



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

IN THE MATTER OF

A hearing pursuant to Section 51 of

The Liquor Control and Licensing Act, S.B.C. 2015, c. 19

Licensee:	Coldwater Hotel Ltd. dba Coldwater Hotel c/o Marla Reed PO Box 638 STN MAIN Merritt, B.C. V1K 1B8
Case:	EH16-091
For the Licensee:	John Reed and Marla Reed
For the Branch:	Maria Caduhada
General Manager's Delegate:	Daniel M. Graham
Date of Hearing:	May 24, 2017
Date of Decision:	June 13, 2017

**Liquor Control and
Licensing Branch**

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INTRODUCTION

Coldwater Hotel Inc. (the "Licensee") operates a licensee retail store doing business as Coldwater Hotel (the "LRS") under Licensee Retail Store Licence #194846 (the "Licence"). The LRS is located at Quilchena and Voght Streets, Merritt, B.C. The Licensee also operates a licensed bar and a licensed restaurant at the hotel.

The Licence specifies hours of liquor sales from 9:00 a.m. to 11:00 p.m. seven days a week. The Licence is, as are all liquor licences in the province, subject to the terms and conditions contained in the publication *A Guide for Liquor Licensees in British Columbia* (the "Guide").

John and Marla Reed, principals of the corporate Licensee, represented the Licensee for the purposes of this hearing. Throughout these reasons for decision, the Reeds and the corporate Licensee - individually or collectively - may be referred to as "the Licensee" or "the Licensees" as the context requires.

ALLEGED CONTRAVENTION AND PROPOSED PENALTY

The Liquor Control and Licensing Branch's (the "Branch") allegations and proposed penalty are set out in a Notice of Enforcement Action dated August 31, 2016 (the "NOEA"). The Branch alleges that on July 21, 2016 the Licensee contravened section 33(1)(a) of the *Liquor Control and Licensing Act* [RSBC 1996] c. 267 (the "Former Act") by selling, giving or otherwise supplying liquor to a minor who was acting as an agent of the Branch under the Minors as Agents Program ("MAP").

The proposed penalty is a \$7,500 monetary penalty, which falls within the penalty range set out in item 2, schedule 4 of the *Liquor Control and Licensing Regulation*, B.C. Reg. 244/2002 (the "Former Regulation"). The range of penalties for a first contravention of this type is a 10 to 15 day licence suspension and/or a \$7,500 to \$10,000 monetary penalty.

The Licensee admits that its employee sold liquor to the minor agent, and accepts the facts as outlined in the NOEA. However, the Licensee disputes the finding of a

contravention on the basis that its policies, practices, procedures and training establish a defence of due diligence.

As of January 23, 2017, the Former Act was replaced with the *Liquor Control and Licensing Act* S.B.C. 2015 c. 19 (the "Current Act") which came into force on that date.

Therefore, although this hearing was held pursuant to the provisions of the Current Act, as the contravention referenced in the NOEA was alleged to have occurred prior to January 23, 2017, this decision has been made pursuant to and in accordance with the provisions of the Former Act and the Former Regulation.

For the purposes of this hearing, and in accordance with section 5 of the Current Act, the general manager has delegated to me the powers, duties and functions provided to the general manager by section 51 of the Current Act and Part 6 of the current *Liquor Control and Licensing Regulation*.

RELEVANT STATUTORY PROVISIONS

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

33 (1) A person must not

(a) sell, give or otherwise supply liquor to a minor...

Liquor Control and Licensing Regulation, B.C. Reg. 244/2002

Schedule 4

Enforcement Actions

Minors

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contraventions	
2	A breach of section 33 of the Act [<i>selling liquor to minors</i>]	10-15	20-30	30-60	\$7,500- \$10,000

ISSUES

1. Did the contravention occur?
2. If so, has the Licensee established a defence to the contravention?
3. If the contravention is proven, what penalty, if any, is appropriate?

EXHIBITS

Exhibit 1: The Branch's Book of Documents, Tabs 1 to 17 inclusive.

WITNESSES

A liquor inspector ("Inspector 1") provided evidence on behalf of the Branch.

Five witnesses testified for the Licensee: its security leader, a bartender, the cashier who was on duty at the time of the alleged contravention (the "Cashier"), John Reed, and Marla Reed.

