

**HEARING BEFORE A PANEL  
OF THE BOARD OF THE  
ALBERTA GAMING, LIQUOR & CANNABIS COMMISSION**

**IN THE MATTER OF the *Gaming, Liquor and Cannabis Act*  
Revised Statutes of Alberta 2000, Chapter G-1  
current as of June 27, 2018  
and the Regulation**

**and**

**C. D.  
Edmonton, Alberta**

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<b>DATE OF HEARING:</b>	<b>November 29, 2018</b>
<b>HEARING PANEL:</b>	<b>Ms. B. Ritzen, Panel Chair Ms. G. MacLeod, Panel Member</b>
<b>REGISTRANT REPRESENTATIVES:</b>	<b>Ms. S. De., Legal Counsel Mr. C. D., Registrant Mr. T. P., Labour Relations Officer</b>
<b>REGULATORY SERVICES DIVISION:</b>	<b>Mr. J. M., Hearing Officer</b>

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**DECISION OF THE HEARING PANEL**

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**I. Jurisdiction and Preliminary Matters**

As a result of receiving an Incident Report dated March 19, 2018, the Regulatory Services Division of the Alberta Gaming and Liquor Commission imposed an administrative sanction under section 91(2) of the *Gaming and Liquor Act* on C. D. (“the Registrant”).

The Registrant subsequently requested a hearing under Section 94(1) of the *Gaming and Liquor Act*. The matter was originally scheduled for hearing in June of 2018 but was adjourned several times at the request of the Registrant.

Some of the information related to this matter references the *Gaming and Liquor Act*. On June 27, 2018, the *Gaming and Liquor Act* was amended by Bills 6 and 26, changing, among other things, the name of the statute to the *Gaming, Liquor and Cannabis Act* and the name of the corporation to the Alberta Gaming, Liquor and Cannabis Commission (“AGLC”). Also effective June 27, 2018, the Gaming

and Liquor Regulation was amended by Alberta Regulation 13/2018, changing the name to Gaming, Liquor and Cannabis Regulation (AR143/96) along with other amendments.

All relevant provisions, including section numbers, remain in effect under the new *Act* and Regulation. Accordingly, any reference to legislation in this decision will be to the *Act* and Regulation currently in effect (“the *Act*” and “the Regulation”).

A Hearing Panel of the Board of the AGLC met to consider the following alleged contravention of the *Act*:

**Section 91(1)(f): Commit any act that is contrary to the public interest or that detracts from the integrity with which activities authorized by the registration are to be conducted in Alberta.**

The Registrant and the Hearing Panel were provided with a hearing file containing the Incident Report and various documents pertaining to the alleged contravention which occurred on January 25, 2018. The Registrant confirmed receipt of the hearing file and the Notices of Hearing. These documents were collectively entered into evidence as Exhibit #1.

## **II. The Issue**

Did the Registrant commit an act that is contrary to the public interest or that detracts from the integrity with which activities authorized by his registration are to be conducted?

## **III. Evidence**

### **Regulatory Services Division**

In addition to Exhibit #1, the Regulatory called three witnesses:

#### **Investigator S. H.**

Mr. H. is an Investigator with the AGLC. Prior to joining the AGLC, he had been an Edmonton City Police Officer for approximately 26 years.

After receiving information about an incident which had occurred at the Grand Villa Casino (“the Casino”) on January 25, 2018, he began an investigation. As part of the investigation, he reviewed the video surveillance footage from the Casino, which was played for the Panel and entered into evidence as Exhibit #2. There is no audio on the video.

The video showed the lobby entrance of the Casino, at which two security guards were present. A male person entered the lobby and interacted with the security guards. A scuffle ensued. Another security guard, identified as the Registrant, came to assist. As he walked over to the group, he pulled on gloves. The video shows him holding the male person’s head down and striking him in the rib area.

The male was handcuffed and escorted to an interview room on the second floor of the Casino. He was placed on a chair. The video shows that the male seemed to be quite agitated. At one point, he kicked, or attempted to kick, one of the security guards. The security guards quickly pulled him off the chair and

onto the ground. The Registrant was pushing down on the male's head in a manner that Investigator H. described as aggressive.

