

### Notice of Proposed Disciplinary Action

**To:** Royal Canadian Legion Branch 132  
15857 Central Avenue, Inverness, Nova Scotia  
Club Liquor License #001008  
VLT Registration Certificate #VL001008

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

**Date:** October 20, 2020

**Subject:** Notice of Disciplinary Action  
Royal Canadian Legion Branch 132  
15857 Central Avenue, Inverness, Nova Scotia

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#### Current Situation

An Agreed Statement of Facts was submitted to this office on October 5, 2020 wherein the licensee acknowledged that on April 13, 2019 the licensee violated section 61(2) and 64(1) of the Nova Scotia Liquor Licensing Regulations.

#### 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.

#### 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:

***Club Liquor License No. 001008 and VLT Registration Certificate #VL001008 will be suspended for a period of fourteen (14) consecutive days, to be served from November 15 to November 28, 2020.***

The office of the Executive Director, Alcohol, Gaming, Fuel & Tobacco, Service Nova Scotia and Internal Services, has considered the matter and issued a Notice of Proposed Disciplinary Action on October 20, 2020, 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) of the Nova Scotia Liquor Licensing Regulations. 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 November 3, 2020 at 16:30 hours.

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 has concluded that a fourteen (14) day suspension of Royal Canadian Legion Branch 132, Club Liquor License #001008 and VLT Registration Certificate #VL001008 shall be served from November 15, 2020 to November 28, 2020, which 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.

  
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John R. MacDonald, Executive Director  
Alcohol, Gaming, Fuel and Tobacco  
Service Nova Scotia and Internal Services

**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(2) and 64(1) of the *Liquor Licensing Regulations* by Royal Canadian Legion, Branch 132, Inverness**

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**AGREED STATEMENT OF FACTS**

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- I. Royal Canadian Legion, Branch 132, Inverness is a democratic member-based club carrying out their activities in accordance with Legion by-laws ("the Licensee").
- II. The Licensee is the holder of Club Liquor License No. 001008 which covers the premises known as the Royal Canadian Legion, Branch 132 located at 15857 Central Avenue, Inverness, NS ("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(2) and 64(1) of the Liquor Licensing Regulations and accepts responsibility for the violation.
- IV. The circumstances of the violation are as follows:
  - a. On April 16, 2019 Compliance Officer Wanda Meisner ("CO Meisner") working with and for Alcohol, Gaming, Fuel and Tobacco (AGFT) received a telephone call from Cst. Jordan MacIntyre ("Cst. MacIntyre"). Cst. MacIntyre advised that Daniel Walker ("Mr. Walker") had been drinking at the Inverness Legion on April 13, 2019. A short time after returning home Mr. Walker fell down the stairs and died. CO Meisner commenced an investigation into the events of April 13, 2019 at the Licensed Premises. Investigations of licensed premises form part of CO Meisner's regular employment duties as a Compliance officer with AGFT.
  - b. On April 17, 2019 at 1100 hours CO Meisner attended at the Licensed Premises to meet with Herbert Jeromel and Lawrence MacDonald. CO Meisner requested a copy of the video surveillance from April 13, 2019 when Mr. Walker was at the Licensed Premises. At this time CO Meisner also obtained a statement from bartender Mike Fraser ("Mr. Fraser") who stated that he did not have a conversation with the bartender who relieve him at the end of his shift as to how many drinks Mr. Walker had consumed that day because it was difficult due to the crowd.
  - c. On April 18, 2019 CO Meisner obtained a statement from bartender, Ryan MacDonald ("Mr. MacDonald"). Mr. MacDonald relieved Mr. Fraser at the end of his shift on April 13, 2019. Mr. MacDonald stated he worked alone and that it was a busy night.
  - d. On April 18, 2019, CO Meisner obtained a statement from Lauchie MacPhee, a patron at the licensed premises on April 13, 2019. While in the licensed premises Mr. Walker had asked for someone to drive him home. Lauchie MacPhee agreed to do so and brought his car around to the front door of the licensed premises where Mr. Walker got in. During the

short trip to Mr. Walker's home in Inverness, they had a conversation about Mr. MacPhee's sister who had cancer as Mr. Walker's wife had suffered from the same. When asked by CO Meisner how Mr. Walker was walking and talking Mr. MacPhee stated, "I could tell he had a good jag on, he was no drunker than I would have got. When they arrived at Mr. Walker's house, Mr. MacPhee asked Mr. Walker if he needed any help. He said no, dug for his keys, got out, stumbled a bit, walked up to his door, opened the door and entered the house. When asked by CO Meisner if there was anything out of the ordinary about Mr. Walker, Mr. MacPhee stated, "he drove him home a few times, he was no different" and that "he was more concerned about his sister than anything else."

