



**DECISION OF  
THE ADMINISTRATOR**

Tobacco and Vapour Products Program  
Health Protection Branch  
Population and Public Health

**MINISTRY OF HEALTH**

IN THE MATTER OF

A hearing pursuant to Section 5(1) of

***The Tobacco and Vapour Products Control Act, R.S.B.C. 1996, c. 451***

Retailer: **Storm Ventures Company Ltd., dba  
22 Carrat Smoke and Vape Shop  
(the “Retailer”)**

For the Retailer: **Matthew Carrat  
(the “Retailer’s Representative”)**

Enforcement Officer: **Rebecca Mair  
(the “Enforcement Officer”)**

Adjudicator: **R. John Rogers  
(the “Adjudicator”)**

Date of Hearing: **April 29, 2020**

Date of Decision: **May 14, 2020**

## **INTRODUCTION**

The Retailer, Storm Ventures Company Ltd., operates an establishment called “22 Carrat Smoke and Vape Shop” at #103-1909 Maple Drive, Squamish, B.C. V8B 0T1 (the “Store”).

## **ALLEGED CONTRAVENTION AND PROPOSED PENALTY**

The allegations against the Retailer are set out in the Amended Notice of Administrative Hearing (the “NOAH”) dated April 17, 2020.

The NOAH alleges that on December 3, 2019, the Retailer contravened sections 2(2) and 2.4(1) of the *Tobacco and Vapour Products Control Act*, R.S.B.C. 1996, c. 451 (the “Act”) and sections 2 and 4.31(1) of the *Tobacco and Vapour Products Control Regulation*, B.C. Regulation 232/2007 (the “Regulation”) by selling vapour products to a person under the age of 19 and by displaying vapour products in a manner which were reasonably seen or accessed by a minor in the Store.

The hearing in this matter was originally scheduled as an in person hearing to be held on April 29, 2020 commencing at 9:30 am. However, with the public health order issued by the Province of British Columbia preventing the holding of such an in person hearing, the NOAH was amended to hold the hearing by video conference on the same date and at the same time. To carry out the hearing online rather than in person, an email invitation was sent by the Adjudicator inviting the Enforcement Officer, the Retailer’s Representative, and the witness of the Retailer (the “Employee”) to join the online hearing on the appointed date and time. These parties, therefore, were online for the duration of the hearing.

At the hearing, the Retailer’s Representative on behalf of the Retailer did not dispute that the alleged contravention had occurred.

For the purpose of this hearing and in accordance with section 5(2) of the Act, the Administrator has delegated to the Adjudicator the powers, duties and functions provided to the Administrator by the Act with respect to a decision as to whether or not the alleged contraventions have been proven, and, if the Adjudicator finds the alleged contraventions to have been proven, a determination of an appropriate penalty therefore, and an order with respect to such determination.

## **RELEVANT STATUTORY PROVISIONS**

*Tobacco and Vapour Products Control Act*, R.S.B.C. 1996, c. 451

### **Prohibitions**

#### **2**

(2) A person must not sell, offer for sale, provide or distribute tobacco or vapour products to an individual who has not reached the age specified by regulation under section 11 (2) (g).

**Prohibitions on display or promotion of tobacco and vapour products**

**2.4** (1) A person must not

- (a) display tobacco products or vapour products, or
- (b) advertise or promote the use of tobacco or vapour products by means of a sign or otherwise

in any manner prohibited by the regulations.

***Tobacco and Vapour Products Control Regulation B.C. Regulation 232/2007***

**Minimum age of 19 years**

**2** The age for the purposes of section 2 (2) of the Act is 19 years.

**Limits on advertising**

**4.31** (1) A retailer must not, on the premises of a retail establishment, display tobacco or vapour products, or advertise or promote the use of tobacco or vapour products, in any manner by which the tobacco or vapour products or the advertisement or promotion

- (a) may reasonably be seen or accessed by a minor inside the retail establishment, or
- (b) are clearly visible to a person outside the retail establishment.

