



Service Nova Scotia and Internal
Services

Alcohol, Gaming, Fuel & Tobacco

Torrington Place
2nd Floor
780 Windmill Road
PO Box 545
Dartmouth, NS
B2Y3Y8

902.424.6160 T
TOLL FREE IN NS
1.877.565.0556
902.424.6313 F

Notice of Proposed Disciplinary Action

To: IC Shore Distilling Company Inc.
Operator of Yacht Club Social
1668 Lower Water St, Halifax, Nova Scotia
Eating Establishment Liquor License #006239 and
Lounge License #006240

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

Date: December 20, 2022

Subject: Notice of Disciplinary Action
IC Shore Distilling Company Inc. o/a Yacht Club Social
1668 Lower Water St, Halifax, Nova Scotia

Current Situation

An Agreed Statement of Facts was submitted to this office on November 29, 2022, wherein the licensee acknowledged violation of sections 34(1) and 64(1) of the Nova Scotia Liquor Licensing Regulations, relating to violations observed from June 1, 2022, to September 3, 2022.

Proposed contracts, leases and agreements to be submitted to Executive Director

34(1) A permanent licensee must submit any proposed management contract under which their licensed premises will be managed on their behalf to the Executive Director for approval before completing the contract.

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 Establishment Liquor License No. 006239 and Lounge Liquor License No. 006240 be suspended for a period of 15 (fifteen) consecutive days to be served from January 4, 2023, to January 18, 2023, inclusive.

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia and Internal Services, has considered the matter and issued a Notice of Disciplinary Action on December 20, 2022, pursuant to section 47B of the *Nova Scotia Liquor Control Act*.



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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 4:30 pm on December 30, 2022**.

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.

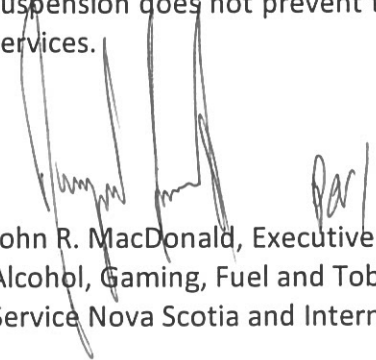
After considering any objection to a notice of proposed action, the Executive Director must do one of the following:

- (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 and Internal Services has concluded that a fifteen (15) day suspension of Yacht Club Social, 1668 Lower Water St, Halifax, Nova Scotia. Eating Establishment Liquor License #006239 and Lounge License #006240 shall be served at the request of the licensee from January 4, 2023, to January 18, 2023, inclusive.

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, 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 ALLEGED VIOLATIONS OF
NOVA SCOTIA LIQUOR LICENSING REGULATIONS

Section 34 (1) and 64 (1) of the *Nova Scotia Liquor Licensing Regulations*
IC Shore Distilling Company Inc. operating as Yacht Club Social

AGREED STATEMENT OF FACTS

1. IC Shore Distilling Company Inc. is a body corporate, incorporated under the laws of the Province of Nova Scotia. IC Shore Distilling Company Inc. is the holder of Eating Establishment Liquor License No. 006239 and Lounge Liquor License No. 006240 issued by Alcohol Gaming Fuel and Tobacco (AGFT) under the *Liquor Control Act* R.S.N.S. 1989, c. 260, as amended (hereinafter "the licensee").
2. IC Shore Distilling Company Inc. conducts business within the Province of Nova Scotia and is the owner and operator of the Yacht Club Social, which is located at 1668 Lower Water St, Halifax, Nova Scotia (hereinafter "the licensed premises").
3. Arla Johnson and Julie Shore are the principal shareholders of IC Shore Distilling Company Inc. (hereinafter, the "licensees"). The licensees acknowledge that they have violated regulation 34 (1) and 64 (1) of the *Nova Scotia Liquor Licensing Regulations* and accept responsibility for the violations.
4. The circumstances of the violations of regulation 34 (1) and 64 (1) are as follows:
 - a. On June 1, 2022, the licensees and 4412336 Nova Scotia Limited executed a management contract (hereinafter, the "management contract").

David Flemming, Scott MacLean and Justin Lewis are Directors of 4412336 Nova Scotia Limited (hereinafter, the "management group").
 - b. Included in the management contract under Clause 4 was an agreement between the licensees and the management group to sub-lease the licensed premises to 4412236 Nova Scotia Limited. The sub-lease was intended solely for the collection of a monthly rent fee paid by the management group to the licensees.
 - c. In a statement recorded by Compliance Officer (CO) Ron Downey, licensee Arla Johnson advised that David Flemming, Scott MacLean, and Justin Lewis would operate the licensed premises, as their own business, operating under the licensees Eating Establishment Liquor License No. 006239 and Lounge Liquor License No. 006240 held with the AGFT (hereinafter, the "liquor licenses").

