

Notice of Proposed Disciplinary Action

To: 3004520 Nova Scotia Limited o/a Teazer's Dining Room & Lounge
10 Gerard Avenue, Amherst, Nova Scotia
Eating and Establishment Liquor License No. 003862, Lounge License
No. 003863 and Video Lottery Registration Certificate #VL 003863

From: John R. MacDonald, Executive Director, Alcohol, Gaming, Fuel and Tobacco
Service Nova Scotia

Date: November 30, 2016

Subject: Notice of Disciplinary Action Against 3004520 Nova Scotia Limited
o/a Teazer's Dining Room & Lounge
10 Gerard Avenue, Amherst, Nova Scotia

Current Situation

An Agreed Statement of Facts was submitted to this office on November 30, 2016, wherein the licensee acknowledged violation of sections 61(1)(a), 61(2), 76, 64(1) of the *Nova Scotia Liquor Licensing Regulations*, relating to violations observed on August 11, 2016;

Persons not permitted in, or to be served in, licensed premises

61(1) A licensee must not sell or provide liquor in their licensed premises to any of the following:

(a) a person who is apparently under the influence of liquor;

61(2) A licensee must not permit a person who is drunk to be in their licensed premises.

Employees not to consume liquor while on duty

76 A licensee must not permit an employee of the licensee to consume liquor in their licensed premises while on duty, other than liquor consumed in the presence of a registered representative to sample the liquor.

Activities not permitted in licensed premises

64(1) A licensee must not permit any activity in or about their licensed premises that is detrimental to the orderly control and operation of the licensed premises.

The licensee has agreed on the following penalty:

Eating and Establishment Liquor License No. 003862, Lounge Liquor License No. 003863 and Video Lottery Registration Certificate No. VL003863 be suspended for a period of two (2) days, to be served on December 8, 2016 and December 9, 2016.

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia, has considered the matter and issued a Notice of Disciplinary Action on December 5, 2016, pursuant to section 47B of the *Nova Scotia Liquor Control Act*.

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 prior to December 8, 2016.

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, Fuel and Tobacco, Service Nova Scotia has concluded that a two (2) day suspension of Teazer's Dining Room & Lounge, 10 Gerard Avenue, Amherst, Nova Scotia: Eating and Establishment Liquor License No. 003862, Lounge License No. 003863 and Video Lottery Registration Certificate No. VL003863 shall be served at the request of the licensee on December 8, 2016 and December 9, 2016.

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 and Video Lottery Registration Certificate 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, Gaming, Fuel and Tobacco
Service Nova Scotia

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 Regulation 61(1)(a), 61(2), 76, 64(1) of the *Liquor Licensing Regulations* by 3004520 N.S. Ltd. carrying on business as Teazer's Dining Room

AGREED STATEMENT OF FACTS

- I. 3004520 N.S. Ltd. is a body corporate incorporated under the laws of the Province of Nova Scotia, and carrying on business as Teazer's Dining Room ("the Licensee").
- II. The Licensee is the holder of Eating Establishment Liquor License No. 003862 and Lounge Liquor License No. 003863, which covers the premises known as Teazer's Dining Room, located at 10 Gerard Avenue, Amherst, Nova Scotia ("the Licensed Premises"). The Licensee is also registered to operate Video Lottery devices in accordance with the Gaming Control Act and the Video Lottery Regulations.
- III. The Licensee acknowledges that it has violated Regulation 61(1)(a), 61(2), 76, 64(1) of the Liquor Licensing Regulations and accepts responsibility for the violation.
- IV. The circumstances of the violation are as follows:
 - a. On August 11, 2016 at approximately 23:200 hrs RD, a Compliance Officer ("CO RD") working with and for Alcohol, Gaming, Fuel and Tobacco (AGFT) conducted a routine inspection within the Licensed Premises. Routine inspections of licensed premises form part of his regular employment duties as a Compliance officer with AGFT.
 - b. On August 11, 2016 upon entering the Licensed Premises at approximately 23:20 hrs CO RD immediately observed a white male approximately 55 to 60 years of age who was wearing a white and blue pattern shirt leaning against the bar showing signs of intoxication. CO RD observed that the male was unsteady on his feet, swaying and seemed unsure of his surroundings.
 - c. CO RD observed the male staggering towards the exit. CO RD followed the patron to the exit that leads to the parking area
 - d. CO RD observed the male leaning up against a SUV, and again observed that the male appeared unsure of his surroundings.
 - e. CO RD observed the male staggering across the parking area to a parked car, a blue Toyota Corolla and attempting to retrieve something from his pants pockets. CO RD then observed the male patron fall between two parked cars.
 - f. CO RD suspected that the male patron was attempting to retrieve his keys and therefore went inside the premises and alerted the manager Raymond Jones.

