

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

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

and

**2409729 Alberta Ltd.
o/a Canadian Maple Spirits & Wine (Licensee)
103-2319 9 Street
Nisku, AB T9E 7Z7**

DATE OF HEARING:	April 27, 2023
HEARING PANEL:	Len Rhodes, Presiding Member Elan Harper, Panel Member Jack Fujino, Panel Member
LICENSEE / REPRESENTATIVES:	Neeraj Passi, Employee/Former Director of Canadian Beaver Brewing & Distillery Ltd. Baleshwar Singh Virk, CEO and Shareholder/ Former Director of Canadian Beaver Brewing & Distillery Ltd. Sukhpal Singh Gill, Owner
REGULATORY SERVICES DIVISION:	Petrina Nash, Hearing Officer

DECISION OF THE HEARING PANEL

The Panel finds that the Licensee did not provide fulsome and accurate information during the licensing process with respect to Mr. Neeraj Passi and Mr. Baleshwar Virk's involvement in the Class E Small Manufacturer liquor licence numbered 784164-1, issued to 2409729 Alberta Ltd.

In accordance with section 76.2 of the Gaming, Liquor and Cannabis Regulation (the Regulation), the Panel orders the Licensee to report the current ownership structure of 2409729 Alberta Ltd. to the Regulatory Services Division within 10 days of the issuance of this decision.

The Panel does not find that the representatives of the Licensee contravened section 100 of the *Gaming, Liquor and Cannabis Act* (the Act).

However, in accordance with section 91(2) of the Act, the Panel imposes the following condition on the Class E Small Manufacturer liquor licence numbered 784164-1:

- The Licensee must report and remit to AGLC on a bi-weekly basis: any and all sales transactions, including transactions between the premises' Class E Small Manufacturer's licence and the premises' Class D off-sales licence, and any other sales channel and any balance owed to AGLC.

As a result of the information withheld by the Licensee at the time of licensing, the Panel directs that Regulatory Services complete a review of the eligibility of the Licensee prior to the expiration of the licence on August 29, 2023. Regulatory Services shall evaluate the Licensee's compliance with the above licence condition and shall apply the standard eligibility criteria in accordance with section 13 of the Regulation, including a review of the involvement of Mr. Neeraj Passi and Mr. Baleshwar Virk and their families in the business, to determine whether the licence will be reissued.

I. Jurisdiction and Preliminary Matters

[1] On February 3, 2023, Gary Peck, the Vice President of Regulatory Services of the Alberta Gaming, Liquor and Cannabis Commission (AGLC) contacted Len Rhodes, Board Chair, via email to request that the Board convene a hearing for 2409729 Alberta Ltd., operating as Canadian Maple Spirits & Wine (the Licensee), as a result of alleged contraventions of:

- Section 13 of the Regulation: The board may refuse to issue a licence to an applicant or to register an applicant if the board is satisfied that the applicant, any of the applicant's employees or associates or any other person with connections to the applicant
 - a) is a person who has not acted or may not act in accordance with the law, with honesty and integrity or in the public interest, having regard to the past conduct of the person,
 - d) would be a detriment to the lawful manufacture, import, purchase, sale, provision, transport, possession, storage, use or consumption of liquor.
- Section 100 of the Act: Every licensee or registrant must, when required in writing by the Commission, provide the Commission with reports and information specified by the Commission for the purposes of determining if this Act and the conditions imposed on the licensee's licence or registrant's registration are being complied with.

[2] Pursuant to sections 91(1)(a) and 91(2) of the Act and the Administrative Sanction Guideline for Violations, the Board Chair directed that a hearing before a Panel of the Board be convened.

[3] In accordance with section 11 of the Act, the Chair of the Board designated three members of the Board to sit as a Panel to conduct the hearing and make a decision – Len Rhodes (Presiding Member), Elan Harper, and Jack Fujino.

[4] The Licensee was provided a Notice of Hearing via recorded mail and email on February 13, 2023.

