



**DECISION OF THE  
GENERAL MANAGER  
LIQUOR CONTROL AND LICENSING BRANCH  
IN THE MATTER OF**

A hearing pursuant to Section 20 of  
***The Liquor Control and Licensing Act, R.S.B.C. 1996, c. 267***

Licensee: Sky Bar Ltd.  
dba Skybar  
670 Smithe Street  
Vancouver, BC V6B 1E3

Case: EH05-047

For the Licensee: Kirsten Tonge

For the Branch: Sonja Okada

Enforcement Hearing Adjudicator: Edward W. Owsianski

Date of Hearing: February 6, 2006  
March 3, 2006 (Submissions via  
Teleconference)

Place of Hearing: Vancouver, BC

Date of Decision: April 6, 2006

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## **INTRODUCTION**

The licensee, Sky Bar Ltd. operates an establishment known as Skybar. It is located at 670 Smithe Street in the City of Vancouver, in what is known as the entertainment district of the downtown area of the City. It is an area of the City in which liquor licensed establishments have been encouraged to locate. Skybar has three floors and three separate liquor licenses consisting of a food primary licence and two liquor primary licenses. The floors are connected by an elevator and stairwells. The elevator and main stairwell are located in the centre of the establishment. The only coat check for the establishment is located on the second floor adjacent to the liquor primary area.

The second floor liquor primary area which is the main liquor primary area for the establishment operates as a nightclub under Liquor Primary Licence No. 300593. It is the subject of this hearing. The licensed hours for the sale of liquor are 7:00 p.m. – 2:00 a.m. on Monday through Saturday and 7:00 p.m. – Midnight on Sunday. The licence permits a maximum capacity of 220 persons in the licensed area. The licence is subject to the terms and conditions contained in the publication ‘Guide for Liquor Licensees in British Columbia’. The maximum occupant load as set by the City of Vancouver, Office of the Fire Chief, is 220 persons.

## **ALLEGED CONTRAVENTION AND RECOMMENDED ENFORCEMENT ACTION**

The Liquor Control and Licensing Branch’s (the branch) allegations and recommended enforcement action are set out in the Notice of Enforcement Action (NOEA) dated June 9, 2005. The branch alleges that on February 27, 2005, the licensee contravened Section 6(4) of the *Liquor Control and Licensing Regulation* by permitting more persons in the licensed establishment than the person capacity set by the general manager and the number of persons in the licensed establishment was more than the occupant load.

The recommended enforcement action in the NOEA is for a ten (10) day suspension of the liquor licence. The branch advocate in a letter dated February 2, 2006, advised counsel for the licensee that pursuant to the provisions of Schedule 4 of the *Regulation* (Item No. 15 of Schedule 4) this contravention was considered to be a subsequent

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contravention, thus an eighteen (18) day licence suspension would be recommended at the hearing rather than the ten (10) day licence suspension.

The NOEA also advised that the branch would be recommending a change to the terms and conditions of the licence requiring the licensee to record hourly person counts during the business hours of Wednesday, Thursday, Friday and Saturday, and to fax those counts every Monday morning to the regional manager for the branch's Vancouver Regional Office. The change to the terms and conditions of the licence also require that once a month, the licensee submit to the regional manager for the branch's Vancouver Regional Office a notarized summary of the recorded counts.

The licensee disputes that the alleged overcrowding took place.

Schedule 4, Item 15 of the *Liquor Control and Licensing Regulation*, provides a range of licence suspensions and monetary penalties for this contravention. For a first contravention of this type, the penalty range is a four (4) to seven (7) day licence suspension and a five thousand (\$5,000) to seven thousand (\$7,000) monetary penalty. For a second contravention, the penalty range is a ten (10) to fourteen (14) day licence suspension. For subsequent contraventions, the penalty range is an eighteen (18) to twenty (20) day licence suspension.

