evening in question in a manner that caused him to become intoxicated.

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 violations of sections 61(l)(a), 61(l)(b), and 61(2) of the Nova Scotia Liquor Licensing Regulations.

5. The Licensee and the Alcohol and Gaming Division jointly recommend that:

**Eating Establishment Liquor License No. 004517 and Lounge Liquor License No. 004518 be suspended for a period of two (2) consecutive days commencing Friday October 12, 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 Fortis Properties Corporation:**

Nora M. Duke  
Nora Duke  
Licensee

September 20, 2012  
Date

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

Jeff Barnes  
Jeff Barnes  
Regional Manager  
Investigation and Enforcement Division

September 21, 2012  
Date

DELTA SYDNEY  
CROWN AND MOOSE

SAT MAY 14, 2011  
CHECK #628016-2  
TABLE #151  
DUPLICATE

1 beef tenderloin	\$28.99
1 mozza fogs	\$8.99
1 calamari	\$8.99
2 friday wings	\$12.98
3 COORS LITE	\$13.29
6 bud lite	\$26.58
1 20 oz KEITHS	\$6.17
17 RUSSIAN PRINCE	\$70.89
1 TEQUILA	\$4.75
16 BAJA ROSA	\$84.00
35 Shooter	\$159.60
2 CAESAR	\$11.50
2 SourPuss Apple	\$9.50
29 Grey Goose Vodka	\$182.70
3 Patron Anejo Tequ	\$23.49

Food : \$59.95  
SUB-TOTAL : \$652.42

H.S.T. \$97.86  
**TOTAL \$750.28**

TIPS: \_\_\_\_\_

TOTAL: \_\_\_\_\_

ROOM NUMBER: \_\_\_\_\_

EVENT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

complete our online survey and  
receive 10 chances to  
WIN \$1000  
a prize everyday!  
[www.dining.deltalistens.com](http://www.dining.deltalistens.com)  
PLEASE COME AGAIN  
Time: 01:06 3 CUSTOMERS

PLEASE PAY YOUR SERVER  
H.S.T. #

YOU HAVE BEEN SERVED  
BY : ██████████

SETTLED BY:

ROOM CHARGE : \$662.83  
██

TIP : \$112.95-

CUSTOMER COPY

Exhibit A