[5] The parties and the Panel were provided with a record containing various documents pertaining to the issues before the Panel. The representatives for the Licensee confirmed receipt of the Notice of Hearing and the attached hearing record. The following documents were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs A to C

[6] During the hearing, the representatives for the Licensee asked Supervisor Robin Carter, witness for Regulatory Services, to produce copies of email correspondence that he referred to in his oral submissions. Regulatory Services did not object to the entry of the emails and the Panel directed that the emails be shared with the parties and the Panel at the hearing. The emails were entered into evidence as:

- Exhibit 2 August 2022 emails from Liquor Services and Mr. Passi

[7] In this decision, Canadian Maple Spirits & Wine is referred to as “the Nisku location” and Canadian Beaver Brewing & Distillery is referred to as “the Brooks location.”

II. Issues

[8] Did the Licensee contravene section 13 of the Regulation and/or section 100 of the Act?

[9] If the Licensee contravened either of the above provisions, what sanction(s) should the Panel impose in accordance with section 91(2) of the Act?

III. Regulatory Services Submissions

[10] Regulatory Services called Inspector Josh Rabey and Supervisor Robin Carter as witnesses to give evidence. The following is a summary of the documentary and oral evidence provided by Inspector Rabey and Supervisor Carter.

Background

[11] Inspector Rabey has been an inspector with AGLC for four and a half years and, at the time of the incident, he was a Manufacturing Specialist inspector.

[12] Supervisor Carter oversees the small manufacturers inspection program and the inspectors dedicated to Class E Small Manufacturers.

[13] Inspector Rabey prepared the Incident Report for Canadian Beaver Brewing & Distillery Ltd. (Exhibit 1, Tab A) dated February 1, 2023 surrounding events that occurred between September 2022 and January 2023.

[14] Inspector Rabey explained that small liquor manufacturers in Alberta are required to pay markup to AGLC for any product they sell. He explained that markup is essentially a provincial tax paid to AGLC at the time liquor is sold.

[15] In 2021, after a pattern of non-payments of markup, Supervisor Carter and Inspector Rabey met with Mr. Neeraj Passi and Mr. Baleshwar Singh Virk, directors of Canadian Beaver Brewing & Distillery

Ltd., to discuss the issue. Inspector Rabey recalled that the Brooks location set up a payment plan with the Liquor Services branch at AGLC and he believed they had cleared up payments owing for 2021.

[16] Inspector Rabey stated that Mr. Passi was 75 per cent owner and Mr. Virk 25 per cent owner of the Brooks location.

[17] In 2022, Liquor Services advised Supervisor Carter that the Brooks location had again not been paying markup to AGLC and that Liquor Services had contacted the Brooks location at least four times seeking payment of outstanding markup. Supervisor Carter advised the Panel that of approximately 135 small manufacturers in Alberta, the same 5 or 6 licensees regularly fail to remit markup payment. The Brooks location regularly failed to remit.

[18] Supervisor Carter instructed Inspector Rabey to attend the premises to follow up on the non-payments and conduct a maintenance inspection.

[19] Inspector Rabey advised the Panel that typically, inspections of Class E Small Manufacturers are scheduled in advance with the Licensee as the inspection is thorough and involves meeting with a number of employees and reviewing a lot of information. However, Inspector Rabey advised the Panel that he had been trying to schedule an inspection with the Brooks location for a few months but director/operator, Mr. Passi, kept cancelling. As a result, Inspector Rabey elected to conduct a surprise inspection on September 9, 2022.

The Brooks location

[20] On September 9, 2022, Inspector Rabey attended Canadian Beaver Brewing & Distillery in Brooks, Alberta.

[21] Upon his arrival, he found that the premises were locked and there were notices on the front and back entries stating that the business had gone into receivership on September 2, 2022. Inspector Rabey took a photo of the notice, which was included as attachment 1 to the Incident Report (Exhibit 1, Tab A).

[22] Inspector Rabey stated that the Brooks location did not notify AGLC that a receivership Order had been granted and that, shortly after his visit to the premises, Inspector Rabey was informed that Mr. Passi and his business partner, Mr. Virk, had recently received another Class E liquor licence for a facility in Nisku, Alberta.