**Section 6 of the Regulations to the Act states as follows:**

**Capacity**

**6** (1) Before the general manager

(a) approves the issuance of a licence,

(b) approves a structural alteration of or a change to the size of any area of a licensed establishment,

(c) approves a transfer of a licence under section 21 (3) of the Act, or

(d) approves an application for an increase in the person capacity of a licensed establishment, the general manager must set the person capacity of the establishment, having regard to the public interest and the views of a local government or first nation if provided under section 10 or 53 of this regulation.

(2) Once the general manager has set the person capacity of an establishment in accordance with subsection (1), the general manager must refuse to issue, amend or transfer a licence for that establishment if the occupant load of the establishment is not equal to the person capacity.

(3) Despite subsection (2), if the occupant load of an establishment is less than the person capacity of the establishment set under subsection (1), the general manager may issue, amend

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or transfer the licence for that establishment after reducing the person capacity to equal the occupant load.

(4) It is a term and condition of a licence that there must not be, in the licensed establishment at any one time, more persons than the person capacity set under subsection (1) or (3).

(5) This section does not apply to a U-Brew, U-Vin, licensee retail store, distillery, brewery or a winery without a winery lounge endorsement.

## Issues

1. Whether the licensee contravened the *Regulation* as alleged?
2. If so, what penalty, if any, is appropriate?

## Exhibits

1. Letter of February 2, 2006, from branch advocate to legal counsel for the licensee
  2. Book of Documents
  3. Floor plan for 3<sup>rd</sup> level of Skybar
  4. (A) Document titled: "Skybar Compliance History"  
(B) Decision of the General Manager, Liquor Control and Licensing Branch re: Skybar, dated July 21, 2004  
  
(C) Decision of the Supreme Court of British Columbia; Skybar Ltd. v. General Manager, Liquor Control and Licensing Branch, 2005 BCSC 235  
  
(D) Decision of the General Manager, Liquor Control and Licensing Branch re: Skybar, dated April 27, 2005  
  
(E) Decision of the Supreme Court of British Columbia; Skybar Ltd. v. General Manager, Liquor Control and Licensing Branch, 2005 BCSC 1542  
  
(F) Decision of the General Manager, Liquor Control and Licensing Branch re: Skybar, dated February 3, 2005
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**EVIDENCE - THE LIQUOR CONTROL AND LICENSING BRANCH**

**Two City of Vancouver police constables** testified that during the late night/early morning hours of February 26/27, 2005, they were part of a liquor enforcement team assigned to check licensed establishments located in the Vancouver downtown entertainment district. They arrived at Skybar at approximately 1:35 a.m. Both constables had been at the establishment on previous occasions and were familiar with the layout. They spoke briefly with the doorman on duty at the street level entrance. He advised them that the establishment was slightly over capacity with approximately 240 persons inside. The constables proceeded to the second floor level. They noted the establishment to be crowded and both proceeded to do a count of the number of persons in the area. The second floor area is divided into two main areas by an elevator and stairwells running through the centre of the floor. There are passageways around the elevator and stairwells allowing access between the two areas. The officers commenced their count on the east side then proceeded to the west side.

**Constable #1** used a mechanical counter and counted 155 persons on the east side and 156 persons on the west side, with a total for the two areas of 311 persons.

**Constable #2** did not have a mechanical counter. He counted 160 persons on the east side and 141 persons on the west side, with a total for the two areas of 301 persons. They did not count persons in the washroom areas. Both constables agreed that counting the number of persons in a crowded nightclub atmosphere with persons moving on and off the dance floor and between the two areas is not an exact science. They were both satisfied that their counts were reasonably accurate within a few persons. Both constables have previous experience in conducting walk-throughs of licensed establishments and counting the number of persons inside.

The constables then proceeded to the third floor VIP area where they both counted 60 persons therein. Constable #2 completed a Licensed Premises Check (LPC) report, a copy of which was signed by and provided to the Skybar manager on duty (Exhibit 2,

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tab 4). He later completed a General Occurrence Report (GOR) prior to going off duty. The constables left the establishment shortly before 2:00 a.m.

