

**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

**R&D Operatives Inc.
o/a Atomic Cannabis - Coleman (Applicant)
8341 20 Avenue
Coleman, AB T0K 0M0**

DATE OF HEARING:	March 15, 2024
HEARING PANEL:	Patti Grier, Presiding Member Len Rhodes, Panel Member Wayne Drysdale, Panel Member
APPLICANT / REPRESENTATIVE:	Ganesh Joseph Naidoo, Owner/Operator (absent)
REGULATORY SERVICES DIVISION:	Petrina Nash, Hearing Officer

DECISION OF THE HEARING PANEL

The Panel finds that Atomic Cannabis - Coleman (the Licensee) contravened:

- Section 91(1)(a) of the *Gaming, Liquor and Cannabis Act* (the Act);
- Section 109(2)(f) of the *Gaming, Liquor and Cannabis Regulation* (the Regulation); and
- Sections 1.7.7, 3.3.3(c) and 3.3.3(g) of the *Retail Cannabis Store Handbook* (the Handbook).

In accordance with sections 91(2) and 94(7)(b) of the Act, the Panel replaces the original administrative sanctions imposed by the Regulatory Services Division (Regulatory Services) with a suspension of the Licensee's Class CS-Retail Cannabis Store Licence numbered 784975-1 (the Licence) for a period of sixteen (16) consecutive days, effective April 2, 2024, with the reinstatement of the Licence contingent upon the following:

- Mr. Naidoo and all employees of Atomic Cannabis - Coleman must participate in a staff training seminar conducted by Regulatory Services.
- The Licensee must develop and provide to Regulatory Services for approval a training plan, which must be in accordance with the first Licence condition.
- The Licensee must prove that the camera system has 60 days minimum recording retention, in accordance with section 3.3.3(c) of the Handbook.

Specifically, if the staff training seminar is not completed by Mr. Naidoo and all employees of Atomic Cannabis - Coleman during the 16-day suspension period, the Licence shall remain suspended. If the Licensee does not develop and provide to Regulatory Services a training plan that is in accordance with the first Licence condition during the 16-day suspension period, the Licence shall remain suspended. If the Licensee does not fix the camera system to ensure that it has 60 days minimum recording retention during the 16-day suspension period, the Licence shall remain suspended.

- All conditions must be fully met for the Licence to be reinstated.

Further, the Panel confirms the existing conditions on the Licence, specifically:

1. The licensee must ensure that all staff members, upon hire and every three months (90 days) thereafter, are properly trained and understand the legislation and policies applicable to a retail cannabis store. The following topics must be part of all training sessions: prescribed retail cannabis store security standards, qualified cannabis worker/SellSafe standards, and obtaining identification from customers who appear to be under 25 years of age. A written record of this training, including the topics, must be kept on the premises, and produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
2. The licensee must ensure that all staff members are able to operate the digital camera security system and recording equipment, and that the staff members have access to the camera monitor. All staff members must be trained and capable to show, provide, and download camera footage for an inspector (as defined by the *Gaming, Liquor and Cannabis Act*) immediately upon request.
3. The licensee must maintain an accurate and legible staff schedule. The staff schedule must be kept in the premises and be produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
4. The licensee must ensure their staff members are always under the supervision of an on-duty and competent manager or supervisor.

I. Jurisdiction and Preliminary Matters

[1] By letter dated November 9, 2023, Regulatory Services of Alberta Gaming, Liquor and Cannabis Commission (AGLC) advised R&D Operatives Inc., operating as Atomic Cannabis - Coleman (the Licensee), that the Licensee contravened:

- Section 91(1)(a) of the Act: The board may do any one or more of the things referred to in subsection (2) if the board is of the opinion that (a) a licensee or registrant has failed to comply with this Act, an order of the board or a condition imposed on a licence or registration.
- Section 3.3.3(c) of the Handbook: A retail cannabis store must have a digital camera security system that contains:

- c) system must have on premises 60 day minimum recording retention in a common format that is easily accessible, captured, viewed and capable of producing real time digital colour video and still images that clearly identify individuals and contain a time/date stamp not obscuring the image.
- Section 3.3.3(g) of the Handbook: A retail cannabis store must have a digital camera security system that contains:
 - g) system must be tested weekly to ensure all cameras and recording equipment are functioning properly and a log of the test results must be kept and available to AGLC upon request.
- Section 109(2)(f) of the Regulation: For the purposes of section 90.07(5)(b) of the Act, a cannabis licensee must, in accordance with the terms of the licence, (f) ensure that any cannabis not displayed in accordance with clause (d) is stored in a locked storeroom accessible only by authorized employees of the cannabis licensee.
- Section 1.7.7 of the Handbook: SellSafe certification must be maintained by successfully repeating the SellSafe program (including passing the exam) before the certification expiration date.

[2] For the alleged contravention of section 91(1)(a) of the Act, Regulatory Services imposed an administrative sanction of a fine of \$1,000 or, in the alternative, a 4-day suspension of the Licence.

[3] For the alleged contravention of section 3.3.3(c) of the Handbook, Regulatory Services imposed an administrative sanction of a fine of \$250 or, in the alternative, a 1-day suspension of the Licence.

[4] For the alleged contravention of section 3.3.3(g) of the Handbook, Regulatory Services imposed an administrative sanction of a warning.

[5] For the alleged contravention of section 109(2)(f) of the Regulation, Regulatory Services imposed an administrative sanction of a fine of \$2,500 or, in the alternative, a 10-day suspension of the Licence.

[6] For the alleged contravention of section 1.7.7 of the Handbook, Regulatory Services imposed an administrative sanction of a fine of \$250 or, in the alternative, a 1-day suspension of the Licence.

[7] The Licensee subsequently applied for a hearing before a Panel of the Board of AGLC pursuant to section 94(1) of the Act on December 8, 2023.

[8] The Hearing Panel Office made numerous attempts to contact the owner/operator of Atomic Cannabis - Coleman, Ganesh Joseph Naidoo, with a request to complete and return an Application for a Hearing.

[9] Mr. Naidoo emailed an incomplete Application for a Hearing to the Hearing Panel Office on February 12, 2024.

[10] 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 – Patti Grier (Presiding Member), Len Rhodes and Wayne Drysdale.

[11] The Hearing Panel Office contacted Mr. Naidoo several times with regard to scheduling the hearing but did not receive a response.

[12] The Board Chair was advised of Mr. Naidoo's unresponsiveness. In accordance with rule 1.10.1(b) of the Hearing Panel Rules & Procedures, the Board Chair directed that a hearing date be selected to avoid further delay.

[13] The Hearing Panel Office scheduled the hearing for March 15, 2024. The Notice of Hearing dated February 23, 2024 was provided to the Licensee via email and recorded mail, and to Regulatory Services via email.

[14] On February 29, 2024, AGLC Inspector Keith Scotland hand delivered the Notice of Hearing to Mr. Naidoo at the Atomic Cannabis location in Lethbridge.

[15] The Notice of Hearing sent via recorded mail was collected by Mr. Naidoo on March 5, 2024.

[16] On March 8, 2024, the parties and the Hearing Panel were provided with a record containing various documents pertaining to the issues before the panel.

[17] The Presiding Member convened the hearing on March 15, 2024 and noted that Mr. Naidoo was not in attendance.

[18] The Presiding Member requested that another attempt be made to contact Mr. Naidoo.

[19] The Panel recessed for 15 minutes, at which time the Hearing Panel Office attempted to contact Mr. Naidoo.

[20] The Panel reconvened and were advised that Mr. Naidoo was unresponsive.

[21] The Panel recessed to deliberate.

[22] The Panel reconvened and advised that despite numerous attempts to contact the Licensee by mail, email and telephone and due to the non-response and non-attendance of the Licensee at the scheduled hearing, the Panel would hear the matter pursuant to rule 4.6.1(a) of the Hearing Panel Rules & Procedures, which states that if a participant does not attend a scheduled hearing, the Hearing Panel may make any direction it considers appropriate, including: hear the matter in the absence of the participant.

[23] The following documents were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs 1 to 3

II. Issues

[24] Did the Licensee contravene section 91(1)(a) of the Act and/or section 3.3.3(c) of the Handbook and/or section 3.3.3(g) of the Handbook and/or section 109(2)(f) of the Regulation and/or section 1.7.7 of the Handbook?

[25] If the Licensee contravened section 91(1)(a) of the Act, should the administrative sanction imposed by Regulatory Services of a \$1,000 fine or a 4-day suspension of the Licence be confirmed, replaced, or cancelled?

[26] If the Licensee contravened section 3.3.3(c) of the Handbook, should the administrative sanction imposed by Regulatory Services of a \$250 fine or a 1-day suspension of the Licence be confirmed, replaced, or cancelled?

[27] If the Licensee contravened section 3.3.3(g) of the Handbook, should the administrative sanction imposed by Regulatory Services of a warning be confirmed, replaced, or cancelled?

[28] If the Licensee contravened section 109(2)(f) of the Regulation, should the administrative sanction imposed by Regulatory Services of a \$2,500 fine or a 10-day suspension of the Licence be confirmed, replaced, or cancelled?

[29] If the Licensee contravened section 1.7.7 of the Handbook, should the administrative sanction imposed by Regulatory Services of a \$250 fine or a 1-day suspension of the Licence be confirmed, replaced, or cancelled?

III. Regulatory Services Submissions

[30] Regulatory Services called one witness: AGLC Inspector Riley Fowler. Inspector Fowler has been an inspector with AGLC for six years.

[31] The following is a summary of the evidence provided by Inspector Fowler.

Background

[32] Inspector Fowler advised the Panel that Atomic Cannabis has a location in Lethbridge and a location in Coleman. Each licensed premises has its own retail cannabis store licence. The licences are both held by R&D Operatives Inc. (the Company), and Mr. Naidoo is the sole director and shareholder of the Company.

[33] As background for the Panel, Inspector Fowler reviewed Regulatory Services' previous interactions with the Licensee, which were also detailed in the Incident Report (Exhibit 1, Tab 2).

[34] As a result of numerous contraventions that occurred at the Atomic Cannabis Lethbridge location, which gave rise to cautions and five incident reports, AGLC placed the following conditions on the retail cannabis store licences for both Atomic Cannabis locations as a means to compel compliance:

1. The licensee must ensure that all staff members, upon hire and every three months (90 days) thereafter, are properly trained and understand the legislation and policies applicable to a retail cannabis store. The following topics must be part of all training sessions: prescribed retail cannabis store security standards, qualified cannabis worker/SellSafe standards, and obtaining identification from customers who appear to be under 25 years of age. A written record of this training, including the topics, must be kept on the premises, and produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
2. The licensee must ensure that all staff members are able to operate the digital camera security system and recording equipment, and that the staff members have access to the camera monitor. All staff members must be trained and capable to show, provide, and download camera footage for an inspector (as defined by the *Gaming, Liquor and Cannabis Act*) immediately upon request.
3. The licensee must maintain an accurate and legible staff schedule. The staff schedule must be kept in the premises and be produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
4. The licensee must ensure their staff members are always under the supervision of an on-duty and competent manager or supervisor.

[35] On December 13, 2022, Inspector Fowler stated that AGLC Inspector Tanya Woo conducted a review of operating procedures with Mr. Naidoo, which included talking about security standards, SellSafe requirements and staff training seminars. Mr. Naidoo signed off on the operating procedures.

[36] On December 21, 2022, Inspector Fowler had a detailed phone conversation with Mr. Naidoo and explained the four licence conditions, and Mr. Naidoo said he understood them.

[37] On January 13, 2023, Inspector Fowler and Manager Vance Wolsky had an in-person meeting with Mr. Naidoo at the AGLC Lethbridge office where they discussed Mr. Naidoo's record of noncompliance with respect to:

- security standards;
- SellSafe and qualified cannabis worker standards; and
- the imposed Licence conditions.

Further, Inspector Fowler said that they offered Mr. Naidoo staff training seminars numerous times throughout the meeting, but he did not accept their offer and did not explain why he did not want the additional training.

[38] After the licence conditions were imposed, Inspector Fowler conducted a maintenance inspection of Atomic Cannabis - Coleman on February 17, 2023 and observed the following contraventions:

- The security standards were not being complied with.
- The camera footage was only going back five days, not the required 60 days.
- The camera test log wasn't being updated.

- The staff members did not know how to use the camera system per the imposed conditions.

As a result, Inspector Fowler issued the Licensee a caution and offered a staff training seminar.

[39] Inspector Fowler conducted an operating check at the Atomic Cannabis - Coleman on March 4, 2023 and found that staff members still did not know how to use the camera system per the imposed conditions. Inspector Fowler issued a caution to the Licensee and offered a staff training seminar.

[40] On March 30, 2023, Inspectors Fowler and Woo conducted an operating check at Atomic Cannabis - Coleman and found that the camera test log wasn't being updated and a staff member identified as S.H. still did not know how to access the camera system. Inspector Fowler issued a third caution to the Licensee and offered a staff training seminar.

[41] Inspector Fowler conducted a maintenance inspection at Atomic Cannabis - Coleman on August 11, 2023 and observed the following infractions:

- The training records were not being kept at the licensed premises, in violation of the licence conditions.
- The camera test log was not being updated.
- The staff member did not have the password to the camera system.

[42] Inspector Fowler discussed the infractions with the Licensee and requested the training records and camera test log. Inspector Fowler received both items but found they were insufficient and lacking the necessary details. Consequently, Inspector Fowler issued a fourth caution to the Licensee and offered another staff training seminar.

[43] Inspector Fowler confirmed that after each caution and each incident report was submitted, the Licensee was spoken to and educated on the contraventions.

[44] Inspector Fowler explained that the Licensee was issued more cautions than what would typically be given before proceeding with an incident report because the Licensee was undergoing stress due to a flood at the Atomic Cannabis Lethbridge location.

[45] On October 17, 2023, Inspectors Fowler and Scotland attended Atomic Cannabis - Coleman as part of a routine operating check, and they co-authored an Incident Report detailing the incident that occurred on that day (Exhibit 1, Tab 2).

[46] Inspector Fowler explained that the purpose of an operating check is to ensure that a licensee is complying with the Act, the Regulation, AGLC policies and any licence conditions.

[47] During the operating check, Inspector Fowler asked staff member S.H. to show the inspectors the camera footage so that they could verify that 60 days of camera footage was being retained, as required by AGLC policy.

[48] S.H. advised the inspectors that she wasn't confident she could use the camera system and gave Inspector Fowler a list of instructions so that he could access the system himself.

[49] Inspector Fowler accessed the camera footage at the licensed premises and found that only 17 days of footage was being retained. He referred the Panel to a photo he took of the camera screen showing that the last day of recorded footage was September 30, 2023 (Exhibit 1, Tab 2, Attachment 3).

[50] Inspector Fowler explained that the camera system must be checked weekly, and the date of each check must be recorded in a camera test log. When he reviewed the camera test log during the operating check, Inspector Fowler found that the last check was conducted on an unknown date in August 2023 (Exhibit 1, Tab 2, Attachment 4).

[51] Inspector Fowler stated that he checked the vault door of the cannabis storage room and found that it was unsecured and could be opened without having to put a combination in the spinning lock.

[52] When Inspector Fowler asked S.H. for the Licensee's training records, she pulled out her cell phone and went to a link on the AGLC website. Inspector Fowler advised that those weren't the training records the Licensee was required to keep in accordance with the licence conditions.

[53] Inspector Fowler asked S.H. when the last training session had occurred, and she advised that one was held approximately a month ago. However, S.H. was not able to provide any records of what topics that were discussed and who attended the meeting.

[54] Before leaving the licensed premises, Inspector Fowler said that he checked the SellSafe database to verify that S.H.'s certification was current. He found that it had expired on October 15, 2023 (Exhibit 1, Tab 2, Attachment 5).

[55] After being unable to reach Mr. Naidoo by phone following the operating check, Inspector Fowler attended the Atomic Cannabis Lethbridge location with Inspector Scotland on October 20, 2023 and found Mr. Naidoo.

[56] Inspector Fowler advised that the following matters were discussed with Mr. Naidoo:

- When asked about the training records, Mr. Naidoo advised that he didn't have copies of them.
- When Inspector Fowler said that he reviewed the camera system and found that 60 days of camera footage wasn't being retained, and Mr. Naidoo confirmed that the camera system was only retaining 17 days of footage.
- When asked why the cannabis storage room door was left unsecured, Mr. Naidoo had no explanation.
- Mr. Naidoo confirmed that he received Inspector Fowler's caution email of September 19, 2023, which outlined the requirements he needed to meet to be in alignment with the Licence conditions (Exhibit 1, Tab 2, Attachment 2).
- Inspector Scotland offered Mr. Naidoo a staff training seminar, and he responded "sure."

[57] Inspector Fowler attended Atomic Cannabis - Coleman with Inspector Woo in February 2024 and found that the camera system was still not retaining 60 days of camera footage.

[58] Inspector Fowler stated that he contacted Mr. Naidoo about the camera system, and Mr. Naidoo said that the camera footage was being stored on an external hard drive. Inspector Fowler asked Mr. Naidoo to bring the external hard drive to the AGLC Lethbridge office by March 1, 2024. Mr. Naidoo

did not produce the hard drive, and Inspector Fowler cautioned him for failing to assist an inspector by failing to provide records.

[59] Inspector Fowler stated that Mr. Naidoo is very difficult to communicate with and does not readily respond to emails and phone calls from AGLC inspectors. He further advised the Panel that he believes Mr. Naidoo's unresponsiveness is intentional.

[60] Inspector Fowler asserted that he does not believe the Licensee has any intention of complying with the Act, the applicable AGLC policies and the Licence conditions.

[61] When asked by the Panel whether he believes the Licensee understands the communications, Licence conditions and expectations that have been provided by Regulatory Services, Inspector Fowler stated that the Licensee has been thoroughly educated several times on what is required by the Licence conditions, the Act, the Regulation and the applicable AGLC policies. Inspector Fowler further advised that there is no language barrier when communicating with Mr. Naidoo.

[62] When asked by the Panel whether he believes there is any threat to public safety and/or client safety with regard to how the Licensee is operating Atomic Cannabis - Coleman, Inspector Fowler advised that the Licensee's noncompliance with security standards is a threat to public safety because it puts the licensed premises at much greater risk for robberies and thefts, and stolen legal cannabis can end up in the black market where it could be sold to minors and/or intoxicated people.

IV. Atomic Cannabis - Coleman Submissions

[63] The Licensee failed to attend the hearing and did not make oral or written submissions. Further, the Application for Hearing dated February 7, 2024 did not indicate why the Licensee was requesting a hearing.

V. Summation

Regulatory Services

[64] Regulatory Services submits that operating a retail cannabis store in the province of Alberta is a privilege and not an automatic right. It comes with significant responsibilities, including complying with the Act, the Regulation and AGLC policies.

[65] Regulatory Services contends that licensees and their staff are required to ensure that they follow all legislation and policies that govern the operation of a licensed cannabis retail store.

[66] Regarding the contravention of section 91(1)(a) of the Act, evidence provided by Inspector Fowler detailed that he had entered Atomic Cannabis - Coleman and found two breaches of conditions that had been placed on the Licence.

[67] Regulatory Services submits that the Licensee has been educated numerous times on the Licence conditions and has been provided with cautions after being found in violation of those conditions.

[68] The Licensee admitted to not keeping training records for staff and provided no explanation as to why his staff was unable to operate the video surveillance system.

[69] Regarding the contravention of section 3.3.3(c) of the Handbook, the digital camera security system was found to only be retaining 17 days' worth of footage, not the required 60 days as per policy. The Licensee provided no explanation for this violation, despite being cautioned for this exact violation months earlier.

[70] Regarding the contravention of section 3.3.3(g) of the Handbook, there were no digital camera system logs to verify that the camera system was being tested weekly in accordance with policy. Without the regular testing of the digital camera system, the Licensee cannot ensure that should something happen in the store, he is providