

**HEARING BEFORE A PANEL
OF THE BOARD OF THE
ALBERTA GAMING AND LIQUOR COMMISSION**

**IN THE MATTER OF the Gaming and Liquor Act
Revised Statutes of Alberta 2000, Chapter G-1
current as of November 1, 2010
and the Regulation**

and

**IN THE MATTER OF Edmonton Northlands
o/a Northlands Park Racetrack & Casino
7300 – 116 Avenue NW
Edmonton, Alberta
TSB OR1**

concerning alleged contraventions

DATE OF HEARING:	October 8, 2014
HEARING PANEL:	Mr. J.P. Hansen, Panel Chair Ms. S.L. Green, Panel Member
LICENSEE REPRESENTATIVES:	Mr. D., Executive Director (Operations) Mr. W., Director (Food & Beverage) Mr. S., Senior Manager (Security)
COMPLIANCE AND SOCIAL RESPONSIBILITY:	Ms. H., Hearing Officer

DECISION OF THE HEARING PANEL

I. Jurisdiction and Preliminary Matters

As a result of receiving an incident report dated August 11, 2014, the Compliance and Social Responsibility (CSR) Division of the Alberta Gaming and Liquor Commission (AGLC) imposed an administrative sanction under Section 91(2) of the *Gaming and Liquor Act*, without a hearing, on Edmonton Northlands operating as Northlands Park Racetrack & Casino, Edmonton (Northlands).

The licensee subsequently applied for a hearing under Section 94(1) of the *Gaming and Liquor Act*. A Hearing Panel of the Board of the AGLC met to hear the following alleged violation:

Section 5.5.8 Licensee Handbook: Failure to request proof of age from a person who appears to be under 25.

The licensee and the Hearing Panel were provided with a hearing file containing the incident report dated August 11, 2014 and various documents pertaining to alleged incidents occurring on July 23, 2014. Northlands confirmed they received the incident report dated August 11, 2014 and Notice of Hearing dated September 24, 2014 and do not dispute the facts contained in the incident report but wish to present a due diligence defence. The incident report was entered into evidence by the CSR Division as Exhibit #1.

Ms. H. presented the case on behalf of the CSR Division. Mr. D., Mr. W. and Mr. S. represented Northlands.

II. The Issue

Did the licensee fail to request proof of age from a person who appears to be under 25?

III. Evidence – excerpted from the incident report dated August 11, 2014

At 6:52 p.m. Inspector H., accompanied by Agents B. and F., entered the K-Days grounds. At 7:19 p.m. Agent B. entered the “Grand Patio” beer garden located on the east side of the Expo Centre and observed approximately 20 occupants. The “Grand Patio” is a beer garden, licensed extension of the Class B Convention Centre licence, temporarily set up for K-Days and is designated as a minors allowed premises. “Under 25” signage was not observed posted within the premises.

A female staff member, later identified as Ms. B., was observed counting patrons entering and leaving the premises at the entrance to the beer garden. A male uniformed security officer, later identified as Mr. De. was observed walking through the premises. Agent B. approached the main service bar and was greeted by a female staff member later identified as Ms. Ha.. Agent B. ordered a can of Molson Canadian beer from Ms. Ha.. Agent B. paid for the beer. Agent F. also approached the main service bar and was greeted by a female staff member later identified as Ms. M.. Agent F. ordered a can of Molson Canadian beer from Ms. M.. Agent F. paid for the beer.

Agent B., accompanied by Agent F., sat down at a table in the rear area of the premises. Agents B. and F. did not consume the liquor they purchased. At no time were Agents B. or F. asked for proof of age. At 7:25 p.m. Agents B. and F. exited the premises.

At 7:30 p.m. Inspector H. and Agents B. and F. re-entered the premises. Inspector H. introduced himself to Ms. B. and Mr. De. as an AGLC Inspector and advised them of the audits. Ms. B. advised Inspector H. that Agent B. appeared to be 19 years of age and Agent F. appeared to be 20 or 22 years of age. Mr. De. advised he was not sure of the Agents’ age. Mr. De. indicated he did not observe Agents B. and F. sitting down in the premises. Mr. De. advised that his duties consisted of roaming through the premises to ensure of no intoxicated patrons and minors.