- g. CO RD and Mr. Jones returned to the parking lot, at that time the male patron was attempting to unlock his car.
- h. Mr. Jones intervened and initially the male patron refused to give his keys to Mr. Jones and get into a cab. Eventually the male patron relinquished his keys to Mr. Jones and agreed to take a cab. While entering the cab, the male patron dropped his eye glasses, which were returned to him by another patron who was witness to the situation. The male patron's keys were provided to the cab driver.
- i. CO RD questioned Mr. Jones. Mr. Jones advised that the patron was cut off. CO RD inquired as to why the male patron was permitted to remain at the premises, when he should have been escorted out of the premises in accordance with the Safe Patron Removal policy. Mr. Jones did not provide a reason why, but agreed that the male patron should have been removed in accordance with the policy.
- j. On August 12, 2016 CO RD requested surveillance footage of the interior of the Licensed Premises that was recorded on August 11, 2016. On August 24, 2016 surveillance footage was provided.
- k. The surveillance footage obtained by CO RD consisted of recorded video from CAMERA 2 (which provided video surveillance of the pool room); CAMERA 3 (which provided video surveillance of the front bar area); CAMERA 10 (which provided video surveillance of the entrance way and dance floor); and CAMERA 11 (which provided video surveillance of behind the bar and shooter station).

CO RD observed the following from surveillance video footage (*inter alia*). All time entries noted below are in actual time of events.

Video Camera #3: (front bar area)

21:00 – Intoxicated patron seen with his party drinking at the bar. Patron periodically walks around enters/exits from camera range.

21:32 – Waitress Cristina Scott seen joining the group of males. One of the males hands her a drink and she tips the glass and consumes the entire drink. The males just completed a number of bar shots just seconds prior to her joining them.

21:33 – Intoxicated patron seen drinking from a wine glass at bar.

21:38 – Intoxicated patron seen staggering, bumps into chair with wine glass in hand.

21:41 - Intoxicated patron showing signs of intoxication as he is unsteady on his feet, walking unsteadily, hanging onto bar stools and reaching out to the bar for support.

21:44 - Intoxicated patron seen staggering around and nearly knocks over bar stool while attempting to sit on it.

21:48 – Male friends seen encouraging the intoxicated patron to go out onto dance floor. He then enters the dance floor and starts to dance by himself.

Video Camera # 2 (Pool Room)

21:53 – Intoxicated patron staggers into pool room, very unsteady on his feet, where his party has gathered to play pool and continue to drink.

22:03 – Shooter waitress Annie Crocker enters pool room with a tray of shooters. After selling shooters to the party of males she is seen taking 2 shots from her tray and “high fiving” male patrons. **She is then seen talking to the intoxicated patron while he has his shot in hand and then he consumes it.**

22:06 – Intoxicated patron gets out of his chair and staggers into the pool table.

22:18 – Intoxicated patron seen staggering over to the pool table, falls onto the table and friend who is attempting to play.

22:32 – Intoxicated patron attempts to leave his chair and falls back into it. Does not make a second attempt and hangs his head.

22:38 – Intoxicated patron gets out of his chair and staggers into friend then staggers back into chair.

Video Camera # 10 (Entrance way/Dance floor)

22:59 – Intoxicated patron enters camera 10 from the dance floor. He continues to show signs of intoxication. He is seen walking unsteadily and reaching out to bar stools and the bar for support.

23:00 – Staff members seen walking next to intoxicated patron while he is walking unsteadily. He continues to draw attention to himself by entering the dance floor and dancing and clapping by himself. His actions are conclusive of an individual who is in a drunken state.

Video Camera #3: (front bar area)

23:09 – Intoxicated patron seen leaning over the bar talking to Bar Manager Ray Jones and appears to be settling his bill. His motor skills show signs of further impairment as he drops his money on the floor.

23:11 – Intoxicated patron allowed to walk freely away from the bar area.

23:15 – Intoxicated male seen standing in front of the bar area, swaying, rocking bar stools back and forth for support in standing. His party is now leaving as they are seen hugging waitress goodbye. Intoxicated patron staggers back to the dance floor and his party is not encouraged to take him with them.

23:19 – Intoxicated patron appears to be looking for his party. He staggers over to the bar and is seen talking to Bar manager Ray Jones.

Video Camera #3: (front bar area)

23:20 – CO seen entering the premises. Intoxicated patron is spotted within seconds and is seen swaying back and forth against the bar. He begins to walk and staggers past CO holding onto the bar stools and exits the bar. This is last time the intoxicated patron is seen on video surveillance.

23:22 – CO walks to the entrance to further observe the intoxicated.

V. This matter has been brought before the Executive Director of the Alcohol, Gaming, Fuel and Tobacco, Service Nova Scotia, for the imposition of a penalty in respect of the Licensees violation of section 61(1) (a), 61(2), 76, and 64(1) of the *Nova Scotia Liquor Licensing Regulations*.

VI. The Licensee and Alcohol, Gaming, Fuel and Tobacco jointly recommend that

Eating Establishment Liquor License No. 003862 and Lounge Liquor License No. 003863 be suspended for a period of two days (2) to be served on December 8, 2016 and December 9, 2016.

Video Lottery Registration Certificate VL003863 will also be suspended during the two (day) suspension of the liquor licenses and the video lottery terminals will not be player.

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.

7. 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 Teazer's Dining Room and Lounge:




Licensee, Teazer's Dining Room and Lounge

Nov. 30/2016

Date

On behalf of Alcohol, Gaming, Fuel and Tobacco:



Jennifer Price Hudson
Regional Manager, Western and Metro Region
Investigation and Enforcement Division

Nov 23, 2016

Date