



**DECISION OF THE
GENERAL MANAGER
LIQUOR AND CANNABIS REGULATION 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:	Bill's Frontier Restaurant Ltd. dba Chakalaka Bar and Grill 13230 Trans Canada Highway Ladysmith, BC V9G 1L8
Case:	EH21-013
For the Licensee:	No submission from Licensee
For the Branch:	Hugh Trenchard
General Manager's Delegate:	Nerys Poole
Date of Hearing:	Written Submissions
Date of Decision:	September 15, 2021

**Liquor and Cannabis
Regulation Branch**

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INTRODUCTION

Bill's Frontier Restaurant Ltd. dba Chakalaka Bar and Grill (the "Licensee") operates a restaurant known as Chakalaka Bar and Grill at 13230 Trans Canada Highway in Ladysmith, B.C. (the "Restaurant"). The Licensee held Food Primary Licence No. 307159 (the "Licence"). The branch cancelled the Licence on May 6, 2021.

According to the terms of the Licence, the Licensee was permitted to sell liquor from 11:00 a.m. to midnight, seven days a week.

The Licence is, as are all liquor licences issued in the Province of British Columbia, subject to the terms and conditions contained in the publication "Food Primary Terms and Conditions" (the "Handbook"). (Exhibit 1, tab 9)

Panayiota Giannikos is the sole shareholder and President of Bill's Frontier Restaurant Ltd. In this decision, I refer to both Ms. Giannikos and the corporate entity as the Licensee. Neither Ms. Giannikos nor the corporate entity presented any submissions or evidence for my consideration. Below, I describe the efforts of the branch to deliver notices to the Licensee and to provide the Licensee with the options available with respect to the proposed enforcement action and the hearing process. The branch gave the Licensee an opportunity to provide a written submission but received no response by the deadline date of August 31, 2021. The branch proceeded to appoint me as the general manager's delegate to provide a decision on the alleged contravention and the proposed penalty.

ALLEGED CONTRAVENTION AND PROPOSED PENALTY

The branch's allegations and proposed penalty are set out in the Notice of Enforcement Action dated May 6, 2021, (the "NOEA"). (Exhibit 1, tab 2, p. 28)

The branch alleges that the Licensee contravened section 8(2)(a) of the *Liquor Control and Licensing Act*, SBC 2015, c.19 (the "Act"), by selling or serving liquor while the Licence was suspended.

The range of penalties for a first contravention of section 8(2)(a) is a \$15,000 to \$25,000 monetary fine and/or a 15 to 90-day suspension (item 39 of Schedule 2 of the *Regulation*). The branch proposes a monetary penalty of \$15,000.

As noted, the Licensee has made no submissions on the alleged contravention or the proposed penalty.

RELEVANT STATUTORY PROVISIONS

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

Unlawful sale and purchase of liquor

- 8 (2) Except as provided under this Act or the *Liquor Distribution Act*, a person must not, personally or otherwise,
- (a) keep liquor for sale or sell liquor,

Cancellation, suspension or order for transfer of licence

49 (1) In the following circumstances, the general manager may, on written notice to the licensee, cancel the licensee's licence, suspend the licensee's licence for a period the general manager considers appropriate or order a transfer of the licence, within the period the general manager specifies, to a person who is at arm's length from the licensee:

- (a) a circumstance that would prevent the issue of a licence;

...

(4) If a municipal, regional, provincial or federal licence, permit, registration or certificate, or a licence, permit, registration or certificate issuable by a first nation, treaty first nation or the Nisga'a Nation, that a licensee is required to hold in order to operate the establishment or an event site is not issued or is suspended, is cancelled or expires without being renewed, the general manager may, on written notice to the licensee,

- (a) suspend all or part of the licensee's licence until the other licence, permit, registration or certificate is issued, reinstated, reissued or renewed, or
- (b) cancel the licensee's licence.

Action against former or deemed licensee

52 (1) In this section, "**deemed licensee**" means a person who was conclusively deemed to be a licensee under section 22 (3) until the date on which the general manager refused to transfer the licence.