**A branch compliance and enforcement officer** (C & E officer) testified that she is the C & E officer responsible for the geographical area in which the Skybar is located and is responsible for keeping the branch files for the establishment. She testified that the liquor primary licence for this establishment (Exhibit 2, tab 7) is subject to the terms and conditions contained in the branch publication "Guide for Liquor Licensees". The Guide in effect at the time of the alleged contravention is found at Exhibit 2, tab 8. She referred to excerpts from the Guide dealing with: "Overcrowding" at page 12. The second floor plan is found at Exhibit 2, tab 9, the third floor plan at Exhibit 3. The Maximum Occupant Load Certificate (Exhibit 2, tab 10) for the second floor sets the maximum occupant load at 220 persons for the second floor. Approval-in-Principle for the licence was given on May 29, 2003 (Exhibit 2, tab 11). An interview was conducted with the licensee representative on July 25, 2003, (Exhibit 2, tab 12) and the liquor licence was issued on that date (Exhibit 2, tab 13). An internal share transfer was approved on February 5, 2004 (Exhibit 2, tab 14).

The C & E officer introduced Exhibit 4A and outlined the compliance history for the licensee; the following relate to issues of overcrowding of the second floor area:

- Contravention Notice (CN) and waiver for overcrowding on August 17, 2003 (Exhibit 2, tab 15), this resulted in a five thousand dollar (\$5000.00) monetary penalty;
  - CN and Compliance Meeting report for overcrowding on September 7, 2003, this resulted in a twelve (12) day suspension ordered (Exhibit 2, tab 16);
  - CN for overcrowding on March 31, 2004, this resulted in an eighteen (18) day suspension ordered (Exhibit 2, tab 18);
  - CN for overcrowding on April 25, 2004, this resulted in an eighteen (18) day suspension ordered (Exhibit 2, tab 20);
  - CN for overcrowding on May 6, 2004, this resulted in an eighteen (18) day suspension ordered (Exhibit 2, tab 21).
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The C & E officer testified that she was not present at the Skybar on February 26/27, 2005, when the police constables made their counts. As the C & E officer responsible for the area in which the Skybar is located, she received a copy of the police LPC (Exhibit 2, tab 4) and GOR (Exhibit 2, tab 5). She issued a CN (Exhibit 2, tab 3) on March 16, 2005, and mailed it to the licensee. On April 14, 2005, she prepared an Enforcement Action Recommended Report (EAR). In recommending that enforcement action be taken, she was concerned that the establishment had prior contraventions for overcrowding and yet the doorman was aware and admitted to the constables that it was over capacity at the time of their visit. She recommended a ten (10) day liquor licence suspension, the minimum for a second contravention.

She completed a NOEA on June 9, 2005, which was mailed to the licensee. In it, she recommended a ten (10) day licence suspension and that as an additional term and condition to the liquor licence, the licensee be required to document hourly counts for the establishment for the business hours of Wednesday, Thursday, Friday and Saturday; that the recorded counts be faxed to the branch's Vancouver Regional Office each Monday morning and the licensee submit a notarized summary of the recorded counts to the regional manager once a month. She is of the opinion that this recommendation is necessary to assist the licensee to come into voluntary compliance. It would allow the operators of the establishment to be aware of the number of persons in the licensed area at all times by requiring them to address the issue on an hourly basis. The requirement for a statutory declaration would ensure the truthfulness of the numbers provided. This term and condition has been used successfully for two other licensed establishments.

The C & E officer testified that she was requested by the managing partner to view a video recording of the inside of the licensed area made at the time of the police constables' visit. She attended at the establishment with another C & E officer and viewed the recording. In her opinion, it was not conclusive in that it did not show the whole of the licensed area or the constables all of the time as they walked through the area. She was adamant in her testimony that she did not tell the licensee that the room didn't look too bad or that it did not look overcrowded. She testified that she maintains a

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good working relationship with the licensee. She is aware that there is a new exiting stairwell being constructed in an attempt to deal with the overcrowding problem. She has not received any reports that the establishment had been overcrowded in the month preceding the hearing.