While struggling with the male, the Registrant appeared to turn to another guard, identified as B. A.. Mr. A. was standing by the light switch; he switched the lights off and then a short while later switched them back on. A few minutes later, the Registrant again turned to Mr. A. who switched the lights off and then a while later, switched them back on. Investigator H. was unable to determine what, if anything, occurred when the lights were off; however, when the lights were back on, it did not appear that the male had been assaulted. The male was eventually controlled, members of the Edmonton Police Service arrived and the male was escorted from the Casino.

After reviewing the video, Investigator H. interviewed several witnesses to the event. S. P. was the security supervisor on duty at the time of the incident. She gave him transcripts of interviews that had been conducted by Casino personnel shortly after the incident, as well as an occurrence report from the Casino surveillance room. These documents were attached to the incident report prepared by the Investigator.

Investigator H. interviewed Mr. A. who indicated that he had been directed to turn off the lights by the Registrant on two separate occasions. He did not know why the Registrant told him to do that; but as he was a new security guard, he followed the direction of the senior guard.

Investigator H. interviewed the Registrant. The audio tape of this interview was played for the Panel and entered into evidence as Exhibit #4. The Registrant advised that he was no longer working and that his employment had been terminated because of this incident. He said that the male had been denied entry to the Casino several times that night. He appeared to be under the influence of drugs.

After having checked the parking lot, the Registrant was in the elevator which opened on the main floor lobby area of the Casino. He noticed the altercation involving the male and the two security guards and went over to back them up. He said that he pinned the male down because he was resisting. He did not punch him but did hit him in the muscle area. The male was taken to the interview room. The Registrant helped control him. He covered the male's eyes so that he couldn't see the guards. He denied telling anyone to shut off the lights. He told the Investigator that he had asked Mr. A. to close the door because he did not want patrons or others to be disturbed by the commotion.

Investigator H. noted that the door, as shown in the video, was on the left side of the Registrant whereas the light switch was on his right side. The video showed the Registrant gesturing to his right. Also, the Registrant was positioned so that his body was up against the door. For these reasons, Investigator H. did not believe that the Registrant's explanation made sense. He confirmed that he had not shown the video to the Registrant nor had he given him the transcripts of the statements taken by Casino personnel.

Investigator H. felt that the force used by the Registrant was excessive. Training suggests that only as much force as is necessary to control a situation should be used. Verbal commands should be used. He did not notice any verbal commands being given by the Registrant. He thought that the punches, pushing down on the male's head and what he characterized as knee stuns shown in the video were excessive. Although he is not an expert in use of force, he has experience and received training as a police officer.

#### **S. P.**

Ms. P. is currently a security compliance manager at the Casino. At the time of the incident, she was on duty and was the Registrant's supervisor. She received a call from B. J. (who was one of the security guards in the lobby) that back up security was required. She attended the scene. The guards had the male patron on the floor and were trying to get handcuffs on him. She noticed the Registrant punch the male in the ribs with a closed fist three times. She said that he did not take a full swing. She told the Registrant to calm down and he did. When the male was escorted upstairs, she stayed downstairs but then went up to the interview room later. Mr. A. turned off the lights. She doesn't know who told him to do it.

She and the Registrant had worked together for several years before the incident and had taken training on use of force in August of 2016. There had been no concerns or disciplinary issues with respect to the Registrant before this incident.

Within 24 hours after the incident, she prepared the witness statement which is attached to the Incident Report. A Corporate Security Manager (Chris) came from Vancouver approximately one week after the incident to conduct an investigation on behalf of the Casino. Following that investigation, the Registrant's employment with the Casino was terminated.

#### **B. A.**

At the time of the incident, Mr. A. had been working as a security officer with the Casino for two months on a part time basis. He met the guards with the male patron at the top of the escalator and went to the interview room. The male patron was erratic and unpredictable. At times he was calm, but at other times, he was aggressive and unruly. Guards were telling him to calm down but Mr. A. doesn't think that the words had any effect. He tried to fight his way out and kicked one of the other guards. He was taken to the ground and restrained by several guards. Mr. A. was restraining his arm and later was standing by the door. He turned the lights off, then on again and then repeated those actions. There was lots of noise, with everyone yelling. He recalls that the Registrant told him to turn the lights off. In the statement he provided to the Casino investigator, he had said that he wasn't sure who told him but that he heard someone say it and after multiple times of being told, he did it. He stated that while he doesn't know for certain who told him, he believes that it was the Registrant.