While waiting to speak with Mr. D., Ms. M. advised Inspector H. that Agent B. appeared to be 23 years of age and Agent F. appeared to be about 25 years of age. M. advised Inspector H. she was aware of and understood the U25 policy. Ms. M. has been employed with Northlands for a period of five years. Ms. Ha. advised Inspector H. that Agents B. and F. appeared to be 26 years of age. Ms. Ha. has been employed with Northlands for a period of six years.

Mr. D. advised Inspector H. that he had been working closely with Inspector A. and that a lot of time and effort had been put into preparing for K-Days. Mr. D. also advised he had been working closely with the AGLC regarding over service, minors and in preparation for liquor service during K-Days. At 8:04 p.m. Inspector H., Agent B. and Agent F. departed the premises.

Evidence of Northlands

Northlands is a diverse complex which strongly believes in social responsibility. Their AGLC record is virtually spotless. Their policies are constantly evolving and changing to ensure they are meeting their duty of social responsibility. They have been working with the CSR Division regarding a Best Bar None category for large venues.

Northlands provided the Panel with a binder containing various documents including, pre-shift meeting discussion guidelines, tips for the liquor licensee and staff on how to identify minors, Daily Alcohol Shift Agreements for Northlands employees and

employee performance documentation for Ms. Ha. and Ms. M.. The binder was entered into evidence by Northlands as Exhibit #2. The documentation outlines Northlands' policies regarding liquor service for all Northlands events.

During pre-shift meetings with employees, all details regarding the event are discussed including menus, pricing, bar opening and closing times, type of clientele, possible infractions and how to prevent them, designated smoking areas and where alcohol may be consumed. AGLC policies are reviewed with employees during the pre-shift meeting in particular, demanding proof of age from anyone who appears to be under 25, acceptable forms of ID, how to examine ID, signs of intoxication and how to refuse liquor service. Northlands' house policies are also reviewed including, requesting identification from anyone who appears to be under 30, when to advise a supervisor of an incident and how to handle abusive or rude customers.

Ms. Ha. and Ms. M. acknowledged receiving a briefing on policies prior to the commencement of their shift on July 23, 2014. Both employees signed a Daily Alcohol Agreement form which indicates failure to comply with any of the alcohol policies listed may result in termination. The policies listed include:

1. A maximum of two standard alcoholic beverages may be served to any customer of legal age at one time. Guests are not permitted to carry more than two drinks per person. Please ensure your guests do not leave the point of sale carrying more than two drinks per person.
2. A maximum of one standard alcoholic beverage may be served to any customer of legal age at one time after 1:00 a.m. Guests are not permitted to carry more than one drink per person at this time.
3. All customers who appear to be under 30 must present government issued photo ID.
4. Any patron that exhibits clear signs of intoxication will not be served alcohol.
5. You must ID guests during every transaction regardless of whether you have ID'd already.
6. No purses, wallets, jackets or any other personal items are allowed behind the bar.
7. Service of all alcoholic beverages will stop at the discretion of the manager on duty.

Both employees in question were disciplined as a result of the incidents; they received a three day suspension. Northlands does not believe there was anything else they could have done to prevent the incidents from occurring. The policies provided to the Panel are not new to Northlands and both Ms. Ha. and Ms. M. were familiar with the policies.

Northlands – cross-examined by Ms. H.

Security employees are not required to sign a Daily Alcohol Agreement but they are present for the briefings at the beginning of each shift. The area where the incidents occurred was a minors allowed area. The role of Ms. B. was to conduct a head count and ensure liquor did not leave the licensed area. The security guard acted in a similar role as Ms. B.. Since the incident, several of the Northlands employee/policy forms have been improved to prevent similar incidents from occurring. The supervisors now sign a Daily Alcohol Agreement, in addition to the employees. Ms. Ha. and Ms. M. were required to review all the policies and training again during their three day suspension period.

Northlands has a new alcohol service monitor position which was created in the fall of 2013. The communication process between the servers and alcohol service monitor is developing. There were approximately four alcohol service monitors working at the time of the incidents. Ms. B. was one of the alcohol service monitors working in the beer garden on July 23, 2014. Not all employees carry a radio while on duty and each group of employees is on a different radio channel.

Northlands – questioned by the Panel

The alcohol service monitors are specifically hired and trained for the role they serve. They have both ProServe and ProTect certification. They are hired only to perform the role of alcohol service monitor. If they experience any difficulties with

patrons, they report to the security officer on duty. The role of alcohol service monitor is a new initiative of Northlands and is new to the liquor service industry. Northlands also recently reinstated its mystery patron program.