## **EVIDENCE - THE LICENSEE**

**Witness #1** testified that he is the managing partner of the establishment and has been responsible for on-site management since it opened. He has 18 years experience within the hospitality industry working within marketing, security and management. He outlined the procedures within the establishment to deal with occupant load: there are doormen at the first floor entrance, one outside who counts the persons entering, one inside who counts the persons exiting; a doorman on each floor makes a count of the floor every 15 to 50 minutes which is relayed to the front door doormen; a complete walk-through count is done by a doorman assigned as a "floater" who provides the number to the manager.

He testified that he was working the late night/early morning hours of February 26/27, 2005, and was present when the police constables visited the establishment. They arrived between 1:00 – 1:30 a.m. and were there for 15 minutes at most. He saw them on the second floor accompanied by the first floor entrance doorman. The floor looked fine and he was confident that there were no problems. He spoke to the doorman as the police constables were leaving and was told that they were being written-up for overcrowding. He refused to sign the CN, as he believed that there was no problem with the number of persons in the establishment. The doormen had told the constables as they entered that there were 242 persons in the whole of the establishment, i.e., the three floors.

He testified that the constables walked together throughout the establishment. To do a proper count they should have split up with each taking a separate side as people do move from side to side in the establishment thus leading to persons being double counted.

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He testified that the establishment has a video system with three cameras located on the second floor. He reviewed the tape for the time that the constables were present. There were gaps within the crowd, they were not shoulder-to-shoulder nor lined up at the bars. The only crowded areas were the dance floors. The tape showed the constables walking through the floor talking to patrons and staff. On occasion, the constables would not be visible, as they would be obscured by persons on the dance floor. He contacted the branch C & E officer the following Monday and requested that she view the recording. She did so, commented that "everything looked good", and didn't feel that the matter would proceed any further. She didn't request a copy of the recording but did say to make sure that he didn't lose it.

He testified that the establishment has had problems with overcrowding in the past and has worked hard to deal with them. They are in the process of creating a new staircase, which will allow for an increased capacity. There will be a coat check on the first floor for persons from the third floor. The third floor contains a restaurant (food primary) area, which currently closes at 11:00 p.m., and a VIP room, which closes at 1:00 a.m. It is possible that there could have been persons exiting from the VIP room to the second floor coat check at the time of the constables' visit.

He testified that he maintains a good relationship with the branch, although it got off to a shaky start for the first year while the establishment determined how to properly manage the property. He was not aware of the proposed term and condition being recommended by the branch. They currently do regular counts, but do not keep a record as they have not been requested to do so. It would not be difficult to record the counts without the necessity of making a statutory declaration.

**Witness #2** testified that he has been employed at the establishment since it opened. He is currently a duty manager and was working the night of February 26/27, 2005. His responsibilities that night were related to cashing out and dealing with customer issues. He was not responsible for capacity issues. He testified that there are doormen located on each floor and at the entrance and exits who have responsibility for making counts

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and staying within the maximum capacity. Counts are required to be done every 15 minutes to a half-hour.

He did not see the police constables doing their walk-through of the establishment. He was called by the general manager and instructed to sign the LPC, as the other managers on duty did not want to do so. He viewed the video recording the following week and with the general manager met with the branch C & E officer. The recording showed the constables entering the second floor at approximately 1:15 a.m., stopping by the beer tub for approximately one and a half minutes while speaking to the doorman and a couple of female patrons. The constables walked through both sides of the floor and were not impeded in making their way until they reached the dance floor areas. There was a flow to the room with only the dance floor areas busy. He could not recall the area in front of the coat check. He recalls that the C & E officer commented to the effect that the footage looked fine or perhaps the room looked good. The establishment is currently making changes to the staircase, the relocation of the DJ booth and adding a first floor coatroom to increase capacity and to ease the traffic on the second floor.

