

Notice of Proposed Disciplinary Action

To: Southwest Hospitality Incorporated o/a
Dooly's Dining Room & Lounge Yarmouth
117 Water Street, Yarmouth, Nova Scotia
Eating Establishment Liquor License #004035 and
Lounge License #004036
Video Lottery Registration Certificate #VL 004036

From: John R. MacDonald, Executive Director
Alcohol, Gaming, Fuel and Tobacco, SNS

Date: April 16, 2018

Subject: Notice of Disciplinary Action

Current Situation

An Agreed Statement of Facts was submitted to this office on April 5, 2018, wherein the licensee acknowledged violation of sections 61(2) of the *Nova Scotia Liquor Licensing Regulations*, relating to violations observed on August 17, 2018;

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

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

The licensee has agreed on the following penalty:

Eating and Establishment Liquor License No. 004035, Lounge Liquor License No. 004036 and Video Lottery Registration Certificate No. VL004036 be suspended for a period of two (2) days, to be served on April 30 and May 1, 2018.

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 April 16, 2018, 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 April 27, 2018.

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, Gaming, Fuel and Tobacco, Service Nova Scotia has concluded that a two (2) day suspension of Dooly's Dining Room and Lounge, 117 Water Street, Yarmouth, Nova Scotia. Eating Establishment Liquor License #004035, Lounge License #004036 and Video Lottery Registration Certificate #VL004036 shall be served on April 30 and May 1, 2018, as was determined in collaboration with the licensee.

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 ALLEGED VIOLATIONS OF NOVA SCOTIA LIQUOR LICENSING REGULATIONS 61(2), by Southwest Hospitality Incorporated, the holder of Eating Establishment Liquor License No. 004035 and Lounge Liquor License No. 004036, and operator of Dooly's Lounge

AGREED STATEMENT OF FACTS

1. Southwest Hospitality Incorporated is a body corporate, incorporated under the laws of the Province of Nova Scotia. Southwest Hospitality is the holder of Eating Establishment Liquor License No. 004035 and Lounge Liquor License No. 004036 (hereinafter "the licensee").
2. Southwest Hospitality Incorporated conducts business within the Province of Nova Scotia, and is the owner and operator of Dooly's Lounge located at 117 West Street, Yarmouth, Nova Scotia (hereinafter "the licensed premises").
3. The licensee acknowledges that it has violated regulations 61(2) of the *Nova Scotia Liquor Licensing Regulations* and accepts responsibility for the violations.
4. The circumstances of the violation of regulation 61(2) are as follows:
 - i. On August 17, 2017, a complaint was received by the AGFT from Cst. Martin Viel, of the Royal Canadian Mounted Police (RCMP), Yarmouth Town Detachment, concerning an incident that occurred within the licensed premises on August 15, 2017.
 - ii. On August 22, 23, and 25, 2017 Carmen Thibeau, a Compliance Officer for the AGFT attended the licensed premises and met with the manager to discuss the August 17, 2017 complaint and to review video footage taken within the licensed premises on August 15, 2017.
 - iii. The following is a breakdown of what was observed on the video surveillance footage by Compliance Officer Carmen Thibeau:

On August 15, 2017 a female patron, S.H., is seen entering the licensed premises around 20:45 hrs with two other females. S.H. appears to be unsteady on her feet in the parking lot but no clear indication of intoxication upon entering the licensed premises.

When S.H. enters the licensed premises she sits at the front section of the bar on one of the bar stools and S.H. is observed consuming 4 drinks and 2

draught beer. S.H. goes to the washroom and returns to the bar stool and orders another drink of alcohol.

- iv. At 23:05 hrs the bartender helps S.H. to sit down at a larger table and called the two females who S.H. had arrived with to come to the table. At 23:16 hrs. S.H. stumbles back to the bar area and at 23:14 hrs a male patron helps her sit back up on the bar stool. At 23:16 hrs S.H. is observed falling off the bar stool and lying on the floor. S.H. is on the floor for a few seconds when a male patron sitting next to her looks down and sees her. The male patron then proceeds to help her up. The bartender is also observed kneeling beside S.H. for approximately 10 seconds. At 23:17 hrs. the bartender is back behind the bar and S.H. remains seated at the bar. At 23:19 hrs S.H. is observed stumbling to the dance floor. S.H. appears intoxicated based on her staggering and not being able to keep her balance. At 23:45 the bartender helps Ms. Harris exit the licensed premises and provides a chair for her to sit outside. At 23:50 hrs. Cst. Viel is observed speaking to S.H. and at 23:57 hrs. a car arrives and S.H. enters the vehicle and the vehicle drives away.

5. This matter has been brought before the Executive Director of Alcohol, Gaming, Fuel, and Tobacco for the imposition of a penalty with respect to the licensee's violations of regulations 61(2) of the *Nova Scotia Liquor Licensing Regulations*.

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

Eating Establishment Liquor License No 004035 and Lounge Liquor License No. 004036, will be suspended for a period of two consecutive days commencing on a Monday or Tuesday in April 2018, or at a date and time mutually agreeable between the Licensee and Alcohol, Gaming, Fuel and Tobacco.


Video Lottery Registration Certificate Number VL004036 shall be suspended for a period of two consecutive days in April 2018, or at a date and time mutually agreeable between the Licensee and Alcohol, Gaming, Fuel and Tobacco.

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. The suspension does not prevent the Licensee 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 Southwest Hospitality Incorporated:



Per:
Recognized Agent:

APRIL 5 / 2018
Date

On behalf of the Alcohol and Gaming Division:



Jennifer Price Hudson
Director, Investigation & Enforcement
Alcohol, Gaming, Fuel and Tobacco
Service Nova Scotia

April 12, 2018
Date