- e. On April 20, 2019 at 1147 hours CO Meisner received a text message from Cst. MacIntyre advising that he had obtained a copy of video surveillance from the residence of Sheamus Walker, son of Mr. Walker. At the time of his death Mr. Walker was residing at his son's home. Cst. Walker advised CO Meisner that he had obtained Sheamus Walker's consent to provide a copy of the video to CO Meisner.
- f. On April 23, 2019 CO Meisner received and reviewed the video from Cst. MacIntyre of the residence of Sheamus Walker. The video showed that on April 13, 2019 at 1811 hours, Mr. Walker enters the residence via the back door. Mr. Walker stumbles into the wall and braces himself with his hands on the wall. He is unsteady on his feet, stumbles into a chair and into the entranceway. Mr. Walker continues to stagger, fall backwards, fall into the kitchen table and chair, crash into a wall putting a hole in the drywall with his head. The video continues until 1833 hours when Mr. Walker can be seen pulling his shirt up over his head by the collar with both hands, he then sways back and forth and falls forward headfirst down the basement stairs.
- g. On April 24, 2019 CO Meisner reviewed the video received from the Licensee of the Licensed Premises. The video showed that on April 13, 2019 Mr. Walker arrived at the Licensed Premises at approximately 1241 hours. CO Meisner observes that Mr. Walker is served 15 drinks in five and a half hours, Mr. Walker consumed 14 of the drinks he was served and departed the Licensed Premises at 1806 hours. He is observed veering unsteadily around furniture and stumbling against the wall as he leaves. CO Meisner further observed that there appeared to be no other workers or dedicated security on either level of the Licensed Premises other than the bartender located on the main floor.
- h. On May 1, 2019 at 1900 hours CO Meisner attended at the Licensed Premises and met with Mr. MacDonald to inquiry about the liquor dispensing equipment used. Mr. MacDonald explained that the equipment measures and pours one ounce of liquor at a time. Mr. MacDonald demonstrated, and stated that it takes approximately 8 seconds to dispense a double. Mr. MacDonald retrieved two glasses and explained that he uses the smaller for singles and the larger for doubles.
- i. On May 2, 2019 CO Meisner again reviewed the video from the Licensed Premises, specifically observing and noting the size of glass and length of time the pour took. CO Meisner concluded that Mr. Walker was served 4 beer, 10 double mixed drinks, and one single mixed drink. CO Meisner calculated that Mr. Walker consumed 4 beer and approximately 20 ounces of vodka in five and a half hours.

- j. On May 28, 2019 CO Meisner met with Herbert Jeromel and Lawrence MacDonald at the Licensed Premises. They briefly discussed the date of the incident. Mr. MacDonald stated that there was a dart tournament and that normally two bartenders would be working, on that day they only had one upstairs.
- 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(2) and 64(1) of the *Nova Scotia Liquor Licensing Regulations*.
- VI. The Licensee and Alcohol, Gaming, Fuel and Tobacco jointly recommend that

**Club Liquor License No. 001008 be suspended for a period of fourteen consecutive days (14); the suspension shall be served before December 1, 2020. Dates to be determined in consultation with the Licensee.**

**Video Lottery Registration Certificate VL001008 will also be suspended during the fourteen (day) suspension of the liquor licenses and the video lottery terminals will not be played.**

**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 License has been suspended. This does not prevent the Legion from hosting regular meetings and events or other non-liquor related services.**

**The Licensee agrees to have all bartenders, staff and volunteers complete the Serve Right Program, offered by the Tourism Industry Association of Nova Scotia within three (3) months from the date of this agreement. Anyone who has completed this course in the previous two (2) years is not required to complete it again.**

**The Licensee agrees to have all bartenders, staff, volunteers and board members involved in the administration of the liquor license attend a Staff Instruction, provided by the AGFT within thirty (30) days from the date of settlement.**

**The licensee agrees to draft and implement a policy regarding responsible sale and service of liquor within thirty (30) days from the date of settlement. This policy must be provided to the AGFT.**

## **VII. 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 Royal Canadian Legion, Branch 132, Inverness:**

Harold A. MacIsaac  
Harold A. MacIsaac, Counsel for the Licensee

October 5<sup>th</sup> 2020  
Date

**On behalf of Alcohol, Gaming, Fuel and Tobacco:**

J. Hudson  
Jennifer Price Hudson  
Director, Investigation and Enforcement Division

October 5, 2020  
Date