**Witness #3** testified that he is currently the general manager of the establishment. He has worked as security within the hospitality industry for approximately ten years. At the time of the alleged contravention, he was employed part-time at the establishment and was working on February 26/27, 2005, as the front door doorman. He recalls the police officers coming into the establishment sometime between 1:00 – 1:30 a.m., although he cannot recall whether there were two or four of them. They asked him for the count and he told them 240 which was the total number of persons for the three floors. He did not say that they were slightly over capacity. He followed them during their walk-through, which is standard procedure for the establishment. They went up the stairs to the second floor, counting the number of persons on one side and then the other. He did not count the persons on the second floor, but believed that they were within the maximum capacity of 220, based on his experience with the counts and the system for keeping track. The room looked good, it was busy but within the maximum capacity. He didn't observe the constables talk with any of the patrons but did see them talking with each other. There was some movement of persons coming from the third floor to

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the second to get their coats and leaving. He and the constables then went to the third floor VIP room where there were approximately 40 persons. They went down to the first floor and he became aware that the constables were writing them up for overcrowding. He left to get the general manager.

He testified that counts are done within the establishment every half hour by doormen on each floor and by the roaming doorman. These numbers are communicated to the front door doormen. The head doorman keeps a log of the counts done throughout the night. It is their practice now to keep space, i.e., unused capacity on the second floor, for persons moving down from the VIP room. He agreed that this movement of persons from the third floor could have accounted for the number of persons counted by the constables. He believed that it was also possible for the constables' count to double count persons moving between the two areas on the second floor, perhaps as many as 30 persons, certainly more than one or two. He did not make any notes during the night or complete an incident log. The matter was turned over to the general manager who would have made notes or an incident log.

He testified that the establishment is making structural changes by developing a separate staircase to increase the occupant load to between 290 and 300 persons.

## **SUBMISSIONS**

**Counsel for the licensee** submitted that there is not sufficient evidence to satisfy the burden of proof for the contravention. The evidence provided by the police constables is of questionable value. Constable #1 was prone to exaggeration. In his evidence, he stated that there were persons 'running' to the washrooms and later admitted that they were not 'running' but 'hurrying'. He stated that he did not count persons sitting on the floor and later agreed that there were no persons sitting on the floor. Further, he stated that the establishment has had issues with motorcycle gang members, whereas the establishment is known as a safe establishment where gang members are not permitted. Constable #2 did not use a mechanical counter in performing his count. It is generally accepted that using a mechanical counter produces a more accurate count.

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The constables walked together rather than separately and interrupted their counts to speak to women in the club as they did their walk-through. The constables' counts did not agree. Both constables agreed that there was the possibility that persons were double counted.

Counsel submitted that the evidence of the licensee's witnesses is that there was a total of 242 persons within the entire establishment and that with the exception of the dance floor areas the second floor was not shoulder-to-shoulder; there were gaps and spaces within the crowd. Based upon their observations on the night in question and a later viewing of the video, they were not concerned that the establishment was over its capacity. The witnesses for the licensee present when the branch C & E officer viewed the video, both recalled her saying that the area looked fine and that they should retain the video. The video unfortunately is not available due to a 'technical glitch'.

Counsel submitted that the licensee has demonstrated due diligence. They are aware of previous problems with overcrowding at the establishment and have a system in place to prevent any contraventions, not just overcrowding. There are doormen on each floor who conduct counts every 15 to 20 minutes and provide the numbers to the doormen at the entrance. The doormen at the entrance maintain in/out counts. A doorman assigned to a 'floater' position also does counts.

Counsel argued that the term and condition proposed by the branch is not necessary. The licensee has taken the past problems seriously. Structural changes are being made by providing a new staircase and a separate coat check for the third floor patrons. Providing a notarized report is unnecessary.

