



**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:	606329 B.C. Ltd. dba Hush 1325 Government Street Victoria, BC V8W 1Y9
Case:	EH09-125
For the Licensee:	Malcolm McMicken & Jack Weeks
For the Branch:	Olubode Fagbamiye
Enforcement Hearing Adjudicator:	Edward Owsianski
Date of Hearing:	March 3 & 5, 2010
Place of Hearing:	Victoria, BC
Date of Decision	March 26, 2010

**Ministry of Housing
& Social
Development**

Liquor Control and
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INTRODUCTION

The corporate licensee, 606329 B.C. Ltd. (the licensee) operates Hush (the licensed establishment) located at 1325 Government St., Victoria BC. Jack Weeks is the principal (licensee principal) of the licensee. The licensee holds Liquor Primary Licence No. 041581. The hours of sale are 7 p.m. to 2 a.m. Monday to Saturday, and 7 p.m. to midnight on Sunday. The capacity is 210 persons. The licence is, as are all liquor licenses issued in the province, subject to the terms and conditions contained in the publication 'Guide for Liquor Licensees in British Columbia'.

The licensed establishment operates as a nightclub. Access is gained down a flight of stairs from street level.

ALLEGED CONTRAVENTION and PROPOSED PENALTY

The branch's allegations and proposed penalty are set out in the Notice of Enforcement Action (the "NOEA") dated December 17, 2009. The branch alleges that on October 31, 2009, the licensee contravened section 43(2)(b) of the *Liquor Control and Licensing Act* by permitting an intoxicated person to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied. The proposed penalty is a four (4) day suspension of the liquor licence (item 11 of Schedule 4, *Liquor Control and Licensing Regulation*).

Item 11 of Schedule 4 of *the Regulation* provides a range of penalties for a first contravention of this type of a licence suspension for 4 - 7 days and/or a monetary penalty of \$5000 to \$7000.

The licensee disputes the alleged contravention.

REVELANT STATUTORY PROVISIONS

Liquor Control and Licensing Act, R.S.B.C. 1996, c. 267

Drunkenness

43 (1) A person must not sell or give liquor to an intoxicated person or a person apparently under the influence of liquor.

(2) A licensee or the licensee's employee must not permit

(a) a person to become intoxicated, or

(b) an intoxicated person to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied.

ISSUES

1. Did the contravention occur?
2. If so, is a penalty appropriate and what is a reasonable penalty?

EXHIBITS

The following exhibits were presented:

Exhibit No. 1: Branch Book of Documents #1, tabs 1-13

EVIDENCE - THE LIQUOR CONTROL AND LICENSING BRANCH

The branch called a liquor inspector and a Victoria Police Department (VPD) officer.

A Liquor Inspector, Witness A testified that he has been a liquor inspector for approximately 2 ½ years and was previously a police officer for approximately 16 years. He has received training and has experience in identifying and dealing with intoxicated persons. To determine if a person is intoxicated he will make observations of their behaviour and attempt to engage them in conversation while looking for physical signs

of intoxication. He has conducted hundreds of inspections of licensed establishments and is familiar with the Hush nightclub.

On the night of October 31, 2009 he was working with members of the VPD making inspections of licensed establishments in the area. He arrived at Hush at approximately 11:10 p.m. and proceeded inside with a uniformed police officer (Witness B). Inside, the establishment was not crowded and he had an unobstructed view of patrons. He observed a male patron who appeared to be asleep or passed out at a railing overlooking the dance floor. The police officer woke up the patron. The patron's appearance was dishevelled, appeared to be confused, he was unsteady, having to hold the railing to stand. He appeared to be highly intoxicated. Two staff members assisted the patron up the stairs to the street; he could not have made it up the stairs on his own. Outside the patron leaned against a wall of the building and vomited. The police officer obtained the patron's identification and he was released into the custody of two of his friends.

While the patron was being assisted outside the manager of the establishment (Witness F) approached the inspector. The manager said the patron was intoxicated and the staff should have been more observant. He apologized that they hadn't picked up on it.

The inspector and the police officer were inside the establishment for a total of about five minutes and left at approximately 11:15 p.m. following the staff members and patron up the stairs. The inspector mailed a contravention notice (CN) to the licensee (exhibit 1, tab 2).

