

**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

**L.M. (Applicant)
Medicine Hat, AB**

DATE OF HEARING:	December 15, 2023
HEARING PANEL:	Len Rhodes, Presiding Member Angela Tu Weissenberger, Panel Member Vincent Vavrek, Panel Member
APPLICANT / REPRESENTATIVES:	L.M., Registered Gaming Worker John Szumlas, CEO of Alberta Bingo Sandi Johnston, Consultant
REGULATORY SERVICES DIVISION:	Todd Stearns, Hearing Officer Kathryn Whitten, Resource Officer

DECISION OF THE HEARING PANEL

The Panel finds that the Applicant contravened sections 4.6.4 and 5.1.12(f)(i) of the Commercial Bingo Handbook (the Handbook).

In accordance with section 94(7)(b) of the *Gaming, Liquor and Cannabis Act* (the Act), the Panel replaces the original administrative sanction imposed by the Regulatory Services Division (Regulatory Services) with a fine of \$2,000.

The fine is to be paid on or before March 1, 2024.

I. Jurisdiction and Preliminary Matters

[1] By letter dated September 12, 2023, the Regulatory Services Division (Regulatory Services) of Alberta Gaming, Liquor and Cannabis Commission (AGLC) advised L.M. (the Applicant) that L.M. failed to fulfill her duties as a registered gaming worker, specifically in contravention of:

- Section 4.6.4 of the Handbook: The hall manager is a paid position that reports to the executive of the bingo association. The hall manager is responsible for providing oversight into bingo operations and ensuring compliance with the Commercial Bingo Handbook.

- a) hall manager duties include:
 - i) ordering and keeping perpetual inventory records;
 - ii) maintaining financial records related to business bank accounts including payroll and T4 summaries, Canada Revenue Agency payments and GST returns, etc.;
 - iii) ensuring monthly bank reconciliations are completed;
 - iv) ensuring event data is entered into EMS by a registered position (i.e., the hall manager, assistant hall manager, hall advisor or bookkeeper), and ensuring the month end reporting is submitted to AGLC within seven days of the end of the month;
 - v) ensuring all paid workers have current and required registration prior to commencing their duties and at all times while carrying out their duties;
 - vi) ensuring the server is housed in a secure location;
 - vii) reviewing event financial/inventory control forms for completeness and accuracy;
 - viii) responsibility for duties required for the administration of the event management system (EMS) including:
 - assigning and maintaining EMS access rights of paid staff to system modules, based on their position requirements, ensuring security and integrity of the system;
 - performing system configuration and testing to accommodate the facility licensee’s bingo program and user requirements;
 - maintaining a detailed log of all system configurations including the date and details of any and all system changes, and a log of related configuration issues that arise; and
 - coordinating regular EMS maintenance and testing of product patches, updates, and releases.
- Section 5.1.12(f)(i) of the Handbook: Progressive games and progressive schemes may be offered under the following conditions:
 - f) the facility licensee must maintain security of the accumulated prize funds as follows:

- i) the facility licensee must collect funds contributed to each progressive prize pool by event; if the prize pool is not paid out during the event, the funds collected for each progressive game must be deposited to the progressive prize bank account and held in trust to pay out progressive game prizes at a future event when they are won.

[2] As a result of the alleged contravention, Regulatory Services imposed an administrative sanction of a fine of \$1,000.

[3] L.M. subsequently applied for a hearing before a Panel of the Board of AGLC, pursuant to section 94(1) of the Act.

[4] 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 – Len Rhodes (Presiding Member), Angela Tu Weissenberger, and Vincent Vavrek.

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

- Exhibit 1 Hearing Record, including Tabs 1 to 3

[6] During the hearing, the Applicant asked the Panel to accept additional evidence. Regulatory Services objected to the request. The Panel reviewed the evidence and declined the Applicant's request.

II. Issues

[7] Did the Applicant contravene section 4.6.4 and/or section 5.1.12(f)(i) of the Handbook?

