

**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

**Canna Cabana Inc. (Applicant)
c/o McLennan Ross
1900 Eau Claire Tower, 600 3rd Avenue SW
Calgary, AB T2P 0G5**

DATE OF HEARING:	May 16, 2023
HEARING PANEL:	Vincent Vavrek, Presiding Member Patti Grier, Panel Member Tongjie Zhang, Panel Member
APPLICANT / REPRESENTATIVE:	Clay Jacobson, Legal Counsel
REGULATORY SERVICES DIVISION:	Rebecca Lee, Legal Counsel Petrina Nash, Resource Officer

DECISION OF THE HEARING PANEL

The Panel finds that Canna Cabana Inc. (Canna Cabana/Licensee/Applicant) contravened section 90.17 of the *Gaming, Liquor and Cannabis Act* (the Act), specifically in contravention of the advertising policies contained in sections 6.1.5(c), 6.1.5(i) and 6.1.5(l) of the Retail Cannabis Store Handbook (the Handbook). The Panel does not find that Canna Cabana took all reasonable steps to prevent its employees from contravening these provisions.

In accordance with section 94(7)(a) of the Act, the Panel confirms the administrative sanction imposed by the Regulatory Services Division (Regulatory Services), being a \$25,000 fine or a 100-day suspension of Canna Cabana Inc.'s Alberta locations licensed under Corporate Stakeholder number 755294.

The fine is to be paid on or before July 24, 2023 or the suspension served commencing with the normal opening of business on July 26, 2023 and continuing until the normal close of business on Friday, November 3, 2023.

I. Jurisdiction and Preliminary Matters

[1] By letter dated January 6, 2023 Regulatory Services of the Alberta Gaming, Liquor and Cannabis Commission (AGLC) advised Canna Cabana Inc. that the Licensee contravened section 90.17 of the Act:

- 90.17(1) The Board may make policies respecting the advertising, display and promotion of cannabis and cannabis accessories.
- 90.17(2) Every cannabis licensee and registrant under section 90.13 must comply with the policies.

[2] Specifically, the Notice of Administrative Sanction indicated that the following advertising policies were violated:

- Section 6.1.5(l) of the Handbook: The following is prohibited in the advertising of cannabis products and accessories: promoting irresponsible cannabis consumption or service;
- Section 6.1.5(c) of the Handbook: The following is prohibited in the advertising of cannabis products and accessories: use of testimonials or endorsements; and
- Section 6.1.5(i) of the Handbook: The following is prohibited in the advertising of cannabis products and accessories: claims of positive or negative impact as a result of usage (i.e. glamorous, vitality, recreation, etc.).

[3] Regulatory Services imposed an administrative sanction of a fine of \$25,000 or, in the alternative, a 100-day suspension of the Licensee's Corporate Stakeholder ID 755294.

[4] The Licensee subsequently applied for a hearing before a Panel of the Board of the AGLC pursuant to section 94(1) of the Act.

[5] In accordance with section 11 of the Act, the Board Chair designated three members of the Board to sit as a Panel to conduct the hearing and make a decision – Vincent Vavrek (Presiding Member), Patti Grier, and Tongjie Zhang.

[6] The parties and the Hearing Panel were provided with a record containing various documents pertaining to the issues before the panel. Both parties confirmed receipt of the Notice of Hearing dated March 1, 2023 and the attached hearing record. The following documents were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs 1 to 3
- Exhibit 2 Marketing Social Media Guidelines
- Exhibit 3 Applicant submissions

II. Issues

[7] Did Canna Cabana contravene section 90.17 of the Act, specifically, did it fail to comply with the cannabis advertising policies found at section 6.1.5(l), 6.1.5(c) and 6.1.5(i) of the Handbook? If so, should the administrative sanction previously imposed by Regulatory Services be confirmed, replaced or cancelled?

[8] If Canna Cabana contravened the above, is there evidence that the licensee took all reasonable steps to prevent its employees or agents from contravening the provisions in accordance with section 121 of the Act?

III. Regulatory Services Submissions

[9] Regulatory Services called two witnesses to give evidence: AGLC Inspector Binny Sahota and Supervisor of Inspections, Toni Hazelwood.