**Schedule 2  
Monetary Penalties**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>		
<b>Item</b>	<b>Contravention</b>	<b>Monetary Penalty</b>		
		<b>First Contravention</b>	<b>Second Contravention</b>	<b>Subsequent Contravention</b>
	<b>Minors</b>			
1	Breach of section 2 (2) <i>[selling or offering to sell tobacco or vapour products to an individual who is under 19 years of age]</i> of the Act	\$0 - \$1,000	\$0 - \$3,000	\$0 - \$5,000

	<b>Advertising</b>			
4.1	Breach of section 2.4 <i>[displaying tobacco or vapour products, or advertising or promoting tobacco or vapour product use, in a manner prohibited by the regulations]</i> of the Act	\$0 — \$3,000	\$1,000 — \$4,000	\$4,000 — \$5,000

**Schedule 3  
Prohibition Periods**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>		
<b>Item</b>	<b>Contravention</b>	<b>Prohibited Period (days)</b>		
		<b>First Contravention</b>	<b>Second Contravention</b>	<b>Subsequent Contravention</b>
	<b>Minors</b>			
1	Breach of section 2 (2) <i>[selling or offering to sell tobacco or vapour products to an individual who is under 19 years of age]</i> of the Act	0-30	0-90	0-180
	<b>Advertising</b>			
4.1	Breach of section 2.4 <i>[displaying tobacco or vapour products, or advertising or promoting tobacco or vapour product use, in a manner prohibited by the regulations]</i> of the Act	0-30	0-90	0-180

**ONLINE HEARING PROTOCOL**

At the commencement of the hearing, as the hearing was being conducted online, the Adjudicator took the parties present through a protocol to ensure that each of the parties was comfortable with the online format and then polled each of the parties to receive that party's confirmation to that effect.

## **EXHIBITS**

The Adjudicator noted that there was documentary evidence provided by both of the parties to be considered at the hearing and that these documents had been provided in electronic form. To ensure that each of the parties present had received a copy of each of these documents and had had an opportunity to review the same, the Adjudicator listed these documents as exhibits and received confirmation from the parties that they had received copies thereof and did not object to having them form part of the evidence presented at the hearing.

### **Exhibits filed by the Enforcement Officer**

- Exhibit 1 – A Copy of the Amended Notice of Hearing;
- Exhibit 2 – A Copy of the Business License for the Retailer;
- Exhibit 3 – A Copy of the Inspection Report prepared by the Enforcement Officer
- Exhibit 4 – A Copy of the Corporate Summary for the Retailer;

### **Exhibits filed by the Retailer**

- Exhibit 5 – A Copy of the Tobacco Sales Exam, the Employment Agreement, and the Training Certificate for the Employee;
- Exhibit 6 – A Copy of the Tobacco Sales Exam, the Employment Agreement, and the Training Certificate for another employee of the Retailer;
- Exhibit 7 – A Copy of the Response from the POS Retailer “Vend” to the Retailer’s Request for Age Verification;
- Exhibit 8 – A Copy of the Statement of the Retailer’s Representative; and
- Exhibit 9 - Copies of Pictures of the Retailer’s POS counter.

## **EVIDENCE –ENFORCEMENT OFFICER**

The Enforcement Officer testified that she was an enforcement officer with Vancouver Coastal Health and had been working in that capacity since 2015. She stated that she has been the sole inspector for the Sea to Sky Region since 2015.

She testified that her focus has been to provide education to tobacco and vapour retailers in order to ensure compliance with the Act and the Regulation. She accomplishes this, she stated, through routine inspections, complaint follow ups, and test shopping. The test shopping program uses minors aged 15 to 17 years old and these minors are instructed, she testified, that if they are requested to do so, they provide to the retailer their valid identification.

The model that she works off, the Enforcement Officer testified, is a progressive enforcement model so that if a retailer is not in compliance, a warning letter will be issued and she will provide to the retailer education on that infraction. However, if compliance issues continue, she will then issue violation tickets for the infractions, and if compliance issues still continue and there has been no change by the retailer, she provides a report to the Administrator under the Act requesting an administrative hearing.

This hearing, she testified, has resulted as, despite the education, warnings, compliance meetings and violation tickets, she has not been successful in getting the Retailer into compliance with the Act and the Regulation.