- d. On July 11, 2022, Scott MacLean, David Flemming, and Justin Lewis were added by the licensees as managers to the liquor licenses.
- e. Licensee Arla Johnson accepts responsibility and acknowledges that between June 1, 2022 to September 3, 2022 neither she or Julie Shore had any involvement with the day-to-day operations of the licensed premises, noting that neither her or Julie Shore were managers or added to the payroll of 4412336 Nova Scotia Limited by the management group.
- f. Licensee Arla Johnson accepts responsibility and acknowledges that between June 1, 2022 to September 3, 2022, the management group controlled all aspects of the Yacht Club Social including hiring, security detail, payroll of employees, as well as profiting from all sales transactions completed at the licensed premises and under the liquor licenses.
- g. On May 10, 2022 CO Kathy Williams, working with and for Alcohol, Gaming, Fuel and Tobacco advised 4412336 Nova Scotia Limited and members of the management group that the company had to submit the management contract and sub-lease agreement, to the AGFT to be assessed for approval, pursuant to section 34 (1) of the *Nova Scotia Liquor Licensing Regulations* which states:

Proposed contracts, leases and agreements to be submitted to Executive Director

34 (1) A permanent licensee must submit any proposed management contract under which their licensed premises will be managed on their behalf to the Executive Director for approval before completing the contract.

- h. Email correspondence, dated June 21, 2022, sent to licensee Arla Johnson from Compliance Officer (CO) Steve Seney, notified the licensees to the fact that “any management agreements completed, should be submitted to licensing, per the regulations.”
- i. On September 22, 2022, CO Ron Downey asked licensee Arla Johnson if she was aware that because the management contract noted above, was not submitted to the AGFT for approval, that it was a violation of the *Nova Scotia Liquor Licensing Regulations*, which stipulated that, any proposed management contracts under their licensed premises must be approved. Ms. Johnson in reply stated that she was not aware.
- j. On September 22, 2022, licensee Arla Johnson advised CO Ron Downey that she and Julie Shore decided that the management group would operate the licensed premises under the management contract until “the guys could get their own license.”

- k. The licensee Arla Johnson accepts responsibility and acknowledges that she and Julie Shore had no involvement between June 1, 2022 to September 3, 2022 with the operation of the licensed premises and simply collected monthly rent from the management group.
- l. The licensees admit that they relinquished control and operation of the licensed premises to David Flemming, Scott MacLean and Justin Lewis, pursuant to the management contract.
- m. 4412336 Nova Scotia Ltd., pursuant to section 2 of the management contract, had complete control of the operation of the licensed premises and profited from all sales completed under the liquor licenses from June 1, 2022 to September 3, 2022.

The licensees accept responsibility and acknowledge that the licensees were required by law to submit the management contract and all agreements connected to the management contract to the AGFT to be assessed for approval.

- n. Between June 1, 2022 to September 3, 2022, the management contract was never submitted by the licensees to the AGFT to be assessed for approval.
 - o. Had the licensees submitted the management contract to the AGFT between June 1, 2022 to September 3, 2022, for approval, the management contract and any agreements connected to the management contract would not have been approved by the Executive Director for the AGFT because the management contract ceded control and operation to the management group, in violation of the *Nova Scotia Liquor Licensing Regulations*.
 - p. The management contract was eventually submitted to the AGFT on September 26, 2022.
 - q. The licensees accept responsibility and acknowledge that assigning the operations of the licensed premises to the management group was detrimental to the orderly control and operation of the licensed premises.
 - r. The licensees accept responsibility and acknowledge that at all material times the licensees could not assign, transfer, or otherwise relinquish their control and operation of the licensed premises to the management group until the requisite approvals were obtained from the AGFT, inclusive of an approved transfer of license, pursuant to the *Nova Scotia Liquor Licensing Regulations*.
5. These matters have been brought before the Executive Director of AGFT for the imposition of a penalty with respect to the licensee's violation of regulations 34 (1) and 64 (1) of the *Nova Scotia Liquor Licensing Regulations*.
6. The licensees and AGFT jointly recommend that:

Eating Establishment Liquor License No. 006239 and Lounge Liquor License No. 006240 will be suspended for a period of 15 (fifteen)

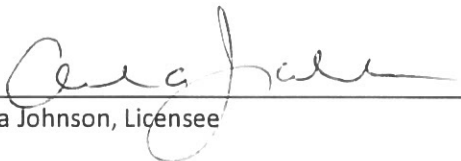
consecutive days, to take place at a date and time mutually agreeable between the Licensee and AGFT.

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

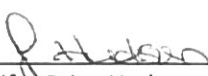
This Agreed Statement of Facts contains the entire agreement between the parties. There are no undertakings or representations expressed or implied, other than those contained in this agreement.

IC Shore Distilling Company Inc.


Arla Johnson, Licensee

Nov 29, 2022
Date

On behalf of the AGFT:


Jennifer Price Hudson
Director, Investigation & Enforcement, AGFT
Service Nova Scotia

November 29, 2022
Date