(2) Without limiting section 51, that section, except subsection (2) (a) and (c) to (e) of that section, and regulations under section 85 (1) (d) apply to a former licensee and a deemed licensee, in relation to matters that occurred while the person was a licensee or was deemed under section 22 (3) to be a licensee, provided that,

(a) in the case of a former licensee, the general manager commences action within 6 months after the former licensee ceases to be the licensee under the licence in respect of which the action is being taken,

Liquor Control and Licensing Regulation, B.C. Reg. 241/2016

Schedule 2

1 In this Schedule:

"licensee" includes a former licensee and a deemed licensee referred to in section 52 of the Act;

Suspension, Cancellation and Obstruction							
Item	Contravention	Monetary Penalty			Period of Suspension (Days)		
		First Contravention	Second Contravention	Subsequent Contraventions	First Contravention	Second Contravention	Subsequent Contraventions
Minors							
39	Contravention of section 8 (2) (a) of the Act [<i>selling or serving liquor while licence suspended</i>] or failure to comply with a term or condition prohibiting consumption while licence suspended	\$15000–\$25000	\$15000–\$25000	\$15000–\$25000	15–90	15–90	15–90

AUTHORITY AS DELEGATE OF THE GENERAL MANAGER

On August 31, 2021, the branch referred this matter to me for a decision as a delegate of the General Manager under section 51 of the *Act*.

As a delegate of the General Manager, I have the authority to hear and decide on alleged contraventions where the General Manager has taken action within six months of the cancellation of the licence, pursuant to section 52(2)(a). The NOEA was delivered on May 6, 2021, the same date as the cancellation notice.

My authority is limited to the alleged contravention under the *Act*. I make no determination and have no authority to make any determinations with respect to any contraventions of the *Public Health Act* or its regulations. I note in the section on Facts the actions of the Environmental Health Officer that led to the closure order against the Restaurant and then to the suspension of the Licence.

ISSUES

1. Did the contravention occur?
2. Did the Licensee receive adequate notice of the contravention and proposed enforcement action?
3. If the contravention is proven, what penalty, if any, is appropriate?

EXHIBITS

- Exhibit 1: Branch book of documents, tabs 1 to 9 (pages 1 to 224)
- Exhibit 2: Handwritten notes of Liquor Inspector 1 (2 pages)
- Exhibit 3: Order of the Provincial Health Officer – Gatherings and Events – February 5, 2021 (33 pages)
- Exhibit 4: Email dated August 13, 2021 from the branch advocate to the Licensee, noting same was being sent by registered mail (2 pages)
- Exhibit 5: Canada Post tracking – August 15 to 19, 2021
- Exhibit 6: Letter from branch registrar to Licensee, dated August 19, 2021 (2 pages)

FACTS

As noted, I received no submissions from the Licensee. I accept the facts as stated by the branch in the NOEA and supported by the branch's evidence in Exhibit 1.

On February 18, 2021, an Environmental Health Officer with the Vancouver Island Health Authority (the "EHO") served a closure order on Panayiota Giannikos for failure to comply with the requirement that she provide a written Covid-19 safety plan. Under the closure order, Giannikos was required to cease operations of the Restaurant. (Exhibit 1, tab 5, p. 70)

On February 19, 2021, the branch issued a Notice of Suspension letter, noting

The Branch has suspended your liquor licence, effectively immediately, pursuant to section 49(4)(a) of the Liquor Control and Licensing Act (Act). In order to have this suspension rescinded please provide a copy of the written approval to re-open from your health officer. (Exhibit 1, tab 3, p. 37)

The branch sent the Notice of Suspension letter to the Licensee by registered mail and noted the certified tracking notice from Canada Post on the letter. (Exhibit 1, tab 3, pp. 37-38)

On February 23, 2021 at 12:38 p.m., the author of the NOEA, Liquor Inspector 1, personally served the Notice of Suspension letter, as noted in his email of February 23, 2021:

LCRB Inspector attended the Chakalaka Bar and Grill at 12:38 hours on February 23, 2021. The establishment was open for business and patrons were seated inside the establishment eating and drinking. Inspector served Panayiota Giannikos a liquor licence suspension letter and advised same that the ability to sell and serve liquor is suspended immediately and would remain suspended until Island Health issues operating permits for the operation of the restaurant. (Exhibit 1, tab 3, p. 43)

On February 25, 2021, the EHO received a complaint that the Restaurant was open for business and serving alcohol. (Exhibit 1, tab 4, pp. 48 – 51)

On February 25, 2021, Liquor Inspector 1 attended the Restaurant and noted the following in an email of the same date:

At 1556 hours [Liquor]Inspector attended the restaurant. Licensee Panayiota Giannikos denied serving liquor. She said since she has no liquor licence her 2 waitresses quit immediately after the liquor licence was suspended. Panayiota stated she will not stop operating the food service due to the health order. She stated 3 times that she will not serve liquor. [Liquor] Inspector saw that all liquor on back bar was not removed. [Liquor] Inspector does not recommend escalation of enforcement action at this point. (Exhibit 1, tab 4, pp. 52-53)

On March 2, 2021, Liquor Inspector 1 attended the Restaurant to post suspension signs and recorded his interaction with the Licensee in an email on same date:

Panayiota greeted [Liquor] Inspector and said [Liquor]Inspector could take off his mask. [Liquor] Inspector did not remove his mask. [Liquor] Inspector advised Panayiota that he was there to post Suspension signs at the establishment and showed Panayiota a Suspension sign. Panayiota said that [Liquor] Inspector could not post any signage at the establishment. Panayiota said that the property was hers and that she would not allow the signage to be posted. Panayiota's [redacted], entered the conversation asking what does [Liquor] Inspector want to post. What kind of signs? [Liquor] Inspector showed the signage to [redacted] and [redacted] said No way. There is no contract with the corporation and therefore no authority to post signage. [redacted] further told [Liquor] Inspector that as a man he was able to come into the establishment but a representative of a corporation he was not welcome. [redacted] told [Liquor] Inspector that the fine for a corporation to be on the property was \$100,000.00 but he would not fine [Liquor] Inspector, [redacted] restated that no signs will be posted. [Liquor] Inspector stated that he had been instructed to post the Suspension signs and both Panayiota and [redacted] said he may not post any signage. [Liquor] Inspector asked Panayiota if she was obstructing [Liquor] Inspector from doing his job and Panayiota responded "yes". [Liquor] Inspector asked

Panayiota if she was going to stop [Liquor] Inspector from posting the signs and Panayiota responded, "Yes". [Liquor] Inspector asked Panayiota if she was aware she was obstructing [Liquor] Inspector and she said, "Yes". [Liquor] Inspector advised Panayiota that her decision to obstruct [Liquor] Inspector may elevate an enforcement response and she could possibly be subject to monetary penalties beginning at \$15,000.00 and/or licence cancellation. Panayiota stated that was fine and that the restaurant is not serving liquor anyway because the restaurant is closed.

(Exhibit 1, tab 4, pp. 54-55)

On March 10 and 11, Liquor Inspector 1 observed the Restaurant sign "open."

(Exhibit 2)

On March 24, 2021, Liquor Inspector 1 again observed the "open" sign on at the Restaurant. (Exhibit 1, tab 4, p. 58)

On March 25, 2021, Liquor Inspector 1 observed that Chakalaka was open for business, and that persons were observed entering and exiting the Restaurant. (Exhibit 1, tab 4, p. 59)

On March 26, 2021, at 11:54 a.m., Liquor Inspector 2 attended the Restaurant. He noted a sign on the entrance door that stated: "As of March 1, 2021 all Covid restrictions have been lifted in the Province of BC." Liquor Inspector 2 did not identify himself as a liquor inspector to the Licensee. Liquor Inspector 2 ordered a small gyro and a bottle of beer. Ms. Giannikos served Liquor Inspector 2 an opened bottle of Budweiser beer. At 11:56 a.m., Liquor Inspector 2 observed three patrons enter the Restaurant. Liquor Inspector 2 observed that Panayiota Giannikos served two-pint sized glasses of draught beer to the party of three seated nearby. Liquor Inspector 2 observed that liquor was on display at the bar service area. Liquor Inspector 2 photographed the bottle of Budweiser beer and the party of three showing the glasses of draught beer on their table. Liquor Inspector 2 informed Ms. Giannikos that he would have to leave and asked for the food to be packaged, which it was and returned to him. He paid \$12.00 cash for the food and beer, leaving the Budweiser beer on the table. Liquor Inspector 2 did not receive a receipt. (Exhibit 1, tab 4, pp. 60 – 68)

On May 6, 2021, the branch sent a letter notifying the Licensee that its Licence was cancelled, effective at the close of business on May 6, 2021, noting:

The Chakalaka Bar & Grill has continued to operate for more than 2 months after being ordered to close and the liquor licence having been suspended. These actions demonstrated a flagrant disregard for provincial law, provincial jurisdiction, and the safety of the public. Pursuant to section 49(1)(a) of the Liquor Control and Licensing Act, the above-noted licence is being cancelled. A cancelled licence cannot be reinstated or renewed.

