



**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:	365158 B.C. Ltd. dba Muddy Waters Pub Beer, Wine & Liquor Store Nanaimo, BC
Case:	EH04-177 and EH04-181
For the Licensee	Robert G. Garrett Ronald A. Hughes
For the Branch	Shahid Noorani
Enforcement Hearing Adjudicator	M. G. Taylor
Date of Hearing	April 13 and 28, 2005
Place of Hearing	April 13, 2005 - Nanaimo April 28, 2005 - Teleconference June 23, 2005 - Final submissions
Date of Decision	July 13, 2005

INTRODUCTION

The licensee, 365158 B.C. Ltd., operates the Muddy Waters Pub (“the Pub”) which opened in 1989 and the Muddy Waters Pub Beer, Wine & Liquor Store (“the LRS”) which opened in November 2002. It holds a Liquor Primary Licence (“LPL”) No. 122246 and a Licensee Retail Store Licence (“LRS”) No. 195082. One of the terms of the licenses is that they are subject to the terms and conditions contained in the publications ‘Guide for Liquor Licensees in British Columbia’ (“the Guide”), for both LPLs and LRSs.

ALLEGED CONTRAVENTIONS AND RECOMMENDED ENFORCEMENT ACTION

By Notice of Enforcement Action (“NOEA”) dated December 29, 2004, the Liquor Control and Licensing Branch (“the branch”) alleged that on November 24, 2004, the licensee contravened Section 45(2) of the *Liquor Control and Licensing Regulation*, B.C. Reg. 244/2002, (the “*Regulation*”), as follows:

- a) EH04-177: in the Pub, by failing to request two pieces of identification from a person appearing to be under the age of 25 before allowing the person to enter the licensed establishment or selling liquor to the person; and
- b) EH04-181: in the LRS, by failing to request two pieces of identification from a person appearing to be under the age of 25 before selling liquor to the person.

Schedule 4 of the *Regulation* provides a range of licence suspensions and monetary penalties for contraventions. For the contravention of Section 45(2), Item 4 of the Schedule, the penalty range is a one (1) to three (3) day licence suspension or a one thousand (\$1,000.00) to three thousand (\$3,000.00) dollar monetary penalty for the first contravention. The branch recommended a monetary penalty of \$1,000 for each contravention, for a total monetary penalty of \$2,000.

RELEVANT STATUTORY PROVISIONS

Liquor Control and Licensing Regulation, B.C. Reg. 244/2002 (the "Regulation")

s. 45(2) A licensee must request 2 pieces of identification from any person appearing to be under the age of 25 before

(a) allowing the person to enter the licensed establishment, if the establishment is one in which minors are not allowed, or

(b) selling or serving liquor to the person.

ISSUES

1. Did the licensee fail to request two pieces of identification from a person appearing to be under the age of 25 before selling liquor to the person?

The evidence is uncontroverted that two people who were 19 and 20 years old where permitted to enter the Pub on November 24, 2004, one of them ordered and was served liquor, and the server did not request two pieces of identification from them.

The evidence is uncontroverted that two people who where 20 years old purchased liquor from the LRS on November 24, 2004, and that the licensee's employee did not request two pieces of identification from them.

The issue then is whether these people were "appearing to be under the age of 25 years?"

2. If yes, is the branch's recommended enforcement action appropriate?

EXHIBITS

Exhibit No. 1	Book of Documents, relating to the Pub EH04-177
Exhibit No. 2	Book of Documents, relating to the LRS EH04-181
Exhibit No. 3	Agent Performance Report 2004 - <i>Withdrawn as of June 23, 2005</i>
Exhibit No. 4	Licensee's Identification Check Records
Exhibit No. 5	Correspondence dated June 23, 2005, with attachments

EVIDENCE

The branch called as witnesses three agents who were involved in these incidents, a project manager, and a liquor inspector. The licensee called as witnesses two employees and the licensee/owner.

Subsequent to the hearing, I was advised by the branch's registrar that the branch had discovered an error in a report entered as Exhibit No. 3, and was planning to make a further submission. As of June 23, 2005, I received correspondence requesting that the report be withdrawn from evidence and advising that counsel for the licensee did not want to make a submission on the branch's request. I have included the correspondence as Exhibit No. 5. Given that the licensee did not object to having the report withdrawn, I have accepted the branch's request and so noted it above.