[23] On September 12, 2022, Inspector Rabey contacted Mr. Passi to discuss the receivership. Mr. Passi indicated that he did not have much information to share as he no longer had access to records from the Brooks location and that the Brooks location had "nothing to do with the Nisku operation." Mr. Passi shared that the Brooks location had not had any production in 2022 and that he was no longer involved in the business and was unable to answer any more of Inspector Rabey's questions regarding the Brooks location's operations prior to the receivership.

[24] Inspector Rabey scheduled a visit to the Brooks location with a representative of the receiver in order to review paperwork at the Brooks location in an attempt to determine how much product had been produced and sold without AGLC markup being paid.

[25] On September 26, 2022, Inspector Rabey attended the premises and met with two employees of the Brooks location that had been retained by the receivership company, B.G. and J.D.

[26] B.G. identified herself as an office administrator and J.D. as a brewery assistant.

[27] Inspector Rabey asked J.D. to provide him with the documents containing production information, known as "brew sheets." J.D. produced some brew sheets from a folder then opened a filing cabinet and pulled more sheets out of the back of the drawer. J.D. advised Inspector Rabey that he was previously instructed by Mr. Passi to hide the brew sheets in anticipation of an AGLC inspection. J.D. provided a written statement about the instructions he received from Mr. Passi. J.D. also provided a copy of text messages sent from Mr. Passi to J.D. and B.G. about what date to tell Inspector Rabey that production started if he arrived for an inspection (Attachments 2 and 3 to the Incident Report).

[28] Inspector Rabey reported that during his visit on September 26, 2022, B.G. attempted to show him the sales information stored on the internal tracking website used by the Brooks location. B.G. clicked on the tab to show sales from 2022 but there was no information available. Inspector Rabey had seen the site before and recalled that the sales information was previously available on the site.

[29] B.G. asserted the information was stored there previously and she did not know why it was deleted. She advised Inspector Rabey that she was told the site is owned by a company in India and only Mr. Passi and the site owner had administrator control that would allow the deletion of information. She provided Inspector Rabey with a written statement stating the same, included as Attachment 4 to the Incident Report.

[30] Supervisor Carter submitted that he is of the opinion the records were purposefully hidden and that the employees had been instructed by Mr. Passi to mislead Inspector Rabey.

[31] As part of his investigation, Inspector Rabey gathered all of the paperwork and information available to him to attempt to determine production values.

[32] Inspector Rabey advised the Panel that, despite that Mr. Passi had instructed his employees to tell him there had not been any production since December 2021, the brew sheets depicted that production had occurred in 2022. Inspector Rabey noted that the brew sheets also indicated outstanding balances payable by the Brooks location to raw product suppliers.

[33] Based on the information available to him, Inspector Rabey determined that the Brooks location produced at least 21,200 litres between February 23 and August 26, 2022. There were no brew sheets available prior to February 23, 2022.

[34] The representative for the receiver advised Inspector Rabey that at the time of receivership, they conducted an inventory of product on site. They found three full tanks, just over two pallets of finished product and approximately twenty kegs.

[35] Inspector Rabey suggested that based on the difference in product reported on site by the representative for the receivership company and the amounts indicated on the brew sheets and packaging records he reviewed, he estimated that 19,300 litres of product was packaged and sold without markup being paid. No sales had been reported during the time period reflected on the brew sheets. This amount of liquor production would result in the Brooks location owing \$1,930 in markup.

[36] Supervisor Carter advised the Panel that Regulatory Services elected not to make a claim for collection of this amount from the receiver as there were numerous other creditors.

[37] Supervisor Carter also stated that he was advised by Liquor Services that the Brooks location modified their bank accounts approved for paying markup to AGLC in early August 2022. Inspector Rabey suggested that the accounts were modified because Mr. Passi and Mr. Virk were aware of the imminent receivership and that if AGLC were to take notice, it would jeopardize eligibility for a new licence.

[38] On November 17, 2022 Inspector Rabey contacted Mr. Passi to advise him that an incident report would be submitted. Mr. Passi reiterated that he had no access to records pertaining to the Brooks location and that he was unable to assist.