The inspector testified that he is responsible for the geographical area in which Hush is located. He referred to copies of documents from the branch file:

- Exhibit 1, tab 3; the liquor primary licence in effect at the time of the alleged contravention.
- Exhibit 1, tab 4; floor plan for the establishment.
- Exhibit 1, tab 5; Inspection and Interview report completed by the local inspector at the time the licence was issued to the current licensee in April 2001. The licence requirements were reviewed with the licensee principal at that time.
- Exhibit 1, tab 6; a copy of the branch publication, "A Guide for Liquor Licensees" (the "Guide" in effect at the time of the alleged contravention. It provides an overview of the statutory and regulatory requirements. The inspector referred to excerpts from the Guide dealing with: "Your role as a licensee", "Over-service and intoxicated patrons" and "Physical and mental signs of intoxication".
- Exhibit 1, tab 7; a copy of the "Serving it Right" ("S.I.R") program manual. The manual provides training for a licensee and its employees.

In determining whether to proceed to enforcement on the incident, the inspector considered that intoxication was a public safety issue and can lead to other problems in the community. He believed that enforcement action was necessary to achieve voluntary compliance. He completed a NOEA on December 17, 2009 outlining the alleged contravention and recommended a four day suspension penalty be imposed (exhibit 1, tab 1), the minimum suspension for a contravention of this type.

A Police Officer, Witness B, testified that he is a sergeant with the VPD. He has been a police officer in the Victoria area for over 20 years and has extensive experience in identifying and dealing with intoxicated persons and impaired drivers. He has conducted many checks of licensed establishments and is familiar with Hush nightclub.

On the night of October 31, 2009 he was in uniform working as part of a liquor task force engaged in checking licensed establishments. At approximately 11 p.m. he attended at Hush. It was fairly dark, music was playing, it was not crowded and he could see throughout the establishment. He observed two persons sitting at a table overlooking the dance floor. One appeared to be asleep or passed out with his head on his arms. The officer woke the patron. He looked up at the officer; he appeared to have trouble focusing and appeared to be dazed. The officer leaned over to speak to him and smelled liquor on his breath. He requested some identification and the patron mumbled something about it being in his coat at the coat check. The officer signalled to the doorman who was now standing nearby. The patron was now trying to stand up. He could not walk unassisted. The doorman assisted the patron to the coat check area. It was determined that he did not have a coat. The doorman escorted the patron up the stairs to the exit. The patron could not climb the stairs and the doorman grabbed him by the back of the pants to get him up the stairs. Once outside the patron vomited on the ground. The officer found the patron's identification in his back pocket and entered the name and details of the patron into his notebook (exhibit 1, tab 8). Three or four of the patron's friends joined them. One said that they were roommates and had been in the nightclub for approximately one hour. The officer told the friends to take the patron home otherwise he would be arrested for public intoxication.

The officer testified that he called in the incident to the police dispatch system from the street a short distance from Hush. He referred to a police incident report (exhibit 1, tab 9 at p 4). The report indicates that call-in was received at 23:20:44 October 31st. It was time stamped 2310 hours. The officer believes that he advised the dispatch operator that he entered the establishment at approximately 11:00 p.m. and were inside for approximately eight to ten minutes thus 11:10 p.m. (2310 hours) was the time of the incident. He completed a typewritten report on November 20, 2009 (exhibit 1, tab 9 at p 1- 3).

EVIDENCE – THE LICENSEE

The licensee called five staff members and the licensee principal.

Licensee Witness C testified that he is employed as a busser at Hush and was working the night of October 31, 2009. He was clearing tables of empty bottles and glasses shortly after 11 p.m. He picked up a beer bottle from a patron seated overlooking the pool table. The patron took the bottle back from him, as it was not empty. The patron was attentive, not sleeping, had his head on his arms and appeared to be watching two patrons who were playing pool. He did not see the patron being escorted out of the establishment, but was told by the manager later that that had occurred. He testified that he had been employed at Hush since June 2009. He does not hold a Serving It Right (“SIR”) certificate. He did not receive any training for his job other than being told by the previous busser what his duties were.