EVIDENCE - BRANCH

The Licensee accepts the facts of the contravention as set out in the NOEA (Exhibit 1, tab 1) and confirmed by Inspector 1 on direct examination.

On July 21, 2016 Inspector 1, along with another liquor inspector and a minor agent were conducting MAP inspections to test compliance. (A reference to June 21, 2016 on page 2 of the NOEA was in error.) At the start of the shift the inspectors photographed the minor agent and reviewed his identification to confirm the minor agent was 17 years of age (Exhibit 1, tab 8).

At about 1:05 p.m. on July 21, 2016 Inspector 1 entered the LRS followed about a minute later by the minor agent. The minor agent went to the cooler and picked up a six-pack of Palm Bay coolers in cans and proceeded to the counter where the Cashier was on

duty. The minor agent placed the coolers on the counter and handed the Cashier a \$20 bill. The Cashier rang the transaction in at \$11.50 and gave the minor agent change and a receipt. The minor agent left the LRS with the coolers at 1:07 p.m. At no time did the Cashier ask the minor agent for identification or otherwise question the minor agent about his age.

A third liquor inspector attended the LRS later that afternoon. In the absence of the Licensees, the inspector informed the Cashier that he had sold a six-pack of Palm Bay coolers to a minor agent, and issued Contravention Notice #B009235 (Exhibit 1, tab 9) to the Cashier.

Cross-examination of Inspector 1

In response to a question from the Licensee regarding the compliance history for the LRS (Exhibit 1, tab 14), Inspector 1 acknowledged that the current Licensees had assumed ownership of the LRS in March, 2013.

EVIDENCE – LICENSEE

The Security Leader

The security leader gave a general description of the training that he provides to other staff with respect to checking for ID. He said that he advises staff to observe a prospective patron's behaviour for signs of nervousness, and to assess their age by their physical appearance. Staff are to request two pieces of ID, at least one of which must be government-issued photo-ID. The security leader also trains staff to ask patrons questions to determine whether they are using someone else's ID. Finally, he tells staff to examine items of ID for signs of forgery, such as bumps along the edges or other inconsistencies.

The security leader testified that on busy nights, patrons who have been ID'd have a stamp applied to their hand at the door to the hotel bar so that other staff know they have been ID'd as being of legal age. When the security leader is serving as doorman other staff will call him over to assess a patron's age and ID if the staff member is not

comfortable doing it themselves. When the security leader comes across false ID he confiscates it and turns it over to the RCMP.

Finally, the security leader stated that he mainly trains staff at the bar in the hotel, but he has also trained staff at the LRS.

Cross-examination of the Security Leader

In response to questions from the Branch advocate, the security leader stated that:

- Patrons require two pieces of ID – a primary and a secondary. The primary must be government issued (from B.C., another province, or federal) and must have a photo. The security leader uses a UV light to check security features on B.C. driver's licenses and BCID.
- He works mainly as a doorman in the bar five days a week. He attends at the LRS on a situational basis but the staff there are well-trained so sometimes up to a month can go by without him being in the LRS. However, the staff can consult with him any time.
- He trains new staff by having them with him to observe what he does on the job. The training period is usually up to week, after which they are "on their own." He knows when they are ready to be on their own by observing their performance during the training period, and by the staff demonstrating techniques properly and in the proper context. He does random verbal testing of bar staff but "not so much" with LRS staff.
- Regular employees are rechecked on occasion not just by the security leader, but by other senior staff – it is a "team effort." His role is more of a "boot camp drill instructor."
- Staff discipline is the role of the Licensees rather than the security leader. He interacts with the Licensees on a daily basis and provides verbal information on potential discipline matters.
- He has not spent a day at the LRS either on the door or training staff.
- The Licensee's policy is to ID anyone who looks under 30 years old. The policy is the same at the LRS and the bar.

- When asked whether he has a Serving-It-Right (“SIR”) certificate, the security leader at first answered “No.” On prompting by the Licensee, the security leader recalled that he had obtained SIR certification in the summer of 2013. The certificate is on record with the Licensee.
- Most recently, he obtained a certificate in basic security training through a three-month online course from the Justice Institute of British Columbia. The course covered personal safety, legal aspects of security, use of force, discrimination, lawful use of authority, situational assessment, and good record keeping.
- Staff meetings are held from time to time. Liquor laws and SIR are subjects of discussion, especially when there are changes. Meetings tend to have to be “short and sweet.”