During 2004, the branch employed young people, between the ages of 19 and 25 years, as agents to conduct compliance checks to assist the general manager in determining whether licensees were complying with Section 45(2) of the *Regulation*. The agents attended many licensed premises in a day, including lounges, pubs, restaurants and LRSs.

Two female agents, aged 19 and 20, attended the Pub on November 24, 2004, at approximately 5:40 p.m. One of the women, and a male agent aged 20, attended the LRS. In Exhibit No. 1, tabs 5 and 7, there are photographs of the agents who attended the Pub. In Exhibit No. 2, tabs 5 and 7, there are photographs of the agents who attended the LRS. All of the agents testified the photographs were taken in the morning of November 24, 2004, and that the photographs represented their appearances throughout the day. All of the agents completed Agent Observation Reports following their compliance checks.

Agent #1 (20 year old female) testified that she attended the LRS at approximately 5:25 p.m. and was there for about 2 or 3 minutes. She recalled that there was one male staff person and no other customers. She testified that the employee greeted her, she ordered a bottle of Vodka which he produced, she paid cash, and he said something like, 'have a good night.' She returned to the vehicle and completed the Agent Observation Report.

Agent #1 then went into the Pub at about 5:30 p.m. and sat at table. She said there were about 20 people in the Pub. She noticed that there was signage concerning the requirement for two pieces of identification. She testified that the server came to the table, put down a coaster and asked what she would like to drink. The agent ordered a coffee liquor beverage and explained that she was expecting a friend. The server did not engage her in conversation. After ordering, the agent pretended to be speaking on her cell phone. When the server brought the drink, the agent was still on the phone, made eye contact with the server and thanked her for the drink.

While the agent was still speaking into the cell phone, Agent #2 (19-year-old female) arrived. She sat down and the server came over and asked what she would like to drink. Agent #2 said she would not have anything and that they had to leave right away. Agent #1 got her bill and paid for her drink.

Agent #2 testified that she went in to the Pub at approximately 5:44 p.m. There was no staff at the door and she went directly to the table where Agent #1 was seated. The Pub was not busy. She testified that, other than asking if she wanted anything to drink, the server did not engage her in conversation. She was in the Pub about 2 minutes in total.

Both agents returned to the vehicle and completed Agent Observation Reports.

Agent #3 (20 year old male) attended the LRS at approximately 5:42 p.m., unaccompanied. He testified there were no other customers and one staff member behind the counter. He testified that the server greeted him with 'hello' or 'hi', that he placed his order for a bottle of Captain Morgan's Spiced Rum, and the server provided the bottle from behind the counter. The agent paid cash and asked for a receipt. He testified that the server did not ask him his age or ask to see identification, or engage him in conversation other than that required for the transaction. The agent recalled that there were signs posted stating that minors could not purchase alcohol and that the licensee would require two pieces of identification for persons under 25.

Agent #1 testified that in her personal life when she goes to a liquor establishment she is usually asked to produce identification. She said that her experience with the LCLB project was that she was asked for identification more often in larger urban centres than in rural areas.

Agent #2 testified that in her personal life when she goes to a liquor establishment she is asked to produce identification about 90% of the time. Her sense of the compliance checks overall was that she was asked for identification more often in Vancouver Island establishments than in establishments in the northern part of the province.

Agent #3 testified that in his private life when he goes to a licensed establishment he is asked for identification at least 80% of the time.

The project manager testified that the purpose of employing the agents was to test compliance with the *Regulation*. Initially, the branch was approached by the Liquor Distribution Branch asking that the branch test compliance at their outlets. The branch decided to do an industry-wide compliance check. The project manager testified that the agents were hired, trained and supervised. In hiring,

the branch looked for young people who, preferably, were students in programs related to enforcement work.

The project manager gave evidence about the statistics compiled from the agents' report, but I have removed all reference to that evidence from this decision, as noted above.