The AGLC Agents were required to enter a fenced off area within the beer garden to purchase alcohol. The alcohol service monitors were located within this fenced off area. A staff briefing is conducted before every event at Northlands. There is no specific "refresher" training course for employees because verbal review/training and employee sign-off is conducted at the beginning of every shift for every event. Training is ongoing and progressive.

IV. Summation

Ms. H.

The AGLC takes the issue of minors trying to obtain liquor very seriously. It is often difficult to tell if a person is of legal age just by looking at them, so licensees must ask for proof of age in order to eliminate any situation where a purchaser of liquor is potentially a minor. That is why the AGLC implemented this policy and the policy is regulated. Every individual in the liquor industry must assume responsibility for ensuring liquor is not served to minors and the CSR Division believes the AGLC took reasonable and sensible steps in this matter. The Under 25 Program is well publicized and the AGLC supplies signs and pamphlets to licensees advising them of their responsibilities. The AGLC advised licensees that audits would be undertaken, as noted in the November 4, 2013 letter from the Director of the CSR Division.

During two separate audits conducted at the premises, the Agents were not asked for identification from two different staff members when liquor service was requested and ultimately provided. Section 121 of the *Gaming and Liquor Act* states "if an employee or an agent of a licensee contravenes a provision of this Act, the licensee is deemed also to have contravened the provision unless the licensee establishes on a balance of probabilities that the licensee took all reasonable steps to prevent the employee or agent from contravening the provision".

Northlands has indicated to the Panel that they took reasonable steps based on Section 121 of the *Gaming and Liquor Act*. The CSR Division respectfully disagrees with Northlands' assertions, as more could have been done to prevent the contraventions from occurring. Of particular concern, it does not seem as though the intent of the alcohol service monitor position was met. One of the duties of the alcohol service monitors is to ensure that young looking patrons do not obtain alcohol. The CSR Division is of the opinion the alcohol service monitor has the same responsibilities as a server with respect to requesting identification from patrons who appear to be under 25. The alcohol service monitor should be required to sign an Alcohol Service Agreement at the commencement of each shift. There appears to be no communication between the alcohol service monitors, the security staff and servers.

The CSR Division respectfully submitted that the original administrative sanction previously offered by upheld.

Northlands

Northlands fully appreciates the incidents as described did, in fact, occur. There were in excess of 400 patrons within the beer garden at the time of the incidents. The role of the alcohol service monitor and security staff must be taken into account. It is unreasonable to expect the alcohol service monitor to check the identification of patrons. It is the servers' responsibility to ask for identification and in the incidents in question, they failed in their responsibilities. The role of the alcohol service monitor is to watch for over consumption of alcohol, to ensure the premises it not over capacity and to ensure patrons are not smoking in a non-smoking area.

Northlands believes they have met the test of due diligence in doing everything they possibly could to prevent the incidents in question from occurring.

V. Finding

The Panel finds that there was a contravention of Section 5.5.8 of the Licensee Handbook when two different servers failed to request identification from the AGLC Agents. However, the Panel is impressed with the steps Northlands has taken with respect to their staff training program. The Panel recognizes that no program is perfect and wishes to congratulate

Northlands on the time that is taken to brief each employee on AGLC and Northlands' house policies at the beginning of every shift. The Panel also appreciates it is difficult to monitor under aged drinking in a minors permitted area. Northlands serves over one million people a year and it is evident they take responsible liquor service very seriously. It is Northlands' house policy to request identification from any patron who appears to be under 30 years of age.

Northlands took appropriate action with respect to the incidents in question by suspending Ms. Ha. and Ms. M. for a period of three days. The Panel is also pleased Northlands has added an additional level of control by employing alcohol service monitors. Following these incidents, Northlands modified the employee sign-off sheets to include a sign-off not only by the employee but also by the supervisor. The Panel is of the opinion Northlands exercised an appropriate level of due diligence and did all that was reasonably possible to prevent the incidents in question from occurring.

VI. Penalty

As the Panel is of the opinion the licensee did all that was reasonably possible to prevent the incidents in question from occurring, the Panel is not imposing a penalty for a contravention of Section 5.5.8 of the Licensee Handbook.

Signed at St. Albert this 18th day of February, 2015.

A handwritten signature in black ink, appearing to read 'J.P. Hansen', written in a cursive style.

J.P. Hansen, Hearing Panel Chair