Licensee Witness D testified that he is employed as a doorman at Hush and was working the night of October 31, 2009 checking identification and collecting the cover charge at the street entrance at the top of the stairs. He recalls the incident involving the intoxicated patron. The patron and friends are regular patrons. He believes that they are of Eastern European descent and do not speak English well. One of the group usually does the talking for them. He recalls them coming to the door that night and requesting to pay the lower cover charge for patrons arriving before 11 p.m. He recalls checking his watch; it was 11:04 p.m. None of the group displayed any signs of intoxication. They entered and proceeded downstairs. The liquor inspector and police officers arrived within minutes and also went downstairs. A short time later the manager (Witness F) shouted for him, the doorman, to come downstairs. Once downstairs he observed a police officer talking to one of the group. The patron was hunched over and the officer was attempting to get information from him. He stepped in and assisted the patron to the coat check but they couldn't locate his jacket. The officer told him that the patron was going to be sick. He grabbed the patron by the belt and assisted him up the

stairs, leaned him against a pillar outside and returned to his duties. The patron was vomiting. The police officer let the friends take the patron away.

He testified that when he went downstairs there was marked difference in the appearance of the patron from when he entered the premises. He appeared to be intoxicated; he had trouble holding up his head, was mumbling and had to be assisted to walk. The patron and his friends were only in the nightclub for approximately 15 to 20 minutes, leaving at approximately 11:15 p.m. He spoke to one of the group later who apologized for the incident. He said that the patron had been drinking homebrewed liquor prior to going into the establishment.

The doorman testified that he has worked in concert security since 2001 and in licensed establishments in B.C. since 2005. He does not hold a "SIR" certificate but took a similar course in Ontario, "Smart Serve". He has worked at Hush since July/August 2006. He has not received any training at Hush. He was hired following an interview and because of his previous experience. There are no formal staff meetings. He meets with the manager at the start of each night and they discuss what is required for the night.

Licensee Witness E testified that he is employed as a bouncer at Hush and was working the night of October 31, 2009. His duties involve making regular rounds of the premises every eight to ten minutes, checking the washrooms, fire exits and the DJ area. He keeps an eye on patrons to ensure they are not rowdy or intoxicated. He has had considerable experience in dealing with intoxicated persons. If he feels that a person may be intoxicated he speaks with them to assess their condition. If necessary, he may have a patron cut-off from further liquor service or require them to leave.

He is familiar with the patron involved in the incident that night. There are three friends who are regular patrons and have never caused any problems. He recalls that around 11 p.m. that night one of the group was playing pool and one was sitting at the table overlooking the pool table with his head resting on his arms. He couldn't see if the

patron had his eyes open or closed. He walked over to him and rubbed him on the back and said, "You can't sleep here, don't be falling asleep". The patron sat up and raised his head and said something he didn't understand. His friend said that he was OK. The friends were speaking to each other. He left the area with the intention that he would keep an eye on the patron. He made a round of the premises then returned to the front area, the friends were still talking. He proceeded to the back area, then to the coat check area where he observed a patron sliding a drink under his coat. He grabbed the patron and the drink and escorted him to the door telling the doorman not to let the patron back in. At that point the police officers and the liquor inspector were arriving. He saw them speaking to the group of patrons. The doorman came down from the top of the stairs. He went back to the area where the group of friends was sitting. One of the patrons was leaning on the table. He poked him and told him to sit up straight. The group all left. As the situation was being dealt with he left the area. He did not see the doorman assisting the patron out of the establishment. He wrote up an incident report the next day and left it in the office as he expected that there would be questions asked.

He testified that he has been employed as a bouncer for approximately 17 years and at Hush for the last five to six years. He does not hold a "SIR" certificate. He is not familiar with the "Guide". He has not had any formal training, but has a lot of experience and when working at Hush he is told what they require him to do. He meets with the manager at the start of each night and discusses what is needed for the night.

Licensee Witness F testified that he is the manager of Hush and is responsible for overseeing the operation of the establishment. He hires and supervises the staff. He holds a "SIR" certificate. He was working the night of October 31, 2009. Shortly after 11 p.m. he saw the liquor inspector and police officers arrive. He introduced himself to the inspector and was asked, "How do you explain that?" The inspector pointed to a patron at a table with his head down. He replied that he was not sure how to explain it but said, "Let me sort it out," and called for the doorman (Witness D) to come downstairs right away. The doorman responded immediately and escorted the patron to

the coat check and then up the stairs with the police officers. The liquor inspector said that he would speak with him on Monday and departed.