(Exhibit 1, tab 2, pp. 26-27)

On May 6, 2021, Liquor Inspector 1 sent an email with the NOEA to the Licensee and received a receipt for email delivery. (Exhibit 1, tab 3, pp. 44-46)

On May 6, 2021, Ms. Giannikos sent Liquor Inspector 1 an email in response to the above email about the NOEA, noting:

“Thank you for your email.

The restaurant is now closed since February 24th 2021

No liquor license needed any longer.”

(Exhibit 1, tab 3, p. 41)

On May 20, 2021, Madam Justice W.A. Baker of the B.C. Supreme Court made findings with respect to the validity of the public health orders and breaches of these orders by the Licensee. Mme. J. Baker declared that Ms. Giannikos was in breach of the statutes [*Public Health Act*], regulations and orders as alleged by VIHA, and declared Ms. Giannikos to be in contempt of the April 23, 2021 Order [interim court order for injunctive relief]. (*Vancouver Island Health Authority v. Giannikos* 2021 BCSC 957, para.61-77). (Exhibit 1, tab 5, p. 73)

SUBMISSIONS

In his written submission, the branch advocate outlined the facts as stated in the NOEA and in the branch documents. (Exhibit 1).

The branch evidence shows that the Restaurant remained open and served liquor after the branch served the suspension notice. The Licensee contravened section 8(2)(a) of the *Act* by selling liquor to Liquor Inspector 2 on March 26, 2021 when its Licence had been suspended. The Licensee's disregard for the rules, both in the case of the Public Health Orders and with respect to its responsibilities as a Licensee under the *Liquor Control and Licensing Act*, justify the imposition of the recommended penalty for this contravention, which is the minimum for a contravention of section 8(2)(a) of the *Act*, pursuant to item 39 of Schedule 2 of the Regulation.

The Licensee made no submissions, other than to state falsely in its email of May 6, 2021 that the Restaurant had been closed since February 24, 2021.

REASONS AND DECISION

ISSUE 1: Did the contravention occur?

Contravention

I find that the branch personally served the Licensee at the Restaurant with the Notice of Suspension letter on February 23, 2021. I find that the Licensee was aware of the Notice of Suspension yet continued to sell or serve liquor while its Licence was under suspension. The evidence on this from Liquor Inspector 2's attendance at the Restaurant on March 26, 2021, is irrefutable. The Licensee has made no attempt to dispute this evidence, other than to maintain falsely in an email that the Restaurant had closed on February 24, 2021.

The Licensee contravened section 8(2)(a) of the *Act* on March 26, 2021.

Despite the cancellation of the Licence on May 6, 2021, the General Manager or her delegate has the authority under section 52(2)(a) of the *Act* to commence action against the Licensee within six months of the date of the cancellation.

The cancellation of the Licence on May 6, 2021 does not preclude the finding of a contravention on March 26, 2021 nor the imposition of a penalty for the contravention.

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.

I find no evidence of due diligence. In fact, I find the opposite – a flagrant disregard for the rules and a dismissal of the branch’s authority over the Licensee’s operations.

ISSUE 2: Did the Licensee receive adequate notice of the contravention and proposed enforcement action?

Having found a contravention, solely on the basis of the branch evidence here, I need to consider whether the Licensee received adequate notice of the contravention as required by section 51(7) of the *Act*. If I find that the Licensee received adequate notice and chose not to respond to the allegation and proposed notice of enforcement action, I have the authority to proceed to render a decision in the absence of any submissions from the Licensee.

Facts re. Notice to Licensee

The certified tracking sticker from Canada Post is on the upper right-hand corner of the Notice of Suspension Letter dated February 19, 2021. (Exhibit 1, tab 3, p. 37). The branch searched the tracking number and confirmed that the letter was delivered on February 23, 2021 at 1:02 p.m. (Exhibit 1, tab 3, p. 38)

On February 23, 2021 at 12:38 p.m., Liquor Inspector 1 personally served the notice of suspension, as noted in his email of February 23, 2021. (Exhibit 1, Tab 3, p. 43)

On May 6, 2021, Liquor Inspector 1 sent the NOEA to the Licensee by email and received a delivery receipt. (Exhibit 1, tab 3, pp. 44-46)

Ms. Giannikos responded to this notice by replying by email on May 6, 2021, indicating she had received the email from Liquor Inspector 1. (Exhibit 1, tab 3, p. 41)

On June 15, 2021, the branch sent an email to the Licensee requesting a date for a prehearing conference call and asking for a response by June 21, 2021. The branch noted an email delivery receipt. (Exhibit 1, tab 1, pp. 2-4)

On June 22, 2021, the branch sent an email to the Licensee noting the deadline in the June 15 letter was now passed and extending deadline to June 24, 2021, with an email delivery receipt confirming delivery. The branch reminded the Licensee that, if they did not hear back from the Licensee, they would be moving forward with the next steps in the enforcement hearing process. (Exhibit 1, tab 1, pp. 5-7)

On July 5, 2021, the branch sent a letter via email setting a date for the pre-hearing conference call on July 19, 2021 at 11:00 a.m. and requesting the Licensee to review the letter and to ask any questions about the process. In the letter, the branch noted that they had called the phone number on file and received no answer. The letter reminded the Licensee of the importance of attending on the call and the consequences of ignoring this request:

Please be advised that if you do not respond or you do not attend the pre-hearing conference, you will lose your opportunity for an oral hearing. The matter will then be forwarded to an adjudicator (hearing delegate) to make a determination on penalty. If you wish to make a submission on the issue of penalty, please contact me at your earliest convenience, or no later than the July 19, 2021 pre-hearing conference.

(Exhibit 1, tab 1, pp. 8-12)

The branch received the BC Mail Plus registered mail trace sheet on July 6, 2021 showing delivery of notice and that it was available for pickup at the post office. (Exhibit 1, tab 1, pp. 13-14)

On July 20, 2021, the branch sent a letter to the Licensee summarizing the pre-hearing conference call, which the Licensee did not attend. The branch noted that the previous mail was redirected to a new address and available for pickup but that it was not picked up at the post office. The letter outlined the next steps the branch would follow and the consequences of the Licensee's refusal to participate:

The Licensee will continue to receive and be included in all communications relating to the May 6, 2021 NOEA. This matter will proceed by written submissions. The deadlines for disclosure of documents will be set. After the close of the disclosure stage, I will refer this to a hearing delegate (adjudicator) for decision. The Licensee may still opt to respond and participate at any time before the matter is referred to a hearing delegate.

...

The Licensee is given until August 31, 2021 to provide a response or disclose all their documents to support their response or dispute the allegations in the May 6, 2021 NOEA, by [email to registrar] or mail to the branch.

...

The Licensee has the opportunity to be heard by responding and participating in the process. However, if the Licensee refuses to participate despite notice, they risk losing that opportunity. The matter will be heard, with or without the Licensee's participation.

The hearing delegate will address, among others, the issues of whether the contravention occurred and if so, what penalty is warranted. If the delegate finds that a monetary penalty or suspension is warranted, the delegate is bound to order at least the minimum set out in the penalty schedule. The delegate is not bound by the maximum and may impose a higher penalty when it is in the public interest to do so. The delegate is not bound to order the penalty proposed in the NOEA. As indicated, the Branch is proposing the minimum of the monetary penalty within the penalty range for the alleged contravention set out in item 39, Schedule 2 of the Liquor Control and Licensing Regulation.

(Exhibit 1, tab 1, p. 15)

The branch received an email delivery receipt on July 20, 2021 and a BC Mail Registered Mail trace sheet on July 21, 2021, as well as a Canada Post tracking sheet. (Exhibit 1, tab 1, pp. 19-23)

The branch advocate sent an email and a letter by registered mail on August 13, 2021 to the Licensee, enclosing the branch disclosure documents and the branch's submission. (Exhibit 4). The Licensee did not pick up the registered mail. (Exhibit 5)

On August 19, 2021, the branch registrar sent a letter to the Licensee, giving the Licensee a final opportunity to provide a written submission by August 30, 2021 and noting that “if you fail to provide your submissions by the due date, the hearing delegate may proceed and make a written decision without the benefit of your input and argument.” (underlined) (Exhibit 6)

The matter was referred to me as the hearing delegate on August 31, 2021, with the branch registrar noting that “No response to any of the correspondence has been received.”