[10] The following is a summary of the evidence provided by Inspector Sahota and Supervisor Hazelwood.

[11] Inspector Sahota has been an AGLC Inspector since 2015 and has worked in the areas of liquor and cannabis. He conducts compliance investigations, which can be self-initiated by the licensee or can arise from a complaint and conducts final inspections as part of the licensing process.

[12] Supervisor Hazelwood has acted as the Supervisor of Inspections for the North region since 2012 and has been with AGLC for 20 years. She manages a team of inspectors, including Inspector Sahota, whose primary portfolio is advertising and inducements and small liquor manufacturers.

[13] Inspector Sahota prepared an incident report (Exhibit 1, Tab 2) detailing communications to and from Canna Cabana from November 18, 2022 to January 4, 2023 and Supervisor Hazelwood reviewed the report.

[14] Inspector Sahota explained that an incident report may be triggered by a number of factors, including whether all avenues of education have been exhausted, the seriousness of the offence and the operating history of the licensee.

[15] On November 21, 2022, a member of the business unit at AGLC received a complaint about an email that had been distributed by Canna Cabana to its membership (Cabana club) on November 18, 2022. Inspector Sahota advised that the employee who received the complaint forwarded it to Supervisor Hazelwood who directed Inspector Sahota to follow up. Supervisor Hazelwood advised the Panel that she often receives complaints, either internally or from external stakeholders which she assigns to an Inspector for follow up and investigation.

[16] The Cabana club email was sent from a single email address that Inspector Sahota stated was used by Canna Cabana for mass communication to its subscribing customers. The email was included as an attachment to the incident report (Exhibit 1, Tab 2, Attachment 1).

[17] Inspector Sahota explained that the email contained a number of graphics and images. One graphic stated, "Get higher than your streaming bill, for less" with a tagline stating, "maximize your evening in with Cabana club's unbeatable prices."

[18] Inspector Sahota advised the Panel that this wording urges consumers to “get high” which promotes the irresponsible consumption of cannabis. He suggested that the tagline implies that more than the legal limit of cannabis should be consumed. He compared the wording in the advertisement to a liquor advertisement using the phrase “get drunker.”

[19] Similarly, Supervisor Hazelwood stated that this advertisement suggests to customers that they ought to get intoxicated which constitutes irresponsible cannabis use.

[20] Another graphic in the November 18, 2022 email contained product review statements for a product called “Organic Sugar Bush.” The statements, with emojis removed, read as follows:

- “Great for a pleasant afternoon reading a book or doing an odd job.” – Doug T.
- “Love this one. Relaxing and chill without the need for a nap. There’s no harsh burn or coughing. Great high” – Anonymous
- “Great taste, wicked high! Freaking amazing. What a treat!” – David L.

[21] Inspector Sahota characterized these statements as testimonials. Further, he submitted that these testimonials also make claims of positive impacts as a result of usage, citing the phrases “great high” and “freaking amazing.”

[22] After investigating the complaint by reviewing the emails, on November 22, 2022 Inspector Sahota emailed Canna Cabana Compliance Specialist, E.W. Inspector Sahota advised E.W. of the complaint and asked E.W. to provide the rationale behind the placement of testimonials/endorsements as well as the tagline.

[23] Inspector Sahota submitted that E.W. responded by email on the same date (Exhibit 1, Tab 2, Attachment 2) and he advised that one of Canna Cabana’s marketing team members “slipped up” and used the testimonial endorsements “in a temporary lapse of judgment.”

[24] In E.W.’s email he explained the rationale for the use of the tagline and advised that the intention was not to promote irresponsible cannabis consumption but rather to emphasize Canna Cabana’s low pricing compared to other rising costs. Inspector Sahota highlighted that in E.W.’s email, he goes on to state that he can “see how this may be misinterpreted as encouraging irresponsible cannabis consumption.”

[25] Inspector Sahota advised the Panel that he asked E.W. if the email could be retracted or recalled in any way but E.W. said it could not be.