[39] On December 12, 2022, Inspector Rabey sent a letter to Mr. Passi and Mr. Virk requiring them to provide a number of specified production reports, records and invoices by December 20, 2022, in accordance with section 100 of the Act (section 100 letter). Inspector Rabey described a section 100 letter as a formal, legal demand for information if it is not being willingly provided by a licensee. He advised the Panel that it is fairly uncommon and is used as a last resort before pursuing obstruction charges.

[40] The section 100 letters sent to Mr. Passi and Mr. Virk stated that "failure to provide this information may result in indefinite suspension of all licences."

[41] Inspector Rabey received an email delivery receipt notification confirming that Mr. Passi opened the email containing the letter on December 22, 2022. Inspector Rabey received a notification on April 15, 2023 that Mr. Virk had deleted the email message without opening it.

[42] Inspector Rabey did not receive a response from Mr. Passi or Mr. Virk before the deadline. As such, the matter was forwarded to Supervisor Carter for follow up.

[43] Supervisor Carter sent a follow up email to Mr. Passi on December 23, 2022 asking Mr. Passi to confirm receipt of the section 100 letter or to contact him to arrange personal delivery of the letter. Mr. Passi responded and confirmed that he had received the letter but that the Brooks location had gone into receivership and that he no longer had access to the records.

[44] Supervisor Carter responded with general questions about activities at the Brooks location prior to the receivership and asking why AGLC was not informed about the receivership.

[45] Mr. Passi responded that he was of the opinion it was the responsibility of the Court-appointed receiver to inform AGLC of the receivership as he was advised by the receiver to cease involvement in any activities pertaining to the Brooks location.

[46] In his email response, Mr. Passi admitted that the Brooks location had produced in 2022 but that the production had only begun in August. He also advised Supervisor Carter that the Brooks location destroyed a large quantity of 2021 product in 2022.

[47] Supervisor Carter advised the Panel that in all previous communications from Mr. Passi he asserted the Brooks location had no production in 2022. At the request of the Licensee, Supervisor Carter produced copies of email correspondence from August 2022 from Liquor Services and Mr. Passi (Exhibit 2) wherein Mr. Passi indicated there was no production in 2022.

[48] Supervisor Carter suggested that Mr. Passi changed his story as a result of having received the Incident Report and having been made aware of the findings of Inspector Rabey. Further, the amount of product that Mr. Passi claimed was produced but then destroyed did not coincide with the product inventoried by the receiver when it took over the Brooks location nor with Inspector Rabey's findings.

[49] Supervisor Carter advised the Panel that Class E licensees are required to notify Regulatory Services of intent to destroy and keep detailed records of destroyed product. He suggested that the amount of product Mr. Passi claimed was destroyed, seemed excessive and Supervisor Carter estimated that the amounts provided would only account for "about half" of what Inspector Rabey determined was produced.

The Nisku location

[50] Both Inspector Rabey and Supervisor Carter affirmed that if AGLC was aware of the receivership of the Brooks location, AGLC would have required the Brooks location to remit all outstanding payments before issuing the licence for the Nisku location.

[51] Inspector Rabey clarified that the Licensee of the Nisku location is a numbered company (2409729 Alberta Ltd.) operating as Canadian Maple Spirits & Wine. Prior to amending its name in January 2023, the Nisku location was operating as Canadian Beaver Brewing and Distillery.

[52] The ownership structure of the numbered company (2409729 Alberta Ltd.) that was submitted at the time of licensing reflected Mr. Passi as the director, with three shareholders: Mr. Passi's wife (25 per cent), Mr. Virk (25 per cent) and 2441587 Alberta Ltd. (50 per cent), which is owned by Sukhpal Singh Gill and his family members.

[53] Regulatory Services submitted as Exhibit 1, Tab C, the corporate registration information for 2409729 Alberta Ltd. as of January 27, 2023. The corporate registry search indicated:

- Directors: A. Gill and M. Passi
- Shareholders: 2441587 Alberta Ltd., M. Passi and P. Virk

[54] Inspector Rabey advised the Panel that he believes Mr. Passi is acting in a manager capacity at the Nisku location and is in charge of day-to-day operations, similar to his previous role at the Brooks location.