### **NOAH**

The Enforcement Officer noted the contravention as confirmed by the Retailer and as stated in the NOAH might be summarized as follows:

- At approximately 19:25 hrs. on December 3, 2019, in the course of conducting a compliance test on the Store, Minor Test Shopper A (“MTS A”), who at the time was under 19 years of age, entered the Store and sought to purchase a vapour product from the Employee;
- MTS A asked the Employee “Do you have Juul products?” and when the Employee replied that she did, MTS A asked the Employee for “Mango 3%”. The Employee then asked “Is that all for today?” and when MTS A confirmed that it was, the Employee rang up the sale for \$23.50, and handed MTS A the vapour product and change for a \$50 dollar bill; and
- The Employee sold the vapour product to MTS A and permitted MTS A to view the other vapour products offered for sale in the Store and at no time while MTS A was in the Store did the Employee ask MTS A for identification.

The Enforcement Officer emphasized that what was important to note with respect to these contraventions was that the Employee at no point asked the MTS for identification, that the MTS was underage, and that both that the Employee sold age restricted products to the MTS and that the Employee permitted the MTS to be in the Store which sold age restricted products.

### **The Enforcement Officer’ Report**

The Enforcement Officer highlighted the following items in her report (Exhibit 3) and noted:

- December 10, 2019:
  - that, in accordance with a previous agreement between her and the Retailer’s Representative, as the Employee had sold a restricted age product to MTS A without asking MTS A for identification, the Enforcement Officer on December 10, 2019 issued Violation Ticket AH97533337 (the “Violation Ticket”) to the Employee.
  - That in a meeting with the Retailer’s Representative on December 10, 2019 following the contraventions, the Enforcement Officer noted that contrary to the commitments made by the Retailer’s Representative in a meeting with the Enforcement Officer and her supervisor in October 2018 when she had noted that if the Retailer wished to sell tobacco products that it required a Tobacco Retailer Authorization, the Retailer’s Representative had made numerous commitments concerning the Retailer’s compliance with the Act and the Regulation which had not appeared to have been acted upon.
- February 2, 2017: That the Enforcement Officer had received the first complaint with respect to the Retailer when a woman complained that her underage child had

purchased e-products from the Retailer. She emailed the Retailer's Representative to advise him of this complaint and received no response.

- June 27, 2017: That the Store was test shopped for the first time and an e-product was sold to a Minor Test Shopper who was 17 years old without asking for identification. Following the test shopping the Enforcement Officer spoke with the Retailer's Representative, reminded him of the email she had sent him to which he had not responded, and advised him that the Shop was on the enforcement list and that any future sales would result in her issuing violation tickets. She issued the Retailer a formal warning letter on sales to a minor, for which letter she had the Retailer's Representative acknowledge receipt.
- November 9, 2017: That the Enforcement Officer had received an email complaint about the Retailer selling e-products to minors as well as more than two people test product vaping in the Store. At the time, the Store did not have a business licence so she was unable to issue a violation ticket.
- November 17, 2017: That the Store was again test shopped and the Minor Test Shopper was able to purchase e-products and no identification was requested. She noted that this failed test shop and the previous failed test shop on June 27, 2017 involved different employees of the Retailer. On December 7, 2017, a violation ticket was subsequently issued for this infraction, but the ticket was only for selling e-products to a minor and not for displaying e-products to a minor. The purpose of dealing only with one violation, she stated, was towards an effort to work with the Retailer as the Retailer's Representative had expressed his assurances that the Retailer would maintain compliance in the future. She advised the Retailer's Representative that the Retailer would be put on the one year enforcement check list.
- August 15, 2018: That the Enforcement Officer performed an inspection of the Store and provided education on vapour regulations and some 2018 date decals and information pamphlets dealing with age verification. The inspection went well and there were no infractions noted.
- October 18, 2018: The Store was again test shopped and the 17 year old Minor Test Shopper was able to purchase vapour products and no identification was requested. These products were sold to the Minor Test Shopper by a clerk who admitted to being 18 years old. On October 26, 2018, the Retailer's Representative met with the Enforcement Officer in her office for the purpose of discussing the many compliance issues which had occurred within the Store since its opening. With respect to the issue of the underage employee working in an age restricted store, the Retailer's Representative acknowledged that he was not permitted to hire minors to work in the Store and advised that this employee had been suspended. The Retailer's Representative further advised that going forward he was going to be working in the Store to ensure compliance with the law and the policies involving the sale of vaping products and committed to ensuring that there would be no further violations. The Enforcement Officer issued a violation ticket to the Retailer for the violation on October 18, 2018, but only for the sale to the minor, and advised that if there were further violations that she would be contacting the District of

Squamish licensing bureau about such violations and that she would be recommending penalties.