[26] Inspector Sahota stated that the information provided by E.W. was sufficient for him to proceed with submitting an incident report. To finalize his investigation, Inspector Sahota reviewed Canna Cabana’s operating record and noted the following:

- On January 20, 2020, representatives from Regulatory Services in Calgary provided J.J., Director, Compliance and Regulatory Affairs for Canna Cabana, education on section 6.1 of the Handbook.
- On January 27, 2022, Regulatory Services issued a caution to Canna Cabana for contraventions of sections 6.1.5(b), 6.1.5(h) and 6.1.5(j) of the Handbook.

[27] Inspector Sahota stated that he was not involved with the education or Inspector's caution issued.

[28] Inspector Sahota, however, confirmed that he has communicated with E.W. and J.J. on a number of occasions prior to this incident. Inspector Sahota confirmed that he has received many inquiries from E.W. and J.J. requesting clarification on various policies and their interpretation.

[29] When asked by the Panel whether the number of emails received from Canna Cabana with policy questions is comparable with other cannabis licensees, Inspector Sahota advised that on the spectrum of guidance required for each licensee, Canna Cabana is on the "higher end" of engagement.

[30] The representative for Canna Cabana asked Inspector Sahota to detail Regulatory Services' interpretation of advertising policies contained in section 6.1 of the Handbook, including the interpretation of the prohibition of advertising to minors.

[31] When asked where a licensee could access a list of examples or features that Regulatory Services would consider to be appealing to minors or promoting irresponsible consumption, Inspector Sahota stated that the Handbook does not include examples. He asserted that advertisements are assessed on a case-by-case basis.

[32] Inspector Sahota stated that if a licensee requires clarification or examples for what constitutes irresponsible cannabis use they can contact Regulatory Services, they can refer to the federal legislation or they can contact industry partners for best practices.

[33] Supervisor Hazelwood stated that the Handbook is written in plain language so it can be easily understood. However, she submitted that if a licensee is unsure about a policy, they are always encouraged to contact Regulatory Services for clarification.

[34] When asked by the representative for Canna Cabana whether Inspector Sahota decides if an advertisement contravenes a provision based on his sole interpretation, Inspector Sahota clarified that he reviews the information and prepares an incident report with a recommendation made in accordance with the Administrative Sanction Guideline for Violations. The incident report is then reviewed by Supervisor Hazelwood. If she agrees with the report and recommendation, the report is forwarded to management for approval.

[35] Supervisor Hazelwood confirmed that, based on the operating history of Canna Cabana, the alleged contravention before the Panel was considered a second violation of section 90.17 of the Act for Canna Cabana. When asked by the Panel whether the inspector's caution issued in January 2022

constituted a first violation, Supervisor Hazelwood clarified that it did not and that a separate administrative sanction had been issued to Canna Cabana that was not detailed in the incident report.

[36] When asked by the representative for Canna Cabana whether licensee cooperation is taken into consideration during an investigation, Supervisor Hazelwood stated that it may potentially impact the results of the recommended sanction for a first violation.

[37] When asked by the representative for Canna Cabana whether the decision to submit an incident report is discretionary, Inspector Sahota advised that the incident is considered holistically and all factors, including seriousness of the issue and evidence collected, are weighed accordingly. He confirmed that he does not have the discretion to decide whether an administrative sanction is imposed.

[38] Inspector Sahota and Supervisor Hazelwood asserted that there are a number of people who review the detailed report and recommendation and it is not made based on the interpretation or discretion of just one person. Supervisor Hazelwood clarified that, depending on the sanction, the Vice President, Regulatory Services may also review and sign off on an incident report. Supervisor Hazelwood stated that management has the discretion to make changes to the recommended administrative sanction.

[39] Supervisor Hazelwood advised the Panel that on March 9, 2023, she and the Supervisor for Inspections in Calgary conducted a training seminar with the marketing and compliance teams at Canna Cabana. Supervisor Hazelwood stated that she curated the training to focus on policies that Canna Cabana seemed to be “struggling with.”

[40] As a result, Supervisor Hazelwood submitted that she has received more communications from the compliance team at Canna Cabana with specific questions about the compliance of future, unreleased advertising campaigns.

[41] Supervisor Hazelwood stated that she assesses the information provided and can provide feedback on the compliance of certain materials but she asserted that Regulatory Services does not expressly “sign off” on advertisements. She stated that, pursuant to section 6.1.11 of the Handbook, only advertising that is not specifically addressed in the Handbook requires the prior approval of AGLC.