### **Submissions on Penalty**

The branch advocate referred to the recent decision of the British Columbia Court of Appeal (BCCA) in *Skybar Ltd. v. British Columbia (GM LCLB)* 2006 BCCA 62, February 8, 2006, wherein it stated that Coke's Rule is not applicable in determining whether a contravention is a second or subsequent contravention. Schedule 4 of the

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Regulation applies. Given that there are previous contraventions within a twelve-month period, this contravention must be considered as a “subsequent contravention”.

Counsel for the licensee argued that the BCCA decision is subject to appeal, thus this cannot be considered a “subsequent contravention” until such time as the issue has been finalized on appeal or an appeal has not been taken.

## **REASONS AND DECISION**

I find the constables to be credible witnesses, particularly on the salient points of this hearing, namely the number of persons in the establishment at the time of their visit. I am satisfied that the methods used by the two police constables, both experienced in counting persons in crowded licensed establishments may be relied upon to produce reasonably accurate results. There are vagaries involved in the counting of large number of persons in crowded licensed establishments making it impossible to achieve complete accuracy. That is reflected by the difference in the number of persons counted by each of the constables. The witnesses for the licensee did not provide a count of the number of persons on the second floor liquor primary area at the time of the police visit. They provided a number for the total establishment but did not break down the numbers for the total. There was no evidence of how the number was arrived at other than describing the procedure that was normally followed. I prefer the evidence provided by the police constables. On the whole of the evidence, I find that on February 27, 2005, at approximately 1:30 a.m. there were more persons in the licensed establishment than the person capacity of 220 set by the general manager and the number of persons in the licensed establishment was more than the occupant load of 220.

Counsel has argued that the licensee was duly diligent by having procedures in place to prevent overcrowding beyond the capacity permitted by the maximum occupant load. The licensee is entitled to a defence to the allegations of the contraventions if it can be shown that it was duly diligent in taking reasonable steps to prevent the contraventions from occurring. The licensee must not only establish procedures to identify and deal

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with problems, it must ensure that those procedures are consistently acted upon and problems dealt with. I am not satisfied that that has occurred in this instance. There was no evidence presented that the procedures outlined by the licensee's witnesses were followed by the doormen responsible for conducting the counts, nor is there any evidence of how any counts may have been conducted and whether they could be relied upon. If there were notes and logs kept by any member of the staff, they were not presented as evidence. In the result, I am satisfied that the defence of due diligence has not been made out by the licensee.

Thus, I find that the licensee "permitted" the overcrowding constituting the alleged contravention.

In conclusion, I find that on February 27, 2005, the licensee contravened Section 6(4) of the *Liquor Control and Licensing Regulation*.

## **PENALTY**

Pursuant to Section 20(2) of the *Act*, having found that the licensee has contravened the *Act*, the *Regulation* and/or the terms and conditions of the licence, I have discretion to order one or more of the following enforcement actions:

- impose a suspension of the liquor licence for a period of time;
- cancel a liquor licence;
- impose terms and conditions to a licence or rescind or amend existing terms and conditions;
- impose a monetary penalty;
- order a licensee to transfer a licence.

Imposing any penalty is discretionary. However, if I find that either a licence suspension or monetary penalty is warranted, I am bound to follow the minimums set out in Schedule 4 of the *Regulation*.

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In considering whether a penalty is necessary I note that at the time of this contravention the establishment had been operating for less than two years. It had during that period of time accumulated a less than stellar compliance record. Contraventions for overcrowding of this licensed area were found to have occurred on August 17, 2003, September 7, 2003, March 31, 2004, April 25, 2004 and May 6, 2004. A Compliance Meeting was held with the general manager of the establishment on October 1, 2003. In light of the compliance record for this licensee, I am satisfied that a suspension penalty is necessary to ensure future voluntary compliance.