Mr. A. said it was not possible that the Registrant was gesturing to close the door but that instead he turned off the lights. He noted that the Registrant gestured towards the light switch.

#### **The Registrant**

The Registrant testified on his own behalf. After coming to Canada in 2011 and working at various jobs, he began working as a casino security officer in 2014. He started at the Baccarat Casino and then moved to Grand Villa Casino when it opened in 2016. He took the necessary training related to his gaming registration (ProServe and ProTect) in addition to training on First Aid and PPCT (Pressure Points and Control Tactics). As a security guard, he was responsible for the safety of patrons and staff.

On January 25, 2018, he saw the male trying to punch the security guard in the lobby. He heard one of the security guards calling for backup. He went to assist. He put on gloves because the training he had received recommended that they be worn to protect the guards and to prevent them from scratching

the patron. The male was under the influence of drugs, swearing and resisting. The Registrant gave him a punch in the muscle area (not the ribs). He had been trained to do whatever is necessary but not to hit a person in the bones, just to hit the muscles. When he got the chance, he punched the male so that they could handcuff him. The Registrant thought the force used was necessary.

He described the interview room as being close to the cash cage and to where patrons were playing slot machines. At first, he remained outside of the interview room, trying to relax after having tried to protect the other guards and himself. He went into the interview room to find out where to go next; he was instructed to stay in the room. The male was swearing, yelling at them to let him go. The Registrant told him to calm down, wait for the police to come. The male was nice to him but mad at the other guard. The Registrant was the most senior guard in the room

The male kicked one of the guards in the groin area. The Registrant covered his eyes so that he wouldn't see them and held his head so that he wouldn't hit it on the wall. The male was still resisting and yelling that he would kill them. The Registrant told Mr. A. to close the door so that people playing slots wouldn't be distracted. He didn't know where the door was. Usually, the door is closed. Nothing happened when the lights went out. He told Mr. A. to remove the chair in the interview room so that the male could not use it as a weapon. He put his knee on the male's back, not his neck and kept telling him to calm down.

Turning off the lights is contrary to the policy and against the rules. He was just trying to control the person.

The Registrant denied pushing on the male's head. He explained that the guards could not have just pinned the male down in the lobby, even though there were several of them, because the male was too strong. He did not feel that the guards could have just stood at the door of the interview room instead of being in it with the male.

He acknowledged that the door to the interview room was an automatically closing door and that the position of his body was preventing it from closing.

He had no previous disciplinary record, had received awards for security matters and had been asked to become a security supervisor. He liked being a security guard and thought he had used only the force necessary. He believed he was doing what he had been trained to do.

He was fired from his job at the Casino as a result of this incident.

#### **IV. Summation**

##### **Regulatory Services Division**

The issue in this case is whether the Registrant committed any act that is contrary to the public interest or that detracts from the integrity with which activities authorized by his gaming registration are to be conducted. The force used by the Registrant, including punching the male patron, was more than was necessary. Directing Mr. A. to turn out the lights brings the integrity of the process followed into question. The Regulatory Services Division determined that these acts contravened Section 91(1)(f) of the *Act*, and cancelled the Registrant's gaming worker registration. The Panel should uphold the decision.

## **The Registrant**

The burden of proof in this matter rests with the Regulatory Services Division who must demonstrate on a balance of probabilities that there was a contravention. The Panel must be satisfied that it is more likely than not that the events occurred. In assessing the credibility of witnesses, the Panel should take into account their demeanor, the firmness of their recollection, clarity, and consistency and the presence or absence of any self-interest. The Panel should consider what is most plausible.

The Registrant denies telling anyone to turn off the lights. Ms. P. has no recollection of who directed them to be turned off. Mr. A. said he was not sure who told him to do it. He believes it was the Registrant but he does not know. The video shows the Registrant gesturing behind him toward the light switch and the door. The video also shows Mr. A. reaching for the door. The Registrant said he wanted the door to be closed so that patrons would not be disturbed. There is no clear and convincing evidence that the Registrant told Mr. A. to close the door. The Regulatory Services Division did not satisfy the burden of proof in relation to this allegation.

With respect to the use of force, it is not clear what the allegation is. The Registrant used force to restrain the patron who was threatening violence, kicking and punching. Ms. P. had no concerns about the force used in the interview room. No expert evidence was called about the appropriate use of force. Although Investigator H. thought that voice commands should have been given, he made no effort to find out if they had been. He failed to interview one of the guards present throughout the incident and did not show the transcripts or the video to the Registrant when he interviewed him.