The liquor inspector testified that the requirement for the two pieces of identification took effect in December 2002. The branch's policy is to not take enforcement action against licensees until there have been two Contravention Notices (CN) issued and a Compliance Meeting held. The reason for the policy of not proceeding on the earlier alleged contraventions is to give licensees time to become accustomed with the new *Regulation*, put policies and procedures in place, and train staff. For this establishment, the branch had issued CNs for alleged contraventions on March 28, 2003, November 14, 2003 and July 5, 2004. The branch conducted a Compliance Meeting on April 14, 2003.

The liquor inspector testified that he issued CN B000052 on December 4, 2004, with an incorrect licence number. He replaced that with CN B000059 on December 15, 2004.

By a letter dated September 2, 2004, to the branch's regional manager for the area, the liquor inspector reported on a system used by this licensee directed to ensure that employees check for two pieces of identification. In the letter, he also passed along the licensee's suggestion that the branch advise a licensee *immediately following* an incident of non-compliance involving the branch's agents so that the manager could deal with the matter quickly and take appropriate steps.

The liquor inspector testified that the licensee had shown him the 'chit' system [described below] and the charts showing how often each employee required

identification. He said that he understood the licensee implemented the system in an attempt to track how staff was doing with compliance and to enhance the licensee's control of staff compliance. In his view, it was an effort by the licensee to comply with the *Regulation*. However, he also noted that in conversations with the licensee he found him to be hostile to the requirement for two pieces of identification and, in his view, that hostility would effect the success of system.

Licensee's Evidence

The night manager of the Pub testified that she would have worked on November 24, 2004, but that she did not recall serving the two agents. She had been told about the alleged contravention the day before the hearing.

She testified that if someone appears under the age of 25 years she asks to see two pieces of identification to prove that the person is over 25. As the manager of the Pub, she supervises other staff and ensures that they are requiring identification from young patrons. She said that patrons are happy to produce identification and, if they are over 25 years old, they consider it flattering to be asked.

She testified that she tries to judge age by comparing young looking patrons with some of her 19 and 20-year-old acquaintances, and with some of the young serving staff. She considers how people are dressed, their mannerisms, their general appearance and how they carry themselves. She looked at the photographs of the two agents in Exhibit No. 1 and estimated their ages as late 20s. She saw the agents at the hearing and testified that she thought one of them appeared to be in her late 20s and the other looked very young, about 17 years old.

The night manager testified that the licensee has an identification system whereby servers are required to complete a chit at the end of each shift indicating how many patrons they required to produce identification. The staff do

not make notes during the shift. The purpose of the system is to keep the issue of identification foremost in the minds of the staff.

A clerk from the LRS testified. He acknowledged receiving the NOEA from the liquor inspector on December 4, and a replacement one on December 15, 2004, which corrected the liquor licence number. He said that he could have been the person working in the LRS on November 24, 2004, but that he had not checked the staff roster to confirm that. He also confirmed that the manager of the LRS had spoken with him about the incident the day after they got the NOEA. When he saw the receipt from the agent's purchase, he acknowledged it was his name and confirmed that he would have been the one to serve the agents and that he was in charge of the store.

He was told about the hearing the day before. He had no recollection of the two agents.

The clerk testified that he thinks patrons expect to be asked for identification and take a request to produce it as a compliment. He said he compares the appearance of young patrons with his younger brothers and sisters and the other staff who range in age from 19 to 35 years. He considers many aspects of a person's appearance in determining age. If someone is wearing a ball cap he is careful to establish eye contact, and he will take a second piece of identification. Sometimes people wear ball caps or dress up to make themselves look older.

He looked at the photograph of the female agent in Exhibit No. 2 and estimated her age as 26 years.

The clerk described the identification system and said that he makes notations on the chit when he asks for identification. The chits are sent with the cash at the end of the shift. He testified that identification is always the number one item in staff meetings.

The licensee testified that he instituted the identification system so he could see which staff are asking for identification. The information from the chits is transferred to a summary sheet, Exhibit No. 4. The male server is shown on the summary sheets as working in the Pub during September 2004 to January 2005. The licensee testified that he worked in the Pub and then transferred to the LRS and that the bookkeeper hadn't updated the summary sheet.