- October 10, 2019: That the Enforcement Officer visited the store and met with an employee of the Retailer who was training the Employee. She observed that there were tobacco products within the Store, so she emailed the Retailer's Representative to advise that if tobacco products were to be sold in the Store, the Retailer needed to apply for a licence to do so. She stated that she received no communication back from the Retailer's Representative confirming that the tobacco products observed by the Enforcement Officer had been removed.

## **EVIDENCE – RETAILER**

### **The Retailer's Representative**

The Retailer's Representative testified that the Retailer owns the Shop and an adjacent general store and has carried on business under the present structure at these locations since 2001. He affirmed that the Retailer shares the same compliance goals as the Enforcement Officer and that the Retailer's Representative has been working hard to achieve these goals and to ensure that the Shop does not sell vape products to minors. He testified that the Retailer had taken steps to achieve these goals as it very much wished to be a responsible tobacco and vape products retailer and that it never wants to have to face in the future a hearing similar to the present one.

### *The Retailer's Record of Compliance*

The Retailer's Representative noted that the Retailer's compliance record as confirmed by the Enforcement Officer in her evidence included a 16 month time period from June 2017 to October 2018 when the Retailer received 2 complaints and 3 tickets which, he acknowledged, were not acceptable. However, he pointed out, after October 2018, the Retailer took serious action and went over a year without complaints until the sale to the Minor Test Shopper on December 3, 2019.

This record, he testified, came about as a result of efforts that the Retailer had made with its staff to ensure compliance, including a staff meeting on October 19, 2018 attended by all staff members. At this staff meeting, compliance items were discussed together with the possibility of a staff member receiving a fine if further violations were to occur. The Retailer's Representative stated that following this meeting, an incident log was established for the Store to document when someone was refused a sale due to not having identification. He further noted that from this meeting forward the new motto in the Store was "ID is mandatory for every single person immediately when they enter the store regardless of how old they look".

The Retailer's Representative testified that although he did not advise the Enforcement Officer that he had done so, when advised of the tobacco being offered for sale in the Store by the Enforcement Officer following her visit there on October 10, 2019, he had removed these tobacco products from the Store.



*The Retailer's Steps to Ensure Compliance Since December 3, 2019*

Since the infraction on December 3, 2019, the Retailer's Representative testified that:

- the Retailer had reduced the number of hours that it was opened to ensure that the Retailer's Representative could spend more time working in the Store.
- he personally conducts all staff training and has retrained all members of the Retailer's staff based upon the Health Canada Toolkit for Responsible Tobacco Retailers. Following this training he had each of the Retailer's staff members complete the Tobacco Sales Exam and enter into an Employment Agreement as evidenced by Exhibits 5 and 6.
- as set out in Exhibit 7, he had asked the supplier of the Store's point of sale software if it had an age verification feature and was advised that it did not.
- as evident by the picture in Exhibit 9, the Retailer has posted the violation ticket issued to the Retailer in a place where everyone entering the Shop was able to see it as a form of public shaming of the Retailer in that it permitted the violation set out in the ticket to have occurred. This posting, he testified, assists a staff member in explaining to a customer why the Retailer is so insistent on asking for identification.
- he is working on his own test shopping program which he would operate himself using a test shopper to ensure compliance with the staff in the Store.

*The Employee*

The Retailer's Representative testified that one of the reasons for hiring the Employee was that she had previously worked at the local casino where she had received age verification training.

He noted that the Employee had received a \$575 ticket for the violation on December 3, 2019 and that she had paid the same herself.

*Cross Examination of the Retailer's Representative*

When asked, the Retailer's Representative confirmed that the Retailer's instructions to its employees are that they are to ask for identification from any person who enters the Store who appears to be under 30 years of age. When asked how the Retailer ensures that this policy is carried out by the staff, the Retailer's Representative testified that the Retailer has the clip board which indicates various age ranges and that he is now more physically in the Store so he can monitor compliance, but that there is no staff training to assist a staff member to determine whether or not a particular patron is of an age who should be asked for identification. He testified that the policy is to take no chances and to ask for identification.

However, the Retailer's Representative agreed that many of the initiatives on compliance were more verbal than written and the written initiatives have come forward since the violation on December 3, 2019.

When asked why the education that the Retailer's staff had gone through was restricted to tobacco products and did not include vape products, the Retailer's Representative testified that it was an idea that he hadn't explored, but would do so.