He testified that the patron is a regular patron who attends with a couple of friends. They have never caused a problem at the establishment. He did not see the group of patrons arrive that night. Prior to the attendance of the inspector and police officers, he had been at the far end of the nightclub for about ten minutes.

He testified that the establishment does not have an employee manual or a training program for staff. Experienced people are hired for their positions and their responsibilities are discussed with them. He meets with staff at the beginning of the night to discuss what is occurring elsewhere in town and what they can expect. They do not maintain an incident log book. This incident was discussed with staff at the end of the night. The establishment has a video surveillance camera at the front entrance. He did not monitor it that night. He is not familiar with the "Guide".

Licensee Witness G testified that he has been the licensee principal of the establishment for ten years. He is not involved in the night-time operations and was not present on the night of October 31, 2009. The manager (Witness F) operates the establishment under his direction. He described Hush as having a "niche market" with clientele ranging from 23 to 63 years of age. It is not mainstream. It provides a safe, family-like place for patrons. They are open-minded to drug use. If there is a problem with a patron they assess, evaluate and react. They speak to the friends to determine if it is drug or alcohol related. They speak to the person; give them a few minutes and then return. If necessary the patron is assisted to leave. Persons are not simply ejected onto the street; they are left with friends or if necessary put into a taxi for home.

They do not have written manuals or training for staff. All staff hired have previous experience and are instructed to take a common sense approach to their duties. There is a security camera at the top of the stairs that may be viewed at a monitor at the coat check area as the doorman only works at the top of the stairs on weekends. The system does not record.

The manager advised him of the incident the following day. He said that it was not drug related, but resulted from the patron consuming homebrewed liquor.

SUBMISSIONS

The branch advocate and licensee's counsel both made oral submissions on the final day of hearing.

The branch submission is essentially that the elements of the contravention have been proven; an intoxicated person was permitted to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied. The licensee was not duly diligent and "permitted" the contravention. The proposed four-day licence suspension is reasonable and necessary for future voluntary compliance.

The licensee submission is that the alleged contravention is one of "strict liability" as described by the Supreme Court of Canada in *R. v. Sault Ste. Marie* [1978] 2 S.C.R. 1299 at page 1326; "Offences in which there is no necessity for the prosecution to prove the existence of *mens rea*: the doing of the prohibited act *prima facie* imports the offence, leaving it open to the accused to avoid liability by proving that he took all reasonable care. This involves consideration of what a reasonable man would have done in the circumstances."

The Supreme Court of British Columbia in *The Plaza Cabaret (2004) BCSC 248* at para 25; "If a licensee is not to be responsible for unlawful conduct occurring in its establishment within the meaning of s. 36(2)(b), it must prove, on a balance of

probabilities, each of two facts: that the employee was not the directing mind of the licensee in relation to that part of the licensee's operations in connection with which the unlawful conduct arose, and, if that proof is provided, that those who were in fact responsible for that part of the licensee's operations were duly diligent in attempting to prevent the occurrence of unlawful conduct or activities."

This is essentially the same test set out in *Ed Bulley Ventures Ltd.* [B.C.L.I.] at para 67; "In summary for the purposes of this appeal, the issue to be decided is whether the appellant observed as high a degree of diligence as [it] should have done in the circumstances or whether it can be said that it shut its eyes to the obvious or had allowed something to go on, not caring whether an offence was committed." At para 76; "It is not obvious that there is anything that the staff could or should have done differently"

Counsel argued that this case turns on what staff could have done differently. Here there were procedures in place that were followed and everything was done that a reasonable man would do. The entire incident took place within a time span of about 16 minutes from the time that the patron and friends entered at 11:04 p.m. until the police officer called in the incident from the street at 11:20:44 p.m. The patron did not exhibit signs of intoxication when entering; he proceeded downstairs on his own. Inside two staff members spoke with him. The busser saw him watching the pool players. There was no need for him to make further enquiries. The bouncer, with 17 years of experience told him that he cannot sleep inside the establishment. The bouncer proceeds to make his rounds for 8-10 minutes and upon return, observed the police officer and liquor inspector dealing with the patron. The manager (Witness F) is the directing mind. He observed the police officer and liquor inspector and came forward to deal with the matter.