IV. 2409729 Alberta Ltd. Submissions

[55] The representatives for the Licensee, Neeraj Passi, Baleshwar Singh Virk and Sukhpal Singh Gill, gave evidence on behalf of Canadian Beaver Brewing & Distillery Ltd. and 2409729 Alberta Ltd.

[56] Mr. Passi advised the Panel that he and Mr. Virk went to market for a new shareholder in early 2022 to safeguard the Brooks location. In February 2022, 2409729 Alberta Ltd. was established with Mr. Gill's investment, to salvage the Brooks location. Mr. Passi advised that their goal was to relocate Canadian Beaver Brewing & Distillery Ltd. to Nisku as Mr. Passi and Mr. Virk live in Edmonton and it was difficult to retain a brew master in Brooks.

[57] Mr. Virk described his role with the operations of the Brooks location as minimal.

[58] When asked about modifying the Brooks location's approved bank accounts, Mr. Passi explained that he and Mr. Virk had to open accounts with a new bank as their current bank would not offer them the services required for establishing 2409729 Alberta Ltd.

[59] Mr. Passi stated that the Brooks location did not have a brew master from February 2022 to August 2022 and, as a result, they had no production or sales and were unable to reconcile day-to-day expenditures which resulted in issues with their bank.

[60] In August 2022, the Brooks location retained a brew master who produced ten brews prior to the receivership.

[61] On September 2, 2022, the Court appointed a receiver and granted a receivership Order for the Brooks location. The Court-appointed receiver advised Mr. Passi and Mr. Virk that it would provide all required information to the Canada Revenue Agency and "any other institutions." Mr. Passi stated that he assumed that meant the receiver would notify AGLC of the receivership.

[62] Despite their awareness that the "business was not doing well," Mr. Passi advised the Panel that he thought the Court would grant them more time to reconcile their arrears and that he and Mr. Virk were surprised by the receivership.

[63] When questioned about whether Mr. Passi had any written communication from the receiver regarding contacting AGLC, Mr. Passi stated that he only received verbal instructions from a

representative for the receiver not to have any further involvement with the business including accessing records or communicating with agencies like CRA.

[64] Mr. Passi confirmed, when asked by Regulatory Services, that he was aware that the receivership of the Brooks location could impact his eligibility for licensing for the Nisku location.

[65] Mr. Passi and Mr. Virk disagreed that they had told AGLC the Brooks location had no production in 2022. They suggested that since there was no production prior to August 2022, there were no sales to report and no markup to be paid to AGLC.

[66] Mr. Passi and Mr. Virk agreed that they failed to remit markup for the Brooks location a number of times in 2021 but that they started a payment plan and had paid all arrears by the end of 2021.

[67] With respect to the text messages presented by Inspector Rabey, Mr. Passi stated that his employees had not experienced an AGLC maintenance inspection before and his instructions in the text message were reiterating what information Inspector Rabey would be asking them for.

[68] He asserted that he did not instruct J.D. to hide brew sheets but rather that he told J.D. to keep them off to the side so he would know where to find them when Inspector Rabey asked for them. Mr. Passi and Mr. Virk submit that they are responsible to AGLC and would not instruct employees to hide information or mislead Inspector Rabey.

[69] Mr. Passi suggested that the employees provided false statements to Inspector Rabey to discredit Mr. Passi because the employees were not paid for three months prior to the receivership.

[70] Further, Mr. Passi stated that he did not access the internal sales database for the Brooks location. He confirmed he has access but that only B.G. used the system. He was surprised that the records were not there as he instructed employees to keep electronic and physical records. Mr. Passi showed the Panel an example of the physical file folders used at the Nisku location and asserted Inspector Rabey should have found similar files during his inspection at the Brooks location.

[71] Mr. Passi confirmed that 15,000 litres of product was destroyed in 2022 but that product had been produced in 2021.