The Bartender

The bartender stated that she has been working in the bar for three years. She said that during that time she has attended several staff meetings where ID’ing has been discussed: the need for two pieces of valid identification and how to check for false identification. Topics such as signs of intoxication, personal safety, laws, and consequences for breaches are also covered.

The bartender stated that she has never served a minor, but that she did get written up once for over-serving a patron. At that time the Licensee required her to rewrite the SIR exam. The bartender said that she was aware of the MAP prior to the alleged contravention that is the subject of this hearing. She stated that she would often ask the Licensee or the security leader to assess a patron’s age if she was unsure.

Cross-examination of the Bartender

In response to questions from the Branch advocate the bartender stated that:

- She was hired by the Licensee in April 2014 to work in the bar and has never worked in the LRS. She no longer tends bar as she has moved on to doing bookkeeping for the Licensee.

- She believes she has seen an agenda for staff meetings, but doesn't recall seeing minutes of the meetings.
- When asked about the existence of an incident log the bartender was at first uncertain, but on prompting from the Licensee confirmed that a bound day-planner is maintained by the Licensee as an incident log.
- The bartender was not sure whether the Licensee provides any written policies. A large blue binder of operational information and shift schedules is kept in the bar but she is not aware whether there is one in the LRS. Agendas for staff meetings are only kept in the binder if the theme of the meeting has been disciplinary.
- She is not aware of the training process for the LRS.
- The alleged contravention involving the minor agent was brought up as a learning experience for all staff.
- When the bartender was written up for overserving a patron her experience was also used as a learning experience for other staff. A written reprimand was put on her file and she received a suspension.
- The Licensee maintains an incident log in the bar, restaurant and LRS in which unusual occurrences on a shift can be noted.

The Cashier

The Cashier stated that he has worked at the hotel since 1991 or 1992, and that the Licensee is the third owner of the business during that time. He previously worked in the bar, but now is full-time in the LRS. The Cashier testified that he has never been involved in any other contravention during his career.

The Cashier confirmed that he was not fired or formally disciplined by the Licensee as a result of the incident with the minor agent. His case has been used as an instructional tool for other staff. A sign is maintained at the till in the LRS stating the latest birthdate that corresponds with the legal drinking age. The Cashier stated that "core rules" are always brought up at staff meetings and that staff are urged to "err on the side of caution".

Cross-examination of the Cashier

In response to questions from the Branch advocate the Cashier stated that:

- He is very diligent with respect to ID'ing. He does not know how or why he failed to check the minor agent for identification.
- After the alleged contravention, he was spoken to by the Licensees but he received no formal discipline.
- He believes the Licensee's policy is that if a patron looks to be under age 30 he or she should be asked for ID. He was unsure about the existence of a policy binder, but with input from the Licensee the Cashier stated that two binders are maintained in the LRS – one is a "general purpose" binder containing information regarding the business itself, and one is a health and safety binder. He stated that he has never been given any government memos to put in the "general purpose" binder, but that verifications "signed off by employees" are incorporated and that all staff are made aware of any new changes in the LRS.
- The Cashier stated that he was "not aware of one" when asked whether an incident log is maintained for the LRS, but after prompting by the Licensee he indicated that a bound day-planner is kept next to the till and is used as an incident log. The Cashier did not write a report or make an entry in the incident log regarding the alleged contravention.
- The Cashier has worked exclusively in the LRS for the past seven years. He did not receive any formal retraining when the current Licensees took over the business in 2013, and was not quizzed or tested by the Licensees, though the Cashier did retake his SIR certification at that time. He has had no other formal training since then.
- Staff meetings are mandatory for all employees. Notice of upcoming meetings is put on a dry erase board, not on paper. The notice just advises of when the meeting is scheduled – it does not list topics for discussion. No minutes are produced and there is no written agenda of topics. The Cashier is not aware of anyone ever missing a staff meeting and so does not know what the consequences would be for failing to attend but he "would not want to be" the one to miss a staff meeting.

- The Cashier does the training of new staff in the LRS, except for training on lottery ticket sales and fire prevention which is provided by the Licensees.
- The Cashier has no role in developing policy for the LRS.

The Licensees

The Licensees stated that while they have both been in the industry for many years, this is their first business and they want to do absolutely everything right. They frequently invite the RCMP and liquor inspectors in to discuss how things are going.

The Licensees asserted that while the Branch treats their three licensed operations as separate entities (bar, restaurant, LRS), the Licensees maintain the same policies for all three units and staff meetings are held with each department. They stated that each unit maintains a “communication binder” organized with tabs including topics such as dress code, staff meetings, and a section on legalities.

The Licensees testified that they interview new hires and check for SIR and/or Food Safe as required. They discuss identification requirements, over-service, and personal safety, followed up by a conversation with the new employee about one or more of those three topics every day for the first two or three months. The Licensees testified that a job shadowing/mentoring system is used for the first day or two after a new staff person is hired. During that time new staff are taken from watching through to performing tasks themselves under supervision. New staff are generally started during shifts when the Licensees are on site, then over time are moved on to work evenings or weekends when other senior staff are available as a resource. It is six weeks to two months before new staff are totally on their own.

Regarding identification requirements, the Licensees testified that the training includes:

- Making sure the proffered ID has the right date and the right person;
- Discussion of metric and Imperial height/weight assessment;
- Assessing the patron’s demeanour;

- Dealing with social awkwardness for young servers when requesting ID from their peers;
- Asking questions about their postal code, zodiac sign, and the neighborhood where they live; and
- Checking signatures.

Staff are trained that if the proffered ID is suspicious it should be seized and turned over to the RCMP.

The Licensee stated that it is house policy to ask for ID of anyone who looks under 30. They use security cameras and follow up with staff who appear not to have asked for ID as required. Employees know who the key people are to go to as a resource for any issues.

Cross-examination of the Licensees

In response to questions from the Branch advocate the Licensees stated that:

- The Reeds are the directing minds of the corporate Licensee. Neither of them was on site at the time of the alleged contravention.
- They use SIR as the basis of their training and then go above and beyond. There is no prepared training manual. No changes were made to the training regime as a result of the alleged contravention, but everyone's diligence has gone up.
- They have no written house policies.
- Employees are tested through observation and pop quizzes such as "How many did you ID yesterday?" or "How many patrons did you refuse service?"
- There is no standard discipline process – each case is specific to its facts.
- Regular staff meetings are not held in the LRS. The Licensees see and talk to the staff every day. Targeted staff meetings are held only when there is an important issue to discuss.

SUBMISSIONS – BRANCH

The Branch advocate submitted that the Licensee had admitted that the contravention occurred, and that the elements of the contravention had been established.

She submitted that no documentary evidence had been provided through which the Licensee's training could be assessed to determine whether it is adequate, and that the Licensees had admitted that there is no formal training manual. She also referred to the confusion evidenced by the bartender and the Cashier regarding the existence of an incident log book. Accordingly, the Branch advocate argued that the Licensee's training and systems are not up to industry standards, and that the Licensee had not established the defence of due diligence on the balance of probabilities.

The Branch advocate deferred to the NOEA with respect to the recommended penalty.

SUBMISSIONS – LICENSEE

The Licensee admitted that the contravention occurred and that alcohol had been sold to the minor agent.

The Licensee stated that the Branch requires all servers to be SIR-certified. He submitted that the SIR certificate is the documented proof that a server has been adequately trained, and that there is nothing saying a Licensee has to do more.

Regarding a penalty, the Licensee submitted that the proposed monetary penalty is a lot of money, and poses a hardship for a business that supports charities in a small town. He argued that the business would be "taking a hit", and that it would be better policy if the individual who caused the contravention takes the hit. The Licensee submitted that a monetary penalty would be more appropriate in the circumstances than a ten day suspension.

REASONS AND DECISION

Contravention

The Licensee admits that alcohol was sold to a minor.

The evidence and the submissions filed in these proceedings demonstrate on the balance of probabilities that, with reference to section 33(1)(a) of the Former Act:

- a person (the Licensee, acting through its employee the Cashier)
- sold liquor (a six-pack of Palm Bay coolers)
- to a minor (the minor agent).

Accordingly, I find that on July 21, 2016 the Licensee contravened section 33(1)(a) of the Former Act by selling, giving or otherwise supplying liquor to a minor.

Due Diligence

The Licensee is entitled to a defence if it can be shown that it was duly diligent in taking reasonable steps to prevent the contravention 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 are dealt with.

The leading case is: *R v. Sault Ste. Marie* (1979) 2 SCR 1299, where at page 1331, Dickson, J. sets out the test of due diligence:

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.

The BC Supreme Court, in *Beverly Corners Liquor Store Ltd. v. British Columbia (Liquor Control and Licensing Branch)*, 2012 BCSC 1851, considered and clarified the application of the defence of due diligence in the context of the sale of liquor to a minor contrary to the Former Act.

In these circumstances, the defence of due diligence is to be considered in two stages:

1. Whether the employee who made the sale was a directing mind of the licensee – if so, the defence of due diligence is not available and the inquiry stops there.
2. If the employee who made the sale was not a directing mind of the licensee (and there is no requirement that a “directing mind” must be on the premises when the sale is made), then the questions to be considered and answered are whether the licensee had:
 - a. implemented adequate training and other systems to prevent the contravention (the sale of liquor to minors); and,
 - b. taken reasonable steps to ensure the effective application of that education and the operation of those systems.

Both of these issues are factual, and will depend on the evidence presented. The onus is on a licensee to establish on a balance of probabilities that it had exercised all reasonable care by establishing adequate training and other systems and ensuring effective application of them. A Licensee who successfully establishes the defence of due diligence will avoid liability for a penalty.

Analysis

a. *Directing Mind*

There is no evidence before me to indicate that a directing mind of the Licensee had a direct role in the sale of the alcohol to the minor agent.

Since a directing mind did not commit the contravention I must consider the second stage of the due diligence analysis.

b. Adequate Training and Systems

Due diligence requires that a Licensee takes reasonable steps to try to ensure that a contravention does not occur. The exercise of due diligence does not guarantee that a contravention will never occur. It is intended, however, to reduce the likelihood of a contravention occurring to a reasonable and justifiable level. The analysis of what is adequate or reasonable must take place in the context of the public policy considerations and potential consequences underlying the prohibition against selling liquor to minors:

- the effects of alcohol on growing bodies and developing minds;
- the effects on individuals and society of irresponsible drinking behaviour learned at an early age;
- a minor's lack of capacity to metabolize alcohol in the same manner as an adult; and
- liquor is a significant factor in many crimes committed by youth.

The due diligence standard is not one of perfection, but of adequate training, systems, and monitoring. There isn't a rote list of steps or elements that will constitute due diligence in all cases. The unique circumstances of each case have to be considered in determining whether the due diligence threshold has been achieved.

In this case the Licensee provided evidence about training and other systems related to identification of, and prevention of alcohol service to, minors. These included:

- New employees are required to have SIR certification.
- One-on-one training is provided by the Licensees and by the Cashier.
- New employees are subject to up to two months of job shadowing and mentoring with a more senior employee.

While the Licensee has some elements of a training regime in place, I find that it falls far short of being adequate. Testing and documentation are key components of any training system. In this case, I was provided with no documentation of the Licensee's training regime by which I could assess its appropriateness. The Licensees acknowledged that there is no written training manual or written house policy. The

Licensees and the Cashier referred to signed acknowledgments by staff, but there is insufficient evidence before me as to the content or bases for these acknowledgements. The Licensees referred to the use of pop quizzes, but there is no evidence of any record being kept of the results of this process.

While oral discussion of new issues with staff is a valuable component, it is no replacement for periodic, mandatory staff meetings where the key messages and best practices can be reinforced and a culture of compliance can be emphasized in a team setting. It is important that adequate documentation be maintained for such meetings. In the current case, no documentation was provided to me with respect to staff meetings and whether they included discussions of compliance issues, and there appears to be no consistent policy with respect to documentation.

Finally, I note that the Cashier indicated he had had no formal on-going training since re-taking the SIR course in 2013. No matter how experienced an employee may be, there is benefit to periodic refresher training.

The Licensee questioned the need for, and the effectiveness of, a more rigorous and better-documented training regime, stating that SIR certification is all that is legally required. Indeed, there is no guarantee that a more rigorous or extensive training regime would have prevented the Cashier (who on the evidence had a 26-year unblemished career) from committing the subject contravention. However, it is clear that having well-organized, documented training processes is a key element of a defensible regime of due diligence. The evidence in this case does not demonstrate that the Licensee's training system meets the required standard.

I believe that the Licensees are sincere in their expressed desire to be responsible licensees and to comply with the attendant legal obligations. However, good intentions are not enough to establish due diligence. Due diligence requires training and monitoring systems that are appropriate in the licensee's specific circumstances and in the context of measuring up to industry standards.

I would suggest that every licensee would do well to be familiar with current decisions by the general manager as posted on the Branch website at:

<http://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing/compliance-enforcement/enforcement-hearing-search>. These decisions are not binding on future decision makers, and do not set precedent, but they do provide valuable information to licensees about current standards and practices. They provide a broad menu of tactics that Licensees may use for designing training and monitoring regimes appropriate to their circumstances.

For the foregoing reasons, I find that the Licensee's training and systems regarding contraventions of section 33(1)(a) of the Former Act fall short of the standard required for due diligence.

c. Steps to Ensure Effectiveness

This aspect of due diligence requires the Licensee to take reasonable steps to supervise and monitor its operations sufficiently to ensure that staff are applying their skills and knowledge appropriately, and to ensure that risk-reducing systems are operating effectively.

The Licensee has indicated that it uses a job shadowing system for new employees, and that senior employees are available on each shift to support staff. The Licensee also utilizes its security camera system to monitor whether staff are checking for identification, and maintains a reminder system next to the till in the LRS. The Licensees (and, with some prompting, the Cashier) stated that there is an incident log adjacent to the till in the LRS. However, it's clear from the confusion expressed by the bartender and the Cashier that the use of the incident log is not clearly established. The Cashier acknowledged that the subject contravention was not entered into the incident log, even though the incident was subsequently used as a "teachable moment" for Licensee staff.

Overall, the evidence indicates that while the Licensees are clear in their own minds about the monitoring systems they have in place, the regime has not been effectively conveyed or explained to staff, leading to confusion as to the purpose and uses of the incident log and "communications" binder.

Based on the foregoing, I find that the Licensee's supervisory and monitoring systems do not meet industry standards and the standard of due diligence.

PENALTY

Pursuant to section 20(2) of the Former Act, having found that the Licensee has contravened the Former Act, I may do one or more of the following:

- Take no enforcement action
- Impose terms and conditions on the Licence or rescind or amend existing terms and conditions
- Impose a monetary penalty on the Licensee
- Suspend all or any part of the Licence
- Cancel all or any part of the Licence
- Order the Licensee to transfer the Licence

The Branch has consistently maintained that the sale of alcohol to minors is a significant public safety issue and a high priority for enforcement.

In this case the facts are that the Licensee's employee sold liquor to a 17 year old individual without any request for identification. Regarding the Licensee's contention that the responsibility for a contravention should fall on the individual server, there are certainly circumstances where that could be one appropriate outcome. However, the essence of a strict liability regulatory regime is that the licensee is exempt from penalty if it can demonstrate due diligence, regardless of whether the individual server had an "off day," was negligent, or even intentionally contravened the legislation.

For the reasons detailed above the Licensee has fallen short of proving due diligence. In these circumstances, I find that a penalty is warranted.

The factors that I considered in this case in determining the appropriate penalty include: consideration of whether there is a proven compliance history, 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 record of a proven contravention of the same type for the Licensee at the LRS within the preceding 12 months of this incident. Therefore, I find this to be a first contravention for the purposes of Schedule 4 and calculating a penalty.

The LRS's compliance history record (Exhibit 1, tab 14) shows no material compliance or enforcement history against the Licensee. I have given no weight to compliance history prior to 2013 when the current Licensee took over the business.

In consideration of:

- The serious public safety concerns related to selling alcohol to minors
- The insufficiency of evidence of due diligence
- As mitigated by the Licensee's good compliance record

I find the minimum \$7,500 monetary penalty to be reasonable and appropriate to achieve the Branch's objectives with respect to general and specific deterrence.

ORDER

Pursuant to section 20(2) of the Former Act, I order that the Licensee pay a monetary penalty in the sum of \$7,500 to the general manager of the Branch on or before July 13, 2017.

Signs satisfactory to the general manager showing that a monetary penalty has been imposed will be placed in a prominent location in the LRS by a Branch inspector or a police officer.

Original signed by

Daniel M. Graham

Date: June 13, 2017

General Manager's Delegate

cc: Liquor Control and Licensing Branch, Surrey Office
Attn: Stephen Hitchcock, Regional Manager

Liquor Control and Licensing Branch, Victoria Office
Attn: Maria Caduhada, Branch Advocate