[8] If the Applicant contravened section 4.6.4 and/or section 5.1.12(f)(i) of the Handbook, should the administrative sanction imposed by Regulatory Services of a \$1,000 fine be confirmed, replaced, or cancelled?

III. Regulatory Services Submissions

[9] Regulatory Services called one witness, Inspector Ray Wen, to give evidence.

[10] The following is a summary of the evidence provided by Inspector Wen.

[11] Inspector Wen has been a gaming inspector for just over two years. Prior to joining AGLC, he worked in a casino.

[12] Inspector Wen confirmed that when he started as a gaming inspector, he was provided specific training in relation to bingo, which included:

- becoming familiar with the Handbook before conducting inspections; and

- performing shadow inspections with other inspectors where he went over the specifics on how to balance progressive accounts and what inspectors should look for in terms of funds being transferred from the event to the progressive account.

[13] Inspector Wen stated that if he runs into something he does not understand, there are compliance specialists in the Compliance branch of Regulatory Services that he can consult with.

[14] On July 11, 2023, the AGLC Financial Review division (Financial Review) provided Inspector Wen with copies of Top Hat Bingo Hall's progressive bank statements. Financial Review often refers matters to the AGLC Inspections division when discrepancies are found.

[15] The Registered Gaming Worker is the Hall Manager of Top Hat Bingo Hall.

[16] During his investigation, Inspector Wen reviewed the deposits listed on Top Hat Bingo Hall's bank statements and noted that:

- he was not able to corroborate that funds were being deposited on an event-by-event basis;
- the progressive bank account did not reflect the posted amount of the progressive jackpot at Top Hat Bingo Hall;
- funds were being deposited two to three times per month;
- multiple events had been combined into one deposit, so the line items did not correspond to each of the events; and
- a certain portion of cash was being kept at the bingo facility.

[17] When reviewing statements and logs to ensure that funds are being deposited on an event-by-event basis by the bingo facility, Inspector Wen explained that he would expect to see a line item for each event indicating the funds deposited corresponded with the respective events and that the transactions reflect the reported total for progressive funds. Instead, he saw lump sums of money deposited that did not reflect any of the bingo events that had occurred, handwritten notes indicating a portion of the funds were being kept in cash, and a different total than what was deposited to the progressive account.

[18] Inspector Wen explained that a bingo facility is not permitted to hold back any funds from the progressive bank account; the Handbook requires the funds be directed to the progressive account on an event-by-event basis, and the progressive funds must be remitted to the progressive bank account.

[19] Inspector Wen submitted that funds can take a few days after being deposited to be reflected on bank statements. For this reason, when doing reviews of funds to ensure they are being deposited on an event-by-event basis, he provides some leeway during his reviews.

[20] Inspector Wen confirmed that he has discretion on whether he acts when he sees deposits being made late.

[21] Inspector Wen explained that the chairperson from the charity event is responsible for ensuring that the deposits for the event are prepared. Once the deposits are prepared, the charity is required to seal the funds in a plastic bag, the bingo facility is responsible for maintaining the funds for deposit until they are picked up by an armored vehicle, and the hall manager is responsible for ensuring that the deposits get sent to the bank every three banking days.

[22] Inspector Wen asserted that it is L.M.'s duty to ensure that the facility complies with the Handbook, which includes ensuring that the progressive funds are being deposited into the progressive account.

[23] Inspector Wen advised the Panel that L.M., as hall manager, does not have the authority to withhold funds from the charity deposits to the progressive bank account.

[24] Inspector Wen explained that progressive funds belong to the players, the funds are to be held in trust, and trust funds require a greater level of scrutiny and accountability.

[25] When this matter came to Inspector Wen's attention, he contacted L.M. and spoke with her about the facility holding funds and the progressive account.

[26] Inspector Wen stated that L.M. confirmed that a portion of the funds were being kept in cash at the hall to pay the winner of the progressive amount, and she did not provide any explanation as to how her use of the progressive funds aligned with the policy.