[72] When asked by the Panel, Mr. Passi submitted that there were no actual sales made by the Brooks location in 2022; all product brewed since August 2022 was in tanks or on pallets ready to be sold.

[73] Mr. Virk asserted that although he and his partner lost over \$1,000,000 in investments in the Brooks location, they would never intentionally withhold payment of markup from AGLC, especially for a nominal amount. Mr. Gill submitted that neither Mr. Passi nor Mr. Virk have demonstrated dishonest intentions since he became involved with them.

[74] With respect to the section 100 letters, Mr. Passi confirmed that he received the section 100 letter from Inspector Rabey but that, as he had no access to the records pertaining to the Brooks location and was instructed by the receiver to cease all involvement, he had nothing to provide and did not respond before the deadline set out in the letter.

[75] Mr. Virk did not recall receiving the section 100 letter in his email. He confirmed he was a majority owner (75 per cent) of the Brooks location but reiterated he had minimal involvement with the operations and did not read the incident report or correspondence relating to it. He advised that his interest in the Brooks location had been worn down and he was not “paying full attention to it.”

[76] Mr. Virk clarified that he is no longer a shareholder in 2409729 Alberta Ltd. but that his wife is. When asked by the Panel why, he stated that his wife wanted a financial interest in the company as a result of the losses incurred by the Brooks location.

[77] Mr. Gill stated that he is the majority shareholder for the Nisku location and that he offered Mr. Passi employment to offset the loss of the Brooks location and so that Mr. Passi could offer his expertise and assistance with day-to-day operations.

[78] However, Mr. Gill submitted that Mr. Passi divested his interests in 2409729 Alberta Ltd. in June 2022.

[79] When asked by the Panel to clarify what the current ownership structure is for 2409729 Alberta Ltd., Mr. Passi advised:

- Director: Mr. Gill
- Shareholders: Mrs. M. Passi (Mr. Passi’s wife) and Mrs. P. Virk (Mr. Virk’s wife)

[80] But when asked by the Panel to clarify what the current ownership structure is for 2409729 Alberta Ltd., Mr. Gill advised:

- Majority shareholder: 2441587 Alberta Ltd.
- Shareholders: Mrs. M. Passi (Mr. Passi’s wife) and Mrs. P. Virk (Mr. Virk’s wife)

[81] Mr. Gill submitted that he is heavily involved in the operations at the Nisku location and he is there every day. He asserted that he never visited the Brooks location and that the Nisku location is separate and apart from the matters before the Panel and that he should not be involved with the allegations.

V. Summation

Regulatory Services Division

[82] For clarity, Hearing Officer Petrina Nash, reiterates the ownership structure for 2409729 Alberta Ltd. that was submitted at the time of licensing and that is currently reflected on the licence for the Nisku location is as follows:

- Director: Mr. Passi
- Shareholders: 2441587 Alberta Ltd. (50 per cent), Mr. Virk (25 per cent) and Mrs. M. Passi (25 per cent)

[83] Regulatory Services has not received any notice from the Licensee prior to the hearing that there was a change in ownership.

[84] Section 13 of the Regulation allows the Board to refuse a licence to an applicant if the Board believes that the Applicant or any individual associated with the Applicant has not acted with honesty and integrity in past conduct or would be a detriment to liquor activities in Alberta.

[85] Inspector Rabey and Supervisor Carter have provided evidence that Mr. Passi and Mr. Work did not operate the Brooks location with honesty and integrity. They regularly failed to remit markup payments to AGLC, they modified approved bank accounts without notifying AGLC and they have provided misinformation about production at the Brooks location.

[86] Regulatory Services is of the opinion that Mr. Passi and Mr. Virk went to great lengths to mislead AGLC by directing employees to lie about production dates and hide information from Inspector Rabey. Further, Mr. Passi provided contradictory information to Supervisor Carter and Liquor Services regarding production dates at the Brooks location and failed to respond to a section 100 letter demand for information.