Findings on Adequate Notice

I find that the Licensee received adequate notice of the branch’s intended actions with steps along the way well documented to demonstrate the branch’s efforts to communicate to the Licensee the consequences of its refusal to participate in the branch’s hearing process. The Licensee cannot merely refuse to participate by refusing to pick up registered mail in order to avoid enforcement action. I find that the branch made every effort to communicate with the Licensee and to extend deadlines along the way, to encourage the Licensee to respond. I further find that the evidence of the Licensee’s emails to the branch in response to the cancellation of licence and the Notice of Suspension letters demonstrate that the Licensee was receiving emails from the branch and was thus being selective as to whether or not to respond to further emails or registered mail from the branch about the enforcement process. (Exhibit 1, tab 3, pp. 40–41)

Given the Licensee’s refusal to participate, I have made my decision on a finding of a contravention above based on the evidence provided to me.

I now turn to the question of penalty.

PENALTY

Pursuant to section 51(2)(b) of the Act, having found that the Licensee has contravened the Act, the Regulations and/or the terms and conditions of the licence, I may do one or more of the following:

- 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

I am not bound to order the penalty proposed in the NOEA. However, if I find that either a licence suspension or a monetary penalty is warranted, I am bound to follow the minimums set out in Schedule 2 of the Regulation. I am not bound by the maximums and may impose higher penalties when it is in the public interest to do so.

The factors that I have considered in determining the appropriate penalty in this case include: 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.

Licensees are obliged to comply with the legislation and the terms and conditions of their licences. Enforcement action is intended to both redress the licensee's non-compliance, and to encourage future compliance by way of deterrence.

In the circumstances of this case, the Licensee no longer holds a liquor licence as it was cancelled on May 6, 2021. A cancelled licence cannot be reinstated or renewed.

Imposing a penalty in this case will send a message to other licensees and future licensees of the importance of compliance with the branch rules and regulations. A liquor licence is a privilege, not a right. As noted in the introduction to the Handbook, the licensee has a responsibility to be aware of and to operate in compliance with the rules. Licensees must follow B.C.'s liquor laws and these terms and conditions at all times. (Exhibit 1, tab 9, p. 150)

I find that a penalty is warranted here. The Licensee acted with complete disregard for the rules and regulations in ignoring the suspension of its Licence, in refusing to allow a sign to be posted about the suspension, and in lying several times to Liquor Inspector 1 about whether the Restaurant was open and whether the Restaurant was serving liquor. The Licensee admitted to Liquor Inspector 1 that she was obstructing him in the performance of his duties. (Exhibit 1, tab 4, pp. 54-55)

The Handbook refers to the rules with respect to posting signs in relation to suspensions:

If a suspension or monetary penalty is imposed on your licence, the Branch may post a sign in a prominent location in the interior or on the exterior of your establishment.

You must ensure the signs are posted for the entire period of the suspension or for monetary penalties, the period specified on the sign. During the period that the signs must be posted, you must ensure the signs are not defaced, obstructed or moved.

(Exhibit 1, tab 9, p. 185)

In the May 20, 2021, B.C. Supreme Court decision (cited above), Mme. Justice W.A. Baker referred to the Licensee's "misleading statements" and "knowing defiance of the [Public Health] Order." I find the same applies here, with respect to the branch's suspension of the Licence and the Licensee's statements to Liquor Inspector 1. I find that Ms. Giannikos' conduct towards Liquor Inspector 1 in the performance of his duties demonstrate a complete disregard for her responsibilities as a Licensee and for the public interest and well-being of the community.

There is no record of a proven contravention of the same type for this Licensee at this Establishment within the 24-month period preceding this incident. Therefore, I find this to be a first contravention for the purposes of Schedule 2 and calculating a penalty. Item 39 in Schedule 2 provides a range of penalties for a first contravention of this type: a 15 to 90-day licence suspension and/or a \$15,000 to \$25,000 monetary penalty.

The branch has recommended the minimum monetary penalty for this contravention: a \$15,000 monetary penalty. I find this to be an appropriate penalty, given the actions of the former Licensee.

ORDER

Pursuant to section 51(2)(b) of the *Act*, I order that the Licensee pay a monetary penalty in the sum of fifteen thousand dollars (\$15,000) to the General Manager of the Liquor and Cannabis Regulation Branch on or before **October 15, 2021**.

As the Licensee has stated that the Restaurant is closed permanently and the Licence has been cancelled, there is no requirement to place a sign in the Restaurant.

Original signed by

Nerys Poole
General Manager's Delegate

Date: September 15, 2021

cc: Liquor and Cannabis Regulation Branch, Victoria Office
Attn: Stephen Hitchcock, Regional Manager

Liquor and Cannabis Regulation Branch, Victoria Office
Attn: Hugh Trenchard, Branch Advocate