[27] Inspector Wen advised L.M. of the policy requirement to remit all progressive funds to the bank account, and L.M. stated that she:

- does not agree with the policy;
- has no intention of following the policy;
- believes the policy needs to be changed; and
- likes to be able to pay the winners in cash instead of issuing a cheque.

[28] Inspector Wen stated that when he visited L.M. at Top Hat Bingo Hall, she confirmed that the cash noted on the bank statements was being held at the facility.

[29] Inspector Wen advised that Regulatory Services previously communicated the policy requirements regarding the deposit of progressive funds for each event to L.M. in November 2017 and July 2022.

[30] During the period between July 2022 and July 2023, Inspector Wen submitted that he was not able to establish that L.M. made any changes to the way progressive funds are handled.

[31] When Ms. Johnston asked Inspector Wen if he was ever concerned that funds were missing or misappropriated in any way, Inspector Wen advised that at the time he was not concerned.

IV. L.M. Submissions

[32] L.M. and her Representatives, John Szumlas and Sandi Johnston, made submissions.

[33] The following is a summary of the evidence provided by L.M., Mr. Szumlas and Ms. Johnston.

[34] L.M. submitted that she has been involved in bingo for over 20 years, having previously worked as a board member, an advisor and as a hall manager since 1999.

[35] When L.M. first started in bingo, she said that bingo was the only licensed gaming facility in town, all pot money was kept in the safe, and all players were paid in cash; since other gambling venues were introduced, the number of players at the hall has decreased significantly, far less cash is kept on hand, and there are more stringent rules to follow.

[36] L.M. described how funds are handled after events at Top Hat Bingo Hall and noted the following:

- Proceeds from each event are deposited into a safe on an event-by-event basis.
- The bags are picked up by a security truck and travel for approximately three days to the facility's centralized financial institution location in Calgary to be counted and deposited once received.

[37] L.M. said that the facility makes the deposits, not the charity, for the prize money on an event-to-event basis. The funds are deposited to the safe for three days, so they are not deposited to the financial institution on an event-to-event basis. In some cases, it takes six days for the funds to be deposited at the financial institution.

[38] L.M. stated that she understands that the policy requires that funds must be deposited in the bank account on an event-by-event basis, but that does not happen because she feels that the policy does not work.

[39] When funds are in transit, L.M. asserted that she cannot determine whether her accounts are balanced. Therefore, she stated that she has adopted a process that allows her greater visibility on the progressive funds.

[40] L.M. explained that approximately eight years ago, the policies for bingo facilities changed when someone stole pot money; since then, the scrutiny of bingo halls has increased, and she does not feel that it is fair that the policies changed for bingo societies while casinos and VLTs are still able to pay winners in cash rather than a cheque.

[41] Mr. Szumlas submitted that L.M. has not violated section 4.6.4 of the Handbook because she provides oversight and expertise, which is evidenced by the fact that Inspector Wen confirmed that he has no knowledge or awareness of incidents where any of the funds were misappropriated. Additionally, the hall continues to operate in a very difficult gaming environment, and Top Hat Bingo Hall is the only bingo facility in Alberta that returned proceeds to charities in 2021 and 2022.

[42] Mr. Szumlas stated that the objective of section 5.1.12(f) of the Handbook is that accumulated prize funds are securely maintained, and L.M. has been in alignment with the policy for the following reasons:

- She always maintained the security of the funds by ensuring that the funds were never misappropriated, lost, or unaccounted for.
- L.M. was diligent in ensuring that the deposit of excess funds from the events were allocated to a float or a small cash account securely maintained to allow for payment of a prize to a winner.

[43] Mr. Szumlas submitted that the language of 5.1.12(f) indicates that the process of depositing on an event-by-event basis is not possible.

[44] Mr. Szumlas asserted that the section 8 provisions of the Handbook can be interpreted to not necessarily have to do an event-by-event basis deposit.