Could any of the staff have done anything differently? All were following their duties and acting reasonably. They could do nothing more. Although not in writing, the licensee has policies and procedures. The establishment hires experienced staff and has little staff turnover. The manager meets with each staff member at the beginning of the night and discusses what is to be expected. It is a regular routine. There is nothing more that the staff could have done as a "reasonable man".

In conclusion the licensee was duly diligent.

REASONS AND DECISION

The evidence is that the subject patron and two or three friends entered the licensed area of the establishment after being checked by the doorman. None exhibited any signs of intoxication. I accept the evidence of the doorman that this occurred at approximately 11:04 p.m. by his watch. Once inside the establishment, the patron interacted with two staff members. The first, a junior staff member with little experience saw no reason to have the patron further assessed. The second staff member with considerably more experience and responsibility recognized that the individual might be falling asleep. He spoke with the patron and assessed him as currently OK but he would keep an eye on him. The patron was allowed to remain in the establishment. A short time later, probably within five to ten minutes, the liquor inspector and police officer arrived. The establishment was not crowded and they almost immediately observed the subject patron at a table with his head down giving the appearance of being asleep or passed out. The police officer intervened and it was determined that the patron was intoxicated. The officer alerted the staff and the patron was escorted out. His condition was such that he had to be assisted in leaving the premises and just made it outside before vomiting.

This, on its face, is a contravention of section 43(2)(b) of the *Liquor Control and Licensing Act*, permitting an intoxicated person to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied.

Due Diligence

The licensee is entitled to a defence to the allegations of the contravention 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 with problems, it must ensure that those procedures are consistently acted upon and problems dealt with.

The leading case is: *R. v. Sault Ste. Marie* [1978] 2 S.C.R. 1299. At p. 1331, Dickson J sets out the test of due diligence:

One comment on the defence of reasonable care in this context should be added. Since the issue is whether the defendant is guilty of an offence, the doctrine of respondent superior has no application. The due diligence which must be established is that of the accused alone. Where an employer is charged in respect of an act committed by an employee acting in the course of employment, the question will be whether the act took place without the accused's direction or approval, thus negating wilful involvement of the accused, and whether the accused exercised all reasonable care by establishing a proper system to prevent commission of the offence and by taking reasonable steps to ensure the effective operation of the system. The availability of the defence to a corporation will depend on whether such due diligence was taken by those who are the directing mind and will of the corporation, whose acts are therefore in law the acts of the corporation itself.

In the context of liquor enforcement in British Columbia, the BC Supreme Court in the case of *Plaza Cabaret v. General Manager Liquor Control and Licensing Branch*, [2004] BCSC 248 set out the criteria a licensee must meet in order for it to be found not responsible for a contravention under the *Act*. “If a licensee is not to be responsible for unlawful conduct occurring in its establishment within the meaning of s. 36(2)(b), it must prove, on a balance of probabilities, each of two facts: that the employee was not the directing mind of the licensee in relation to that part of the licensee’s operations in connection with which the unlawful conduct arose, and, if that proof is provided, that those who were in fact responsible for that part of the licensee’s operations were duly diligent in attempting to prevent the occurrence of unlawful conduct or activities.” (para 25)

The court in *Plaza* clarified that the directing mind need not be an officer or director of the licensee: “It would be the individual or individuals, perhaps the general manager or the shift manager or supervisor, who had sufficient authority in respect of the sphere of relevant operations to be worthy of the appellation of ‘directing mind and will’ of the licensee”. (para 27)

Here, I find that the directing mind of the licensee at the time of the contravention was the manager (Witness F). He was the senior staff member, supervised the staff on duty and was responsible for the operation of the licensed establishment. He was on site and in charge at the time of the alleged contravention.

Neither the manager nor the licensee principal has developed any written policy and procedures for the guidance of staff, nor has it provided staff with formal training on the liquor licence requirements. The manager hires experienced staff and makes them aware of his expectations. The stated policy for dealing with suspected intoxicated persons as provided by the licensee principal is to assess, evaluate and react. There is no evidence of instructions being given to staff how to conduct the assessment and evaluation other than to speak with the person and his friends. That policy was being followed by the bouncer (Witness E) when he suspected that the subject patron was

falling asleep and spoke with him. He was satisfied that the patron was currently OK, but he determined that he would keep an eye on him. That was his assessment and evaluation.