[42] Supervisor Hazelwood submitted that Canna Cabana did not submit the advertisements contained in their November 18, 2022 email to her or any Inspector to check whether they were compliant prior to releasing them.

IV. Canna Cabana Submissions

[43] The representative for Canna Cabana, Clay Jacobson, called one witness to give evidence: J.J., Director, Compliance and Regulatory Affairs for Canna Cabana.

[44] Canna Cabana submitted copies of various email exchanges between E.W. or J.J. and Regulatory Services. The emails contained specific questions seeking clarification on policies or seeking

recommendations on proposed advertisements as well as general questions relating to advertising and promotion policies (Exhibit 3).

[45] J.J. is the Director, Compliance and Regulatory Affairs for Hightide Inc. which is the 100 per cent parent company of Canna Cabana. As Director, J.J. manages the compliance team which monitors compliance across all operations in Canada. Currently, Canna Cabana operates 77 stores in Alberta and 153 across Canada.

[46] J.J. stated that compliance audits are conducted across all stores on a weekly basis and monthly audits are conducted on online activities, including Canna Cabana's website and social media pages.

[47] J.J. submitted that Canna Cabana engages in advertising mostly in age-restricted areas. He stated that many of Canna Cabana's advertisements are communicated in its stores or through email to age-verified Cabana club members. Anything shown on Canna Cabana's social media pages is in accordance with what can be displayed outside of age-gated areas.

[48] Canna Cabana relies on a compliance guideline (Exhibits 2 and 3) that it developed in 2018 to 2019 to ensure compliance with AGLC's policies. J.J. stated that the guideline contains provisions from the Handbook and that representatives from Regulatory Services in Calgary had previously reviewed and confirmed version 2.0 of the guideline for accuracy.

[49] In March 2022, J.J.'s team conducted a meeting where the guidelines were reviewed with Canna Cabana employees. J.J. stated that all departments are educated on compliance but that the marketing department was his team's biggest focus.

[50] J.J. stated that the guidelines helped clarify for the marketing team that types of ideas that would be compliant and allowed them to provide suggestions to be utilized in advertisements. However, J.J. asserted that many of the provisions can be interpreted in various ways.

[51] To avoid misinterpretation or "grey areas," his team conducts weekly, multi-departmental meetings. J.J. advised that his team also communicates with the marketing team "almost daily" to assess ideas or non-compliant advertisements and discuss how they can be brought into compliance.

[52] If the compliance team has questions about the interpretation of a specific policy, J.J. advised the Panel that his team will contact Regulatory Services. J.J. stated that in 2018, he was the only member of the compliance team and he worked closely with Supervisor Hazelwood to understand policies.

[53] J.J. provided the Panel with examples of other policies that Canna Cabana has interpreted one way but where Regulatory Services has provided a different interpretation to demonstrate how a policy can easily be misinterpreted.

[54] With respect to the advertisements contained in the November 18, 2022 Cabana cub email, J.J. confirmed that his team approved and ran the advertisement with the tagline "get higher than your

streaming bill.” J.J. submitted that, at the time, streaming services were raising their prices and the intent of the advertisement was to communicate Canna Cabana’s low prices in a creative way.

[55] J.J. asserted that the advertisement does not promote irresponsible cannabis use and suggested that if the advertisement instead stated “get higher than the moon” that would obviously be promoting irresponsible use and would not be approved.

[56] J.J. stated that you can “maximize your evening in” in a responsible way.

[57] J.J. advised the Panel that the advertisement containing the three quotes was not sent to the compliance team for review prior to being released. Following the incident, J.J. stated that the compliance team had a discussion with the marketing on their rationale and how to improve. He suggested that it was a matter of misinterpretation.

[58] However, J.J. also stated that Canna Cabana has always considered testimonials and endorsements to be statements that are made by someone influential and identifiable, such as a celebrity or social media influencer. When asked by the representative for Regulatory Services where he got this information, J.J. stated that he would have learned that in 2018 but could not recall whether that information came from AGLC.