[45] Ms. Szumlas said that it is important not to overlook the transformation that is occurring in the banking industry.

[46] Ms. Johnston stated that the biggest concern is the security of the funds; in this case, she submitted that the funds were secure and were never in jeopardy.

[47] When asked by L.M. whether Top Hat Bingo Hall's bank statements, cash and balance sheet showed that everything balanced, Inspector Wen confirmed that it did.

[48] When Regulatory Services questioned L.M. about how a charity verifies accounts in accordance with section 8.5.1 of the Handbook if the funds are in the care and control of the facility, L.M. explained that at every event the charities receive a list of the progressive prize amounts and balance Top Hat Bingo Hall's money to the bank statement.

[49] L.M. said that her understanding of section 8.5.1 of the Handbook is that the charities verify the progressive funds and the facility is responsible for depositing the funds within three banking days, but she does not follow this policy.

[50] L.M. stated that the proceeds of each event are put in a sealed bag and deposited in the safe, except for the prize pot money.

[51] When Regulatory Services asked L.M. whether she, as hall manager, is responsible for reporting issues to the board and advising them with her knowledge of history on what policy is, she confirmed that she is.

[52] L.M. submitted that after her discussions with Regulatory Services on November 23, 2017 and July 7, 2022 about the requirement to deposit all progressive funds in the progressive bank account, she spoke with the board of Top Hat Bingo Hall about the requirement and suggested to them that the policy does not work. She stated that she advised the Licensee that she needs to have money to pay out winners and cannot pay them when funds are in transit to Calgary and in the safe.

[53] When asked by the Panel to explain the process when cash is given to players in terms of authority and signatures within Top Hat Bingo Hall, L.M. stated the following:

- All of the advisors at Top Hat Bingo Hall have cash, and any of them can write a cheque.
- The players sign whatever cheque amount and cash amount they get.
- If the funds were going out for a pot, the advisors can write a cheque and it's not posted anywhere.
- Cash is posted, and L.M. must balance it.
- A cheque can be written for anything, and it only requires one signature.
- The advisors could write a cheque to themselves, and it would go unnoticed until it has cleared at the facility's financial institution.

[54] L.M. stated that the policy regarding one-signature cheques is horrible, the security is nil, and it allows people to easily steal funds.

[55] Ms. Johnston stated that the progressive account is the most volatile account because it contains all the players' money.

[56] L.M. advised the Panel that she requested a hearing because she feels that nobody at AGLC has listened to her, and nobody wants to change the policy. She added that she sent a letter to AGLC and never received a response.

[57] L.M. stated that she would like to see the following changes:

- consistency across gaming venues;
- red tape reduction;
- the ability to balance the facility's money right away; and
- the ability to stop paying people with cheques, which is an issue because a lot of the players don't have bank accounts and sometimes cheques are held for five days.

[58] Aside from discussing this policy with AGLC inspectors, L.M. said that she has had discussions with other departments at AGLC and has had Mr. Szumlas communicate with AGLC on Top Hat Bingo Hall's behalf.

[59] L.M. asserted that there are other bingo halls that use workarounds to make things work.

[60] L.M. said that sometimes she helps charities prepare the event-to-event deposits, and she does not deposit the progressive funds.

[61] L.M. explained that the financial institution used to count and deposit money in Medicine Hat, and after that procedure changed 6 or 7 years ago, she started walking the deposits to the financial institution but decided that she did not want to do that anymore. She confirmed that she spoke with the financial institution about the issues with funds being taken to Calgary.

[62] When asked by the Panel whether she is required to use the financial institution she currently deals with, L.M. said that she is not required to use them, but Top Hat Bingo Hall saves a lot of money in fees by dealing with them and they are longstanding customers.

[63] L.M. advised the Panel that she has not and will not explore arrangements with other financial institutions to address the issue of having funds taken to Calgary to be deposited.