The Regulatory Services Division did not satisfy the burden of proof. The allegations are serious and the cancellation of his registration has deprived the Registrant of his livelihood.

## **V. Analysis**

A gaming worker registration is a privilege, not a right. Those who have been issued such a registration are held to high standards. They must comply with applicable rules, regulations and policies. They must conduct themselves in a manner which is aligned with the public interest and which maintains the integrity of the gaming industry. Section 91 of the Act authorizes the Board to take certain actions if a registrant fails to meet these requirements. One such action is the cancellation of a licence or registration (Section 91(2)(d)).

In this case, the Registrant is alleged to have acted contrary to the public interest or in a manner which detracts from the integrity of gaming activities. Two primary areas of concern were identified by the Investigator: the amount of force used by the Registrant and the issuance of a direction to turn off the lights in the interview room.

With respect to the use of force, the Panel makes the following findings of fact:

1. The Registrant punched the male patron three times in the midsection. These punches are shown clearly on the video, the Registrant admits that he punched the patron but emphasized that the punches were to the muscle area, not the bones and Ms. P. testified that she saw the Registrant punch the male three times with a closed fist;

2. The Registrant pushed down on the male patron, put his hand over his face area and put his knee on his back. The video shows these three actions. The Registrant admits that he put his hand over the male's eyes and that he put his knee on his back.

The Registrant claims that the force used was necessary. However, Ms. P. indicated that she had to tell him to calm down. The Investigator, who admittedly was not an expert in use of force but who had many years of experience and training as a police officer, thought it was excessive. The video does not show that any efforts were made by the Registrant to de-escalate the situation when he arrived in the lobby area; he ran over, putting on gloves and joining the physical efforts to restrain the male. The only explanation he gave for why the five or six guards present at the scene could not have simply held the patron was that the patron was very strong. He could not explain why the guards had to be in the interview room rather than waiting outside for the police to arrive.

With respect to the lights, the video clearly shows that the lights were turned off and then on by Mr. A. on two occasions. It is not suggested by anyone that anything untoward happened when the lights were off. However, turning the lights off was, according to the Registrant, contrary to the rules and to policies. The fact that they were turned off casts doubt about the integrity of the system. Surveillance cameras are there for a reason. They protect workers and patrons. They are not effective if the lights are out.

The Registrant insists that he did not direct Mr. A. to turn off the lights. He says that he told Mr. A. to close the door. However, after assessing all of the evidence, the Panel is satisfied on a balance of probabilities that the Registrant did instruct Mr. A. to turn off the lights. The video clearly shows the Registrant pointing to the light switch which was on his right side whereas the door was to his left. Mr. A. believes, although he cannot say for sure, that it was the Registrant who directed him to turn off the lights. The Registrant's own evidence suggests that he was in charge. He was the senior person in the room and was issuing directions to the other guards (e.g. to remove the chair). It is consistent with that role that he would have been the one instructing Mr. A. to turn off the lights. The Registrant's suggestion that he was telling Mr. A. to close the door is not plausible. The door, as noted, was to his left side – he was pointing to his right. The door is an automatically closing door which was being held open by the Registrant's body. Mr. A. could not have closed the door because the Registrant was in the way. If the Registrant wanted the door closed, he just had to move.

The Panel finds that the Registrant did not try to de-escalate the altercation, failed to consider alternative means of handling the situation and resorted to physically restraining the male through punches and other measures. He instructed Mr. A. to turn off the lights, contrary to policy and the rules. These actions, considered cumulatively, are contrary to the public interest and detract from the integrity of gaming activities.

With respect to sanction, the Panel took into account that the Registrant has had a clean record, with no previous disciplinary actions, he has been commended as a good worker, he believed that he was acting in a manner consistent with his training and his work experience and that he was attempting to protect his fellow officers and the patron. He did what he thought he had to do. However, the seriousness of the contravention outweighs all of those factors. As noted above, those who have been issued a registration must adhere to high standards of conduct. The Registrant failed to do so.

## **VI. Finding**

Pursuant to Section 94(7)(a) of the *Act*, the Panel confirms the original decision including the sanction imposed.

Signed at St. Albert this 2<sup>nd</sup> day of January, 2019.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

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B. Ritzen, Hearing Panel Chair