[59] J.J. advised the Panel that the statements contained in the email were taken from product reviews from “random” customers that had no influence. He stated that, up until March 2022, website product reviews were standard in the industry and that some of Canna Cabana’s competitors still have product reviews on their websites.

[60] J.J. stated that he was of the opinion product reviews are not company-endorsed products and should not be considered promotions by Canna Cabana about the impacts of a product. However, Canna Cabana is now aware product reviews with statements about the impact of a product are similar to testimonials and are non-compliant.

[61] J.J. submitted that in 2021, the marketing team wanted to engage an influencer to promote Canna Cabana but the compliance team emphatically declined and used the opportunity to educate the marketing team about the non-compliance of paid promotion.

[62] After Canna Cabana received the notice of administrative sanction and enclosed incident report (Exhibit 1, Tabs 1 and 2), J.J. and his team revised and enhanced the compliance guidelines (version 4.0)(Exhibit 3) to include multiple examples to support each provision.

[63] J.J. explained that these examples are taken from previous advertisements used by Canna Cabana that Regulatory Services flagged as non-compliant.

[64] Further, the compliance team developed a “compliance tracker” which is a spreadsheet that tracks each advertising or promotion idea and allows the compliance team to efficiently review,

comment on, monitor and potentially send to AGLC Regulatory Services for review. J.J. confirmed that the tracker was not in place at the time of the incident.

[65] J.J. submitted that Canna Cabana is taking the issue very seriously and now relays almost everything to AGLC Regulatory Services in order to ensure there are no further incidents.

[66] When asked by Regulatory Services to confirm the measures that were in place at the time of the incident, J.J. pointed to an email contained in Exhibit 3 where E.W. listed the following measures:

- Version 2.0 Market Social Media Guidelines (compliance guidelines)
- Compliance spot checks [...]
- Compliance approval process [...]
- Response to Regulatory concerns [...]

[67] J.J. explained that the compliance spot checks refer to in-store and online audits. When conducting an audit, the compliance team checks for specific actions taken that are required to pass the compliance checklist.

[68] When asked by the Panel whether the standards for advertising are uniform across the country, J.J. explained that the policies contained in section 6.1.5 of the Handbook are based on the federal legislation and so, for the advertising policies, there is no difference between Alberta and other provinces.

V. Summation

Regulatory Services

[69] Ms. Lee, on behalf of Regulatory Services, submits that the federal legislation, the *Cannabis Act*, governs the promotion of cannabis products, accessories and services. Section 17(1) of the *Cannabis Act* includes significant restrictions on the promotion of cannabis which are largely reproduced in AGLC's policies.

[70] AGLC is the sole regulator of cannabis in Alberta and it has the responsibility of administering the Act and regulating the sale and distribution of cannabis, with the objective of protecting the interest of Albertans.

[71] Under the authority of section 90.17 of the Act, AGLC has established its own policies respecting advertisement and promotion of cannabis products, and these policies are captured in section 6 of the Handbook which have been referred to extensively at the hearing.

[72] Inspector Sahota and Supervisor Hazelwood reviewed the offending content contained in the Cabana club email newsletter. Regulatory Services maintains that the "get higher" tagline promotes the irresponsible use of cannabis as it eludes to certain degrees of "high." Further, the language and the graphic when considered together, Regulatory Services submits, do not depict promotion of responsible use of cannabis and contravene section 6.1.5(l) of the Handbook.

[73] Further, the Canna Cabana customer testimonials contravene the prohibition of promoting cannabis through the use of testimonials or endorsements, found in section 6.1.5(c) of the Handbook, and these testimonials contain descriptions of the “feeling” or positive impacts felt as a result of usage. Regulatory Services takes the position that descriptors such as “relaxed,” “chill,” and “great taste” are clearly testimonials about the positive impacts of a product that Canna Cabana sells.

[74] Canna Cabana has previously received training and has heavily corresponded with Regulatory Services regarding compliance of their advertising materials. This demonstrates that Canna Cabana is aware they can and ought to reach out to Regulatory Services if they are unsure about a provision.

[75] Canna Cabana did not exercise its due diligence in this instance and, unfortunately, did not take steps to request guidance from Regulatory Services on the advertisements that resulted in the alleged contraventions.

[76] Regulatory Services submits that the administrative sanction is supported by the facts and is reasonable and was made in accordance with the Administrative Sanction Guideline for Violations. Based on the operating history of Canna Cabana, Regulatory Services takes the position that this violation should be considered a second violation.

[77] As such, Regulatory Services requests that the Panel not deviate from the Administrative Sanction Guideline for Violations and confirm the administrative sanction as imposed by Regulatory Services.

Canna Cabana

[78] Mr. Jacobson, on behalf of Canna Cabana, provided an overview of the issues before the Panel.

[79] Canna Cabana takes the position that the policies governing the promotion of cannabis in the Handbook are open to interpretation as, for example, “irresponsible consumption” could mean something different to everyone.

[80] Canna Cabana submits that if the advertising policies cannot be interpreted with absolute certainty, there is a risk of vagueness that leads to misinterpretation. Without an expansion of the policies, there is no way to ascertain one’s interpretation of them.

[81] Other provisions in the Handbook provide guidance, such as section 6.1.12, which describes responsible cannabis consumption as legal, moderate and safe. Canna Cabana suggests that a reader of the policy would then derive irresponsible cannabis consumption to be illegal, excessive or unsafe. Canna Cabana takes the position that the advertisement contained in the November 18, 2022 Cabana club email does not promote any of those.

[82] Canna Cabana submits that the tagline compares the cost of cannabis to a nominal, monthly bill and does not contain wording that promotes anything more than moderate consumption of cannabis. The advertisement promotes legal consumption, at home, in an amount comparable to a \$10 per month streaming service bill.

[83] With respect to the customer product reviews, Canna Cabana was operating under the understanding that testimonials and endorsements that resulted from paid promotions were prohibited. These statements were copied from Canna Cabana's product review section on its website, which Canna Cabana also saw on other licensee's websites.

[84] Further, the statements were provided by non-identifiable customers who were effectively anonymous and were not endorsed by Canna Cabana.

[85] All witnesses testified that the compliance team at Canna Cabana is in constant dialogue with Regulatory Services to ensure compliance of its advertisements and promotions. Canna Cabana submits that certain provisions in the policies are difficult to ascertain and, as testified by Inspector Sahota and Supervisor Hazelwood, the Handbook does not provide specific examples for licensees to reference.

[86] Supervisor Hazelwood testified that "irresponsible consumption" of cannabis can be defined as use causing intoxication but that definition is not provided in the Handbook.

[87] Canna Cabana is of the opinion the Regulatory Services is operating in an environment where Inspectors unilaterally declare whether something contravenes a provision based on their own interpretation.

[88] Pursuant to section 121 of the Act, the Licensee took all reasonable steps to prevent its employees from contravening the provisions. J.J. described the development of the compliance guidelines and daily engagement with Canna Cabana's employees to discuss the application of the guidelines to marketing ideas.

[89] In response to the notice of administrative sanction, Canna Cabana also "tightened its controls" by revising and updating the guidelines and instituting the compliance tracker which requires all advertisements to flow through the compliance team.

[90] Canna Cabana submits that there are ambiguities in the policies contained in section 6.1.5 of the Handbook, including the provisions around advertising that may appeal to minors.

[91] As such, Canna Cabana submits that it took all reasonable steps to prevent the contraventions from occurring and requests that the Panel cancel the administrative sanction imposed by Regulatory Services or, in the alternative, replace it.

[92] Canna Cabana submits that a third violation of section 90.17 of the Act would result in the suspension and closure of 77 stores in Alberta, pending a hearing, so there are extremely high stakes involved. To the extent these advertisements deviated from the policies, Canna Cabana submits they are minor deviations resulting from a misunderstanding of AGLC's policies.

VI. Analysis

[93] The Panel carefully considered the oral and documentary submissions made on behalf of Regulatory Services and Canna Cabana.

[94] Section 6.1.12 of the Handbook defines responsible consumption of cannabis as legal, moderate and safe. The Panel finds that the directive to “get higher” contained in the Cabana club email does not promote moderate consumption of cannabis. On the contrary, it uses a comparative to promote irresponsible (a higher degree of) consumption.

[95] J.J. disagreed that the tagline was promoting irresponsible cannabis consumption but testified that wording such as “get higher than the moon” would be considered by Canna Cabana to promote irresponsible cannabis use. The Panel does not see a significant distinction between the example tagline and the actual tagline and finds that Canna Cabana is inconsistently applying its own interpretation of the provision. Further, the Panel finds that a member of the Canna Cabana compliance team admitted via email to Inspector Sahota that he could see how the tagline could be misinterpreted to promote irresponsible cannabis consumption.

[96] As such, the Panel finds that Canna Cabana contravened section 6.1.5(l) of the Handbook.

[97] The Panel finds that the language used in the product review statements in the Cabana club email constituted testimonials by the users of a cannabis product and such promotion contravenes AGLC’s policies. Neither the legislation, regulation nor the policies suggest that testimonials only come from a celebrity or identifiable person. As such, the Panel finds that the testimonials from the named and anonymous customers were testimonials.

[98] Moreover, the Panel finds that E.W. acknowledged the violation of policy by admitting on behalf of Canna Cabana in his November 22, 2022 email that the “testimonial endorsements were used in a temporary lapse in judgment.”

[99] The testimonials also highlighted the effects of Organic Sugar Bush, a cannabis product offered by Canna Cabana, on its users. The Panel finds that descriptors such as “wicked high,” “relaxing and chill” and “great for a pleasant afternoon reading a book” used in the testimonials make claims of positive impact (recreation) as a result of usage.

[100] As such, the Panel finds that Canna Cabana contravened sections 6.1.5(c) and 6.1.5(i) of the Handbook.

[101] When the Government of Canada legalized the sale and use of cannabis it chose to impose certain restrictions on the sale and use of this product. One of those restrictions is advertising and each province has the responsibility to uphold these restrictions. AGLC, as the sole regulator in Alberta, has the responsibility to ensure that cannabis and cannabis products are not advertised or promoted in a way that is in violation of AGLC’s policies or the federal legislation.

[102] The Panel heard evidence from J.J. that Alberta’s advertising policies, drawn from the *Cannabis Act*, are the same as the advertising policies in other provinces across Canada. As such, the Panel finds that the advertising policies found in section 6.1.5 of the Handbook are not unique to Alberta and should be well known and understood by Canna Cabana.

[103] The Panel reviewed documentary evidence and heard evidence from Inspector Sahota, Supervisor Hazelwood and J.J. that Canna Cabana frequently receives clarification, advice and education from Regulatory Services about legislation and policies relating to the advertising and promotion of cannabis and cannabis accessories.

[104] Further, J.J. testified that Canna Cabana has a compliance team of six members. As such, the Panel finds that Canna Cabana has many resources to draw from and the Panel expects, as a result, a higher level of due diligence on the part of the Licensee.

[105] Canna Cabana has received education and an Inspector's caution prior to the issuance of an administrative sanction and has recently participated in a curated training seminar conducted by Regulatory Services.

[106] The Panel finds that Canna Cabana has taken steps in response to the submission of the incident report but that, pursuant to section 121 of the Act, it did not take all reasonable steps to prevent the contraventions from occurring.

VII. Finding

[107] For the reasons noted above, the Panel finds that Canna Cabana contravened section 90.17 of the Act, specifically in contravention of the advertising policies contained in sections 6.1.5(c), 6.1.5(i) and 6.1.5(l) of the Handbook. The Panel does not find that Canna Cabana took all reasonable steps to prevent its employees from contravening these provisions.

[108] In accordance with section 94(7)(a) of the Act, the Panel confirms the administrative sanction imposed by Regulatory Services, being a \$25,000 fine or a 100-day suspension of Canna Cabana Inc.'s Alberta locations licensed under Corporate Stakeholder number 755294.

[109] The fine is to be paid on or before July 24, 2023 or the suspension served commencing with the normal opening of business on July 26, 2023 and continuing until the normal close of business on Friday, November 3, 2023.

Signed at Calgary, this 12th day of June, 2023

A handwritten signature in blue ink, appearing to read 'Vincent Vavrek', written over a horizontal line.

Vincent Vavrek, Presiding Member, Hearing Panel