[64] When Mr. Szumlas was asked by the Panel whether his comment that “it’s a difficult marketplace” was justification for not following policy, Mr. Szumlas clarified that his comment was in regard to strengthening the financial return to the charities, and the difficult marketplace is relative to reducing costs.

[65] Mr. Szumlas suggested that the requirement to deposit funds on an event-by-event basis is impractical, difficult, and impossible to achieve but he acknowledged that he understood the policy as it is written.

V. Summation

Regulatory Services

[66] Regulatory Services submits that the practice of the charity verifying, preparing and sealing the progressive funds to be deposited to the progressive bank account has clearly been defined in the Handbook, and the only role of the facility in this process is to facilitate the deposit of funds to the bank account within three banking days of the charity’s event.

[67] Regulatory Services is of the opinion that it is the hall manager’s responsibility to provide oversight into bingo operations and ensure compliance with the Handbook.

[68] Regulatory Services submits that in this instance and on previous occasions, they observed that the policy requirements regarding the handling of progressive funds have not been met by Top Hat Bingo Hall.

[69] Regulatory Services is of the opinion that L.M, a hall manager with over 20 years of experience, has been provided with ample education by various departments of AGLC on the policy requirements, yet she permits the non-compliance to continue at the facility and has made comments about how she disagrees with AGLC on this issue.

[70] Regulatory Services submits that L.M. has confirmed that the progressive practices occurring in Top Hat Bingo Hall are not in alignment with AGLC policy.

[71] Regulatory Services contends that the procedure and behaviour under L.M.’s management at the facility has become a habitual issue despite Regulatory Services’ attempts to correct the procedure to policy, and she continues to adhere to these practices.

[72] Although L.M. may have added controls to her unique process, Regulatory Services asserts that policies meant to mitigate the risk associated with the progressive funds are put into place to ensure the security of the industry and not just the individual hall.

[73] Regulatory Services submits that L.M. did not provide any evidence regarding how she reports back to the treasurer and how she ensures each charity that makes up the association is made whole.

[74] For these reasons, Regulatory Services requests that the Panel uphold the violations listed under sections 4.6.4 and 5.1.12(f) of the Handbook and confirm the administrative sanction of a fine of \$1,000.

L.M.

[75] L.M. is of the opinion that the policy says to secure the funds, and she has always ensured that Top Hat Bingo Hall's funds are secure.

[76] L.M. asserts that she did not follow procedures because they do not work at Top Hat Bingo Hall.

[77] Although the policy says progressive funds are to be deposited on an event-to-event basis, L.M. contends that AGLC knows that funds are not deposited in the bank account on an event-to-event basis; they are put into a drop safe and then taken to the financial institution for deposit, and this process can take six to eight days.

[78] L.M. submits that she has admitted numerous times that she violated the policy, but she never put the funds in jeopardy.

[79] L.M. asserts that she broke the policy because she made numerous attempts to send letters to and speak with people at AGLC about it and received no response.

[80] L.M. feels discontented that after she has gone to meetings with AGLC and listened to them speak about modernization and cutting red tape, she has seen every other gaming venue go through modernization while bingo facilities are going backwards.

[81] L.M. takes the position that there is no consistency in the gaming world since cheques are written for prizes in bingo halls while winners at casinos and VLTs get paid in cash.

[82] Mr. Szumlas is of the opinion that there was no evidence presented that indicated that L.M. did not comply with section 4.6.4 of the Handbook.

[83] Mr. Szumlas requests that the Panel cancel the administrative sanction and the allegation that L.M. contravened section 4.6.4 of the Handbook.

[84] With respect to the alleged contravention of section 5.1.12(f) of the Handbook, Mr. Szumlas asserts that L.M. has always complied with the policy but not with the process that it gives rise to. While L.M. has admitted that she did not follow the process regarding depositing accumulated progressive prize funds on an event-by-event basis, Mr. Szumlas submits that it is clear that the funds have been securely managed in accordance with policy.