[87] AGLC relies on liquor licensees to act in good faith by reporting and remitting all sales transactions. By failing to do so and for neglecting to provide fulsome and accurate information in the application for the licence for the Nisku location, Regulatory Services is of the opinion that Mr. Passi and Mr. Virk have demonstrated duplicitous behavior and should not have any involvement with the Nisku location.

[88] Regulatory Services takes the position that the past behavior of Mr. Passi and Mr. Virk demonstrates a lack of regard for the regulatory body that oversees their business. Regulatory Services is of the opinion that this behavior is indicative of how they will conduct themselves should they continue to be involved in the operation of the Nisku location.

[89] As such, Regulatory Services requests that the Panel find Mr. Passi and Mr. Virk ineligible to hold a licence and require that they divest their interests in 2409729 Alberta Ltd. Further, in accordance with section 13 of the Regulation, that any family members of Mr. Passi and Mr. Virk also be required to divest their interests.

[90] If the Panel does not find Mr. Passi and Mr. Virk ineligible, Regulatory Services request that the following condition be imposed on the Class E liquor licence numbered 784164-1:

- The Licensee must report and remit to AGLC on a bi-weekly basis: any and all sales transactions, including transactions between the premises' Class E Small Manufacturer's licence and the premises' Class D off-sales licence, and any other sales channel and any balance owed to AGLC.

2409729 Alberta Ltd.

[91] Mr. Gill reiterates that the Nisku location is separate and apart from the Brooks location and he feels 2409729 Alberta Ltd. should not be involved in the allegations made regarding the Brooks location.

However, he suggests that he could pay the markup owed by the Brooks location on behalf of Mr. Passi and Mr. Virk if it would rectify the violations.

[92] Mr. Passi highlights the significant revenue that the Nisku location has generated for AGLC and that all transactions have been reported and amounts owing to AGLC remitted in accordance with AGLC policies.

[93] Mr. Passi reiterates the great deal of stress the receivership and relocation has caused for him, his partner and his family.

[94] Mr. Virk and Mr. Passi assert that their intentions were never to mislead AGLC. He suggests that it does not make sense that Mr. Passi would go through the trouble of hiding reports and information from Inspector Rabey and AGLC in order to avoid paying \$1,930.

[95] Mr. Virk reiterates that he did not review the section 100 letter and that he wished to move on from the issues with the Brooks location. He asserts that if he knew the letter was so serious, he would have read it and responded.

VI. Analysis

[96] The Panel carefully considered the oral and documentary submissions of Regulatory Services and the oral submissions of the representatives for the Licensee.

[97] Inspector Rabey gave evidence that he attended the Brooks location on September 9, 2022 and found that the business had gone into receivership. The Panel finds that neither Mr. Passi nor Mr. Virk informed AGLC of the receivership.

[98] Inspector Rabey and Supervisor Carter gave evidence that Mr. Passi misled AGLC about production that occurred at the Brooks location in 2022. Mr. Passi suggested that the Brooks location destroyed some product in 2022 and that the only liquor produced started in August 2022 and was absorbed by the receiver.

[99] Inspector Rabey reported that based on his investigation following the receivership of the Brooks location, the amount of liquor product recovered would have resulted in \$1,930 of markup owed to AGLC. The Panel finds that due to the receivership, this amount can no longer be collected.

[100] However, AGLC is mandated as the wholesaler of record for all small liquor manufacturers in Alberta so adhering to the reporting and remittance process is imperative for all licensees. This process helps prevent the risk of non-payment and inducements between licensees and it allows AGLC oversight to ensure integrity and transparency is upheld among licensees.

[101] Inspector Rabey gave evidence that the representatives for the Licensee were not forthright about the impending receivership of the Brooks location during the licence application process for the Nisku location. Further, both Inspector Rabey and Supervisor Carter stated that had Regulatory Services

been aware of the receivership and of Mr. Passi and Mr. Virk's involvement in 2409729 Alberta Ltd., the licence would not have been issued for the Nisku location.

[102] Inspector Rabey provided evidence that Mr. Virk had 25 per cent ownership of Canadian Beaver Brewing & Distillery Ltd. but Mr. Passi provided evidence that Mr. Virk was 75 per cent owner. The Panel finds that there is ambiguity around the ownership structure of the Brooks location.

[103] The Panel finds that the Licensee did not disclose all relevant information during the licence application process for the Nisku location.

[104] The Panel does not find that section 13 of the Regulation was applicable in this matter as a licence has already been issued to 2409729 Alberta Ltd.

[105] Further, the Panel finds that there is a discrepancy between the Licensee's reported ownership structure of 2409729 Alberta Ltd., the ownership structure submitted to Regulatory Services at the time of licensing and the structure shown on the corporate registry database. Pursuant to section 76.2 of the Regulation, when there is a change in ownership but not control, the Licensee must report the sale, assignment or transfer to the Commission and the change must be approved by the Board (or its delegate).

[106] As such, the Panel finds that Mr. Passi and Mr. Virk's actual involvement in the Nisku location seems to differ from the reported involvement and the ownership structure submitted to the Commission. However, based on evidence provided by Mr. Gill, the Panel finds that he has significant care and control of the Nisku location and is heavily involved in day-to-day operations. The Panel finds that, given the discrepancies in the information provided, the eligibility of the Licensee is difficult to determine.

[107] With respect to the alleged contravention of section 100 of the Act, the Panel finds that Mr. Passi was told by the receiver in September 2022 to cease all involvement with the Brooks location including communicating with Canada Revenue Agency and other similar institutions.

[108] The Panel finds that Regulatory Services became aware of the receivership on September 9, 2022 and proceeded to issue the section 100 letter to Mr. Passi and Mr. Virk on December 12, 2022 regarding the Brooks location, which they no longer had care and control of.

[109] Although the representatives for the Licensee were unable to produce written communication from the receiver advising them not to communicate with AGLC, the Panel gives credence to the fact that the Mr. Passi was unsure whether he was permitted to respond to the section 100 letter that was issued after the receivership Order was granted. Further, he did not open the email containing the letter until after the deadline had passed and was not provided a copy of the letter via recorded mail.

[110] As such, the Panel does not find that the Brooks location intentionally contravened section 100 of the Act.

[111] However, the Panel confirms that the Licensee is required to provide AGLC with any reports and information specified by AGLC to avoid future contraventions of section 100. Moreover, the Panel finds that the Brooks location had previous issues with non-reporting and non-remittance of sales transactions and payments to AGLC.

[112] As such, the Panel finds that the Nisku location should be required to report and remit transactions and balances owed to AGLC on a regular basis.

VII. Finding

[113] The Panel finds that the Licensee did not provide fulsome and accurate information during the licensing process with respect to Mr. Neeraj Passi and Mr. Baleshwar Virk's involvement in the Class E Small Manufacturer liquor licence numbered 784164-1, issued to 2409729 Alberta Ltd.

[114] In accordance with section 76.2 of the Regulation, the Panel orders the Licensee to report the current ownership structure of 2409729 Alberta Ltd. to the Regulatory Services Division within 10 days of the issuance of this decision.

[115] The Panel does not find that the representatives of the Licensee contravened section 100 of the Act.

[116] However, in accordance with section 91(2) of the Act, the Panel imposes the following condition on the Class E Small Manufacturer liquor licence numbered 784164-1:

- The Licensee must report and remit to AGLC on a bi-weekly basis: any and all sales transactions, including transactions between the premises' Class E Small Manufacturer's licence and the premises' Class D off-sales licence, and any other sales channel and any balance owed to AGLC.

[117] As a result of the information withheld by the Licensee at the time of licensing, the Panel directs that Regulatory Services complete a review of the eligibility of the Licensee prior to the expiration of the licence on August 29, 2023. Regulatory Services shall evaluate the Licensee's compliance with the above licence condition and shall apply the standard eligibility criteria in accordance with section 13 of the Regulation, including a review of the involvement of Mr. Neeraj Passi and Mr. Baleshwar Virk and their families in the business, to determine whether the licence will be reissued.

Signed at St. Albert, this 23rd day of May, 2023



Len Rhodes, Presiding Member, Hearing Panel