(a) Licence Suspension Penalty

The branch has recommended an eighteen (18) day suspension penalty. This is the minimum suspension penalty for a "subsequent contravention" of this type, Schedule 4 provides for a suspension penalty of eighteen (18) to twenty (20) days.

Counsel for the licensee submitted that the penalty should not be for a subsequent contravention, that Coke's Rule ought to be applied and that the issue has not yet been finalized in that a further appeal from the decision of the BCCA may be taken.

The BCCA in *Skybar* (supra) at p. 7, para 14 has stated:

"The Regulation is clear that the question whether a contravention is a first, second or subsequent contravention depends on the timing of the commission of the contraventions, not on the timing of a finding that they have been committed. This is incompatible with Coke's Rule, which would require the general manager to calculate the 12-month period from the date the finding of the contravention is made. It necessarily follows that the Legislature intended that Coke's Rule should not apply."

I am satisfied that this represents the current expression of the law in British Columbia.

In determining whether this contravention is a first, second or subsequent contravention I note that within the 12-month period preceding this contravention, contraventions have been found to have occurred on March 31, April 25 and May 6, 2004. Therefore, this contravention is considered as a subsequent contravention for the purposes of the

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Penalty Schedule. In the circumstances of this contravention, I find that the eighteen (18) day minimum penalty for a subsequent contravention of this type is appropriate.

(b) Impose Terms and Conditions

In light of the compliance record for this licensee, I am satisfied that imposing the following term and condition to the license is necessary and will assist to ensure future voluntary compliance:

“The licensee shall record hourly person counts during the business hours of Wednesday, Thursday, Friday and Saturday, and fax those counts every Monday morning to the regional manager for the branch’s Vancouver Regional Office. The licensee shall submit to the regional manager for the branch’s Vancouver Regional Office, a notarized summary of the recorded counts for each month within three days following the end of each calendar month. The recording of the counts and the notarized summary shall be in a form acceptable to the regional manager for the branch’s Vancouver Regional Office.”

**ORDER**

Pursuant to Section 20(2) of the *Act*, concerning Liquor Primary Licence No. 300593, I suspend the liquor licence for a total of eighteen (18) days starting at of the close of business Friday, May 12, 2006, and continuing on successive business days until the suspension is completed. “Business Day” means a day on which the licensee’s establishment would normally be open for business (Section 67(1) of the *Regulation to the Liquor Control and Licensing Act*).

Since I do not know whether the establishment would normally be open seven (7) days per week as of May 13, 2006, I do not know what the “business days” will be. To ensure that this order is effective, I direct that the liquor licence be held by the branch or the Vancouver Police Department from the close of business Friday, May 12, 2006, until the licensee has demonstrated to the Branch’s satisfaction that the licensed establishment has been closed for eighteen (18) business days. A suspension sign

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notifying the public shall be placed in a prominent location by a C & E officer or police officer.

A member of the Vancouver Police Department or a C & E officer will be requested to attend the premises, take possession of the liquor licence and hold it in safekeeping during the term of the suspension.

Further, commencing June 1, 2006, the following term and condition is imposed on Liquor Primary Licence No. 300593:

“The licensee shall record hourly person counts during the business hours of Wednesday, Thursday, Friday and Saturday, and fax those counts every Monday morning to the regional manager for the branch’s Vancouver Regional Office. The licensee shall submit to the regional manager for the branch’s Vancouver Regional Office, a notarized summary of the recorded counts for each month within three days following the end of each calendar month. The recording of the counts and the notarized summary shall be in a form acceptable to the regional manager for the branch’s Vancouver Regional Office.”

[ORIGINAL SIGNED]

Edward W. Owsianski  
Enforcement Hearing Adjudicator

Date: April 6, 2006

cc: Vancouver Police Department

Liquor Control and Licensing Branch, Vancouver Regional Office  
Attention: Lee Murphy, Regional Manager

Liquor Control and Licensing Branch, Vancouver Regional Office  
Attention: Sonja Okada, Branch Advocate

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