The "Guide", excerpts which are found at exhibit 1, tab 6 provides information on intoxication and lists 12 *indicia* of physical and mental signs of intoxication. There is no evidence that staff was made aware of the "Guide" and its provisions. The evidence is to the contrary; both the manager and the bouncer testified that they were not familiar with the "Guide". Likewise, the "SIR" Program Manual, excerpts of which are found at exhibit 1, tab 7, provides extensive information on intoxication and how to recognize intoxication and the over-consumption of alcohol. The bouncer, the employee with responsibility for assessing the condition of patrons once inside the establishment does not hold a "SIR" certificate. While the licensee is not strictly required to have non-management and non-serving staff "SIR" certified it would certainly be prudent to do so.

That a patron may have ingested drugs or alcohol prior to entering a licensed establishment and thus quickly become intoxicated is well known. In my view, a diligent licensee would have a system in place to ensure that employees have adequate knowledge of the signs of intoxication and how to evaluate and assess a person suspected of being intoxicated. A diligent licensee would have a system in place to oversee the conduct of employees to ensure that they are carrying out their duties in compliance with the licensee's instructions. That has not occurred in this case.

In the result, I find that the licensee has not met the test for due diligence and may be said to have "permitted" the contravention.

In conclusion, I find, on a balance of probabilities, that on October 31, 2009 the licensee contravened section 43(2)(b) of the *Liquor Control and Licensing Act* by permitting an intoxicated person to remain in that part of a licensed establishment where liquor is sold, served or otherwise supplied.

PENALTY

Pursuant to section 20(2) of the *Act*, having found that the licensee has contravened the *Act*, the *Regulations* 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 *Regulations*. I am not bound by the maximums and may impose higher penalties when it is in the public interest to do so, and I am not bound to order the penalty proposed in the NOEA.

The branch's primary goal in bringing enforcement action and imposing penalties is achieving voluntary compliance. Among the factors that are considered in determining the appropriate penalty are: whether there is a past history of warnings by the branch and/or the police, the seriousness of the contravention, the threat to the public safety and the well being of the community.

There is no previous proven contravention of the same type for this licensee within the year preceding this incident. Pursuant to *Liquor Control and Licensing Regulation*, Schedule 4, Section 1(1)(b), the branch has treated the allegation as a first contravention. The range for a first contravention of this type is a licence suspension for 4 - 7 days and/or a monetary penalty of \$5000 to \$7000.

The problems of late night public intoxication in the downtown area of Victoria have been publicly documented. Licensees must take all reasonable measures to prevent it from occurring. In the circumstances of this case, I am satisfied that the licensee has not provided its employees with sufficient knowledge, training and oversight to meet their responsibilities under the liquor licence requirements, and that has led to this contravention. Further, the evidence does not support that the situation will be remedied without sanction to the licensee. I find that a penalty is necessary to bring about voluntary compliance.

Any penalty imposed must be sufficient to ensure compliance in the future. In the circumstances here, I find that the minimum suspension penalty is necessary to encourage future voluntary compliance. A four day suspension is necessary, appropriate and reasonable.

ORDER

Pursuant to Section 20(2) of the *Act*, I order a suspension of Liquor Primary Licence No. 041581 for a period of four (4) days, to commence as of the close of business on Friday, April 23, 2010, and to continue each succeeding business day until the suspension is completed. "Business day" means a day on which the licensee's establishment would normally be open for business (Section 67 of the *Regulation*).

To ensure this Order is effective, I direct that the liquor licence be held by the branch or the Victoria Police Department from the close of business on Friday, April 23, 2010 until the licensee has demonstrated to the branch's satisfaction that the suspension has been served.

Original signed by

Edward W. Owsianski
Enforcement Hearing Adjudicator

Date: March 26, 2010

cc: Victoria Police Department

Liquor Control and Licensing Branch, Victoria office
Attn: Gary Barker, Regional Manager

Liquor Control and Licensing Branch, Victoria office
Attn: Olubode Fagbamiye, Branch Advocate