[85] Mr. Szumlas is of the opinion that the administrative sanction of a fine of \$1,000 is onerous and punitive because:

- the policy is currently under review;
- L.M. has previously been sanctioned; and

- sanctioning L.M. does not reinforce the public policy initiative of ensuring that progressive pot funds are securely managed.

[86] Ms. Johnston submits that this whole process has cost the charities money just to prove a point that the process required by the policy does not work.

[87] Ms. Johnston is of the opinion that AGLC and the bingo industry need to get together and review some of the processes and determine whether they work and how they can be fixed.

[88] Ms. Johnston contends that inspectors have the discretion to not issue a sanction, but in this case they did despite the money being secure.

VI. Analysis

[89] The Panel carefully considered the oral and documentary evidence submitted by Regulatory Services and the oral evidence provided by L.M., Mr. Szumlas and Ms. Johnston in making its finding of fact.

[90] L.M. admitted on numerous occasions that she has knowingly violated policy for several years. The Panel finds that in accordance with section 4.6.4 of the Handbook, it is L.M.'s responsibility as hall manager of Top Hat Bingo Hall to ensure that the Licensee is in compliance with the Handbook and that she blatantly disregarded this responsibility by:

- not submitting progressive funds on an event-by-event basis within the timeframe required by policy; and
- keeping cash at the facility that should have been deposited.

Furthermore, she showed no remorse for her actions.

[91] As such, the Panel finds that the L.M. contravened section 4.6.4 of the Handbook.

[92] L.M., Mr. Szumlas and Ms. Johnston claimed that it is not possible to follow the process of depositing funds on an event-by-event basis in accordance with the Handbook and that workarounds had to be implemented to ensure the security of the progressive funds was maintained in accordance with section 5.1.12(f)(i). The Panel finds that the processes outlined in the Handbook are a part of the policy and must be adhered to.

[93] L.M. provided evidence that because the financial institution takes Top Hat Bingo Hall's funds to a centralized location in Calgary to be counted and deposited, it is not possible for the funds to be deposited in accordance with the Handbook. The Panel finds that L.M. did not explore other ways to align with the policy, such as contacting other financial institutions to find out what their processes are for counting and depositing funds.

[94] L.M. submitted that there is greater security in paying prize winners in cash since the policy only requires one signature on a cheque written for a progressive prize payout. The Panel understands that there is no paper trail when paying out prizes in cash and finds that the policy regarding the handling of progressive funds must be complied with as written.

[95] L.M. provided evidence that she always ensured that the Licensee's progressive account balanced; however, the Panel finds that this is not the issue. The issue is that L.M. was in violation of the Handbook. Compliance with AGLC's policies is paramount, and failure to comply with them undermines the integrity of gaming in Alberta.

[96] While the Panel acknowledges that L.M. disagrees with the policy, the Panel finds that that does not mean that she can be selective in which provisions of the Handbook she chooses to adhere to.

[97] As such, the Panel finds that the Licensee contravened section 5.1.12(f)(i) of the Handbook.

[98] The Panel finds that L.M. abused her position of trust and that she did not acknowledge that she intends to change her processes to obtain future compliance. As a result, the Panel does not find that L.M. recognizes the seriousness of her actions and finds that the administrative sanction should be increased.

[99] To hold a gaming worker registration is a privilege and not a right. Registration is given to individuals who demonstrate honesty and integrity to work in environments where gaming funds are being handled, in accordance with the Act, Gaming, Liquor and Cannabis Regulation and AGLC's policies.

VII. Finding

[100] For the reasons stated above, the Panel finds that L.M. contravened sections 4.6.4 and 5.1.12(f)(i) of the Handbook.

[101] In accordance with section 94(7)(b) of the Act, the Panel replaces the original administrative sanction imposed by Regulatory Services. The \$1,000 fine is replaced with a fine of \$2,000.

[102] The fine is to be paid on or before March 1, 2024.

Signed at St. Albert, this 16th day of January, 2024



Len Rhodes, Presiding Member, Hearing Panel