The licensee said that he finds the 'under 25' requirement difficult because it is so hard to visualize who is 25 years old. He has seen staff ask patrons who are in their late 30s for identification and the patrons have been offended. He testified that he watches staff and if they have not asked someone for identification, he asks them about it. Identification is the number one priority at staff meetings. He also testified that he does not know what else he can do to ensure compliance

SUBMISSIONS

Licensee's counsel incorporated into these submissions the written submissions provided in a previous case argued before me, *Frontiersman Pub Inc.*, EH04-180. That decision was released June 15, 2005.

Counsel submitted that the branch has erred in previous 'agent' cases, based on a misunderstanding between objective and subjective evidence (see *Winfield Pub Ltd., dba Woody's Pub*, EH0-4-092, January 28, 2005, and *Six Mile Pub Ltd.*, EH04-183, April 8, 2005). Subjective evidence is in the mind of the person. Objective means that the person's evidence is subjected to the test of the "reasonable man."

The licensee submitted that the legislation is wholly subjective and that "apparent" must mean apparent to the server, as the adjudicator said in the *Woody's* decision. The licensee compared the task in this case with the tests required of police officers in impaired driving cases and referred to *R. v. Shimell*

[1982] B.C.J. No. 713, Nelson Registry No. 1/82 [182]. The Criminal Code requires that an officer have reasonable and probable grounds for believing that a person is committing the offence of 'drinking and driving' before demanding a breath sample. Similarly, the Criminal Code requires an officer to have reasonable and probable grounds for believing a person has committed an offence in order to arrest the person. The wording "reasonable and probable grounds" clearly establishes an objective test.

In contrast, Section 45(2) does not include the requirement of reasonable and probable grounds or any other wording that could suggest that the test is objective. Therefore, the licensee submitted, the test is entirely the subjective belief of the licensee.

The licensee submitted that this offence requires *mens rea*. That is, that the branch must demonstrate that the server knowingly or willingly committed the offence. That has not been proven here.

Further, but for this *Regulation*, these activities are legal in that the young people were over 19 years old. The *Act* permits the licensee to sell alcohol to these people and, although Section 45(2) of the *Regulation* supports the intention of the *Act*, it is redundant. Additionally, it is so unclear as to be unenforceable.

The licensee submitted that the branch's use of *agents provocateur* is a denial of fundamental justice, because the branch did not notify the licensee of the incidents and alleged contraventions until one month later. That delay prevented the licensee from putting together a proper defence. It was difficult for the licensee to determine who the employees were, and the employees had no recollection of the people they served. The licensee submitted that the branch's course of action offended the licensee's rights to fundamental justice enshrined in Section 7 of the Charter of Rights and Freedoms.

Concerning penalty, the licensee submitted that the fact that both of these incidents were tried at the same time should result in the penalty being confined to one global penalty, as one single matter, not as two distinct contraventions.

ANALYSIS AND DECISION

I reiterate what I said in the *Frontiersman* case, as follows:

Mens Rea

One import of the *mens rea* submission is that the branch would have to prove the case beyond a reasonable doubt, the criminal burden of proof. In many cases under this *Act*, the courts have considered the nature of the contraventions along with the issues of burden of proof and the defence of due diligence. The Courts have held that the standard of proof is balance of probabilities, and that the defence of due diligence is available. See *Zodiac Pub Ltd. v. British Columbia (General Manager, Liquor Control & Licensing Branch)*, [2004] B.C.J. (Q.L.) No. 119 (B.C.S.C.); *New World Entertainment Investments Ltd., doing business as Richard's of Richards v. The General Manager Liquor Control and Licensing Branch*, April 23, 2004, Kamloops Registry No. 34055
Sentinel Peak Holdings Ltd. v. British Columbia (General Manager, Liquor Control & Licensing Branch), [2004] B.C.J. (Q.L.) No. 1352 (B.C.S.C.).

I do not accept the licensee's submission that this alleged contravention is to be decided as a *mens rea* offence.

Subjective/Objective Test

I do not accept the licensee's submissions based on the *Shimell* case for two reasons. First, it is questionable whether the *Shimell* case remains authoritative in B.C., having been distinguished in *R. v. Daggitt*, [1991] B.C.J. No. 3210, in which Madame Justice Ryan states:

I must therefore conclude that the test in *Shimell* is no longer the law in this province. The test is therefore: whether the circumstances that the peace officer believes to be true are such that would give rise in the mind of a reasonable person the belief in the likelihood that the accused has committed an offence under s. 253.

Secondly, and more importantly, the *Shimell* case concerned criminal law, *mens rea* offences, and the discussion of reasonableness was directed at

the peace officer's actions, not at the actions of the accused. I find that the cases interpreting the Criminal Code standard for police officers in impaired driving case have no bearing on the interpretation of this *Regulation*.

The licensee submitted that the test to be employed is subjective only. I do not accept that. It is not sufficient for the employee who served the young person to come to the hearing and say – “the person looked over 25 to me.” In my view, there has to be an ability to assess the evidence to determine, after the fact, whether that was a reasonable assessment.

Delay

Concerning the licensee's submission on delay, I do not accept that the delay in bringing these alleged contraventions to the licensee's attention resulted in a breach of fundamental justice. The CNs were issued within a reasonable time and the case was brought on for hearing within a reasonable time. I do not accept that there was any delay that would have resulted in the destruction of evidence or the loss of memory sufficient to give rise to the alleged breach. In the case of the LRS employee, he was approached by management close to the event. At the hearing, he attempted to substantiate that he did not know of the allegations but I find that evidence lacked credibility. In the case of the Pub employee, the licensee apparently chose not to inform her of the alleged contravention until the day before the hearing, perhaps for strategic reasons related to this application. However, I do not accept that there was anything preventing the licensee or the employee from reviewing staff rosters or the summary sheets to refresh her memory of that day.

The Substantive Allegations

Neither of the licensee's employees who served the agents recalls the incidents. However, the employees say it is their custom to assess age and that they must have assessed these individuals as being at least 25 years old.

I have reviewed the licensee's employee summary reports, Exhibit No. 4. The LRS clerk is listed as working in the Pub. I accept that is just a typographical error. His name is shown on the reports for September 2004 through January 2005. During those 5 months, there is only one day, in January 2005, when he recorded asking for identification. For February and March 2005, he is not listed.

The night manager of the Pub is shown on the summary sheets for December 2003 through to March 2005. Of those 16 months, she is recorded as having asked for identification on two days in December 2003, one day in July 2004 and one day in August 2004.

Given those records, I find it difficult to accept that these employees ask for identification regularly. I find their evidence to be self-serving and lacking in credibility. The evidence leads me to find that the only reasonable and probable conclusion about age assessments, if any, performed by these employees is that they assessed whether the individuals were minors, not whether they were under 25 years old.

I find as fact that the three agents were young people who did not disguise their youthful appearances. While one cannot be positive that they are under 25 years old, there can be no doubt that they appear young. One agent was only 19 and there was nothing in the evidence that compels me to believe that she looked other than her age. I find that all three agents looked their ages.

I acknowledge that telling age is a difficult task. However, the *Regulation* places a requirement on people serving alcohol and if that results in asking people who are older than 25 to produce identification, so be it. It is no answer to the *Regulation* to say that it is impossible to tell whether someone is 19 or 29, which is what the licensee's submission boils down to. If servers who are responsible for dispensing alcohol are unable to tell that difference, then it is incumbent upon them to ask for identification.

One doesn't need to conclusively decide whether someone is over or under 25. There are government issued signs that tell patrons to expect to produce two pieces of identification. Both servers in this case noted that patrons consider it a compliment to be asked for identification. The cautious approach is to ask.

I find that all three agents appeared to be under the ages of 25 and that the servers failed to request two pieces of identification, contrary to Section 45(2) of the *Regulation*.

DUE DILIGENCE

The licensee did not make submissions on due diligence. However, I have considered the evidence to determine if there is an obvious defence available.

It is well accepted that the defence of due diligence applies to contraventions under the *Act*. The B.C. Supreme Court addressed due diligence in *The Plaza Cabaret v. General Manager Liquor Control and Licensing Branch*, 2004 B.C.S.C. 248, a case involving alleged illegal conduct:

[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.

Since the *Plaza* decision, in cases assessing the evidence of due diligence in relation to other contraventions, the branch has stated that a licensee must not only establish procedures to identify and deal with problems, it must ensue that

those procedures are consistently acted upon and problems dealt with. As a test of due diligence, the branch has considered whether there were more steps the licensee could have taken to ensure that staff were aware of the legislative requirements and were properly trained to do the job, and whether there were more preventative measures the licensee could have taken to prevent the occurrence of the contravention. (For a discussion of due diligence factors, see for example, *Haney Hospitality Ltd. (dba Haney Motor Hotel)*, EH01-170, July 27, 2004.)

On the evidence, I find that the employees who served the agents were not 'directing minds' of the licensee. Therefore, I have considered whether the evidence establishes the defence of due diligence.

There was evidence that the licensee has signs posted advising the public of the identification requirements. There was also evidence that employees have certain criteria they consider in assessing age, and that the licensee has implemented an identification report system.

Using the test of whether there is more the licensee could do by way of preventative measures, I note that there was no evidence about employee training or policies and procedures. The identification report system, apparently, was directed to the 'under 25' identification issue, but neither the chit nor the summary sheets refer to that. The chit asks employees to indicate how many people were "ID'D". The procedure for using the chits differs as in the Pub it is completed only at the end of the shift, from memory; in the LRS, at least this one employee records as he asks for identification.

The evidence is clear that the two employees who testified at the hearing either do not ask for identification or do not use the system. There was no evidence from the licensee about follow up practices, one-on-one training or meetings. He

did not indicate any specific follow up or concerns with these employees and their lack of requests for identification.

In my view, there is more the licensee could do to educate employees about the 'under 25' requirement and the difference between assessing age for minors and for 'under 25'. I find that the licensee could be more supportive of employees asking for identification from people who may be over 25 years. The employees in this case said patrons consider it a compliment whereas the licensee suggested it is offensive. The licensee could adopt the positive approach. If patrons find it offensive, the licensee can point to the legislative requirement, and the complimentary aspect.

The Pub night manager said she asks for identification to ensure the person is over 25 years. That is not the point of the *Regulation*. Her comment is indicative of the need for further education so employees understand why the *Regulation* was enacted – to help prevent minors from consuming alcohol by casting a wide net to catch those minors who appear to be in their early to mid twenties.

I find that the evidence falls short of establishing a defence of due diligence.

PENALTY

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

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

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

There is no record of prior proven contraventions, offences or enforcement actions of the same type for this licensee or this establishment within the year preceding these incidents (“compliance history”). Pursuant to *Liquor Control and Licensing Regulation*, Schedule 4, Section 1(1)(b), the branch has treated the allegations as first contraventions. The range for first contraventions is 1 to 3 days, or \$1,000 to \$3,000 monetary penalty.

The branch’s primary goal in determining the appropriate penalty is achieving voluntary compliance. Among the factors that are considered in determining the appropriate penalty is whether there is a 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.

The branch issued three previous Contravention Notices and conducted a Compliance Meeting with the licensee, specifically on this issue. I have given weight to this compliance history not as proof of previous contraventions, but as proof that the branch has told the licensee in the past of its concerns and has attempted to assist the licensee in achieving compliance.

The licensee submitted that one global penalty is appropriate when both allegations are heard at the same time. I disagree. These contraventions concern two distinct establishments and two distinct liquor licenses. The contraventions involved different times, circumstances, and employees. In fact, there were two contraventions in each establishment so the licensee is already receiving an advantage from the branch.

I am satisfied that the branch's recommendation of \$1,000 monetary penalty for each contravention is appropriate.

ORDER

Pursuant to Section 20 (2) of the *Act*, I order the payment of a two thousand dollar (\$2,000) monetary penalty by the licensee to the general manager on or before August 12, 2005.

Original signed by

M. G. Taylor
Enforcement Hearing Adjudicator

Date: July 13, 2005

cc: R.C.M.Police Nanaimo Detachment

Liquor Control and Licensing Branch, Victoria Office
Attention: Gary Barker, Regional Manager,
Vancouver Island/Okanogan/Kootenay

Liquor Control and Licensing Branch, Surrey Regional Office
Attention: Shahid Noorani, Advocate