### **The Employee**

The Employee testified that she is now very comfortable in asking all parties coming into the Store for identification even if she knows them to be over 19 years old. She testified that initially she was a bit uncomfortable in asking for identification as she didn't know when she should do so. However, now she doesn't take any chances. She noted that she has actually had to refuse a sale to a customer as, when she had asked that party for identification and the party answered that they didn't have their wallet with them, she refused to complete the sale.

On December 3, 2019, she acknowledged that there was no doubt that she was required to ask for identification and that she had no excuse for not having done so. She noted that she has worked at a casino where it is important to ask for identification and, therefore, understands how serious a matter it is.

She confirmed that she immediately paid her ticket for the violation on December 3, 2019 and that even though she had been told that she might be entitled to a reduction in the amount of the ticket, she chose to pay the full amount to ensure she did not make a similar mistake in the future.

### **SUBMISSIONS – ENFORCEMENT OFFICER**

The Enforcement Officer submitted that over the time of her interaction with the Retailer, despite the professed intentions of the Retailer's Representative, that she hadn't seen changes in the manner in which the Shop was operating and the violation which occurred on December 3, 2019 confirmed that little had improved at the Shop up to that date.

This violation demonstrated that tickets were apparently not effective in effecting change, so she was forced to submit her first ever report to the Administrator as set out in Exhibit 3 resulting in this hearing.

It is her hope that as a result of this current process, the Retailer will undertake a program of continuous training with a definite follow up program to ensure that the training is effective and that it ensures compliance going forward.

### **SUBMISSIONS – RETAILER**

The Retailer's Representative agreed that consistent compliance was the goal that the Retailer was aiming to achieve. He noted that over the years there had been improvements in its compliance record, but he acknowledged that more had needed to be done to confirm that

compliance has been achieved. He submitted that it was his hope that the recently implemented changes to staff training and the Store's operations would accomplish this and that, in any event, he would not hesitate to reach out to the Enforcement Officer for assistance in his striving to achieve this desired level of compliance.

## **REASONS AND DECISION**

### **Contraventions**

The Retailer has admitted that on December 3, 2019, as alleged in the NOAH, the Retailer in contravention of sections 2(2) and 2.4(1) of the Act and sections 2 and 4.31(1) of the Regulation sold vapour products to a person under the age of 19 and displayed vapour products in a manner which were reasonably seen or accessed by a minor in the Store.

I therefore find that the Retailer on December 3, 2019 committed the contraventions of the Act and the Regulation as alleged in the NOAH.

### **Due Diligence**

Although the Retailer did not raise the defence of due diligence at the hearing, as the Retailer has admitted that the Employee sold the vapour product to MTS A and permitted MTS A to view the other vapour products offered for sale in the Store, and has acknowledge that at no time while MTS A was in the Store was MTS A asked for identification, the Retailer is liable under the Act and the Regulation unless it can demonstrate that it was duly diligent in taking reasonable steps to prevent these contraventions from occurring.

The onus falls on the Retailer to demonstrate on a balance of probabilities this due diligence. In doing so, the Retailer must not only clearly demonstrate that it has established procedures to identify and prevent from happening activities that might lead to these contraventions of the Act and Regulation, it must, as well, clearly demonstrate that it continues to ensure that such procedures are consistently in operation and acted upon by its employees.

The Supreme Court of Canada outlined this concept of the defence of due diligence in *R. v. Sault Ste. Marie* (1979) 2 SCR 1299, where at page 1331, Dickson, J, says, in part:

Where an employer is charged in respect of an act committed by an employee acting in the course of employment, the question will be whether the act took place without the accused's direction or approval, thus negating wilful involvement of the accused, and whether the accused exercised all reasonable care by establishing a proper system to prevent commission of the offence and by taking reasonable steps to ensure the effective operation of the system. The availability of the defence to a corporation will depend on whether such due diligence was taken by those who are the directing mind and will of the corporation, whose acts are therefore in law the acts of the corporation itself.

In the matter at hand, although it is clear from the evidence presented that following the meeting of October 26, 2018 between the Enforcement Officer and the Retailer's Representative, the

Retailer began to focus more clearly on ensuring compliance with the Act, the Regulation and best practices, its actions were not sufficient to create that culture of compliance that might have ensured that the Employee asked MTS A for identification on December 3, 2019. This observation is confirmed again on the evidence presented by the numerous steps that the Retailer has taken since that violation to ensure this culture of compliance.

I therefore find that the defence of due diligence does not apply.

I am satisfied on a balance of probabilities that the Retailer committed the alleged contraventions of the Act and the Regulation by selling vapour products to a person under the age of 19 and by displaying vapour products in a manner which was reasonably seen or accessed by a minor in the Store and, therefore, is liable for the penalties as set out in the Act and Regulation.

## **PENALTY**

In determining an appropriate penalty, the Regulation sets out, among other factors, that the following items be taken into consideration:

- Whether the Retailer had a prior written warning concerning the type of conduct for which a contravention is found;
- Previous enforcement actions of a similar nature to which the Retailer was a party;
- Was the contravention at hand part of a repeated or continuous pattern of behaviour;
- Was the contravention deliberate or an oversight;
- Whether the person committing the conduct leading to the contravention has an ownership interest in the business carried on by the Retailer;
- Whether the person committing the conduct is an employee or agent of the owner of the business carried on by the Retailer;
- What form of training and monitoring does the Retailer perform with respect to the sale of tobacco or vapour products at the Store; and
- Any other matters considered to be in the public interest.

The Retailer's enforcement history is set out above in some detail as it appears to demonstrate an initial lack of interest on the Retailer's behalf in operating within the rules of the Act and Regulation with respect to the sale and displaying of vapour products. It is obvious that following the meeting on October 26, 2018, steps were taken by the Retailer to change this approach, which steps have become more focused following the violation on December 3, 2019. Indeed, given the testimony of the Retailer's Representative, the Retailer has now committed to the necessary climate of compliance in the Store.

However, the offences on December 3, 2019 as set out in the NOAH did occur and the Retailer must be held accountable therefor. It is the intention of the Enforcement Officer to ensure that retailers operate in compliance with the Act and the Regulation. It is this compliance that is sought, not the punishment of a retailer found to be in violation of the Act and the Regulation.

To review the factors which should be considered in determining an appropriate penalty, the following are relevant to the matter at hand:

- The evidence clearly documents previous contraventions of a similar nature;
- The contraventions in the NOAH were definitely part of a repeated or continuous pattern of behaviour; and
- There was evidence of training and monitoring with respect to the sale and display of vapour products at the Store, but not sufficient to create a culture of compliance to ensure that the Employee asked MTS A for identification.

Section 16 (b) of the Regulation provides that for the purposes of Schedules 2 and 3 of the Regulation in the determination of a penalty, the time limit for the commission of a contravention is a 60 month time period. The evidence presented demonstrated that the Retailer has committed at least four contraventions of the Act since the first test shopping of the Store on June 27, 2017, a time period well within the 60 month period.

However, this matter is the first time a Notice of Administrative Hearing has been issued against the Retailer and a hearing held. Therefore, in accordance with the provisions of section 16(b) for the purposes of calculating the penalty range pursuant to Column 3 of Schedules 2 and 3 of the Regulation the contraventions in the NOAH are considered to each be a “First Contravention”.

Thus the range of penalties to which the Retailer is subject pursuant to the provisions of Schedules 2 and 3 of the Regulation for the contraventions set out in the NOAH are monetary penalties ranging from \$0 - \$1,000 for the contravention of Section 2(2) of the Act and \$0 - \$3,000 for section 2.4(1) of the Act; and prohibition periods of 0 – 30 days for each of Section 2(2) and section 2.4(1) of the Act.

## **ORDER**

As the Retailer has been found liable with respect to the contraventions alleged in the NOAH, pursuant to section 6.1 (2)(a) of the Act, it is hereby ordered that:

- the maximum monetary penalty of \$1,000 be assessed against the Retailer for the contravention of section 2(2) of the Act; and
- the monetary penalty of \$2,000 be assessed against the Retailer for contravention of section 2.4(1) of the Act

for a total monetary penalty assessed against the Retailer of \$3,000.

Had the Retailer not clearly demonstrated by its actions since December 3, 2019 evidence which appears to be a sincere effort to ensure compliance, a prohibition as provided for in Schedule 3 might well have been ordered. However, given the professed change of approach, no such prohibition is ordered.

*Original signed by:*

R. John Rogers

Date: May 14, 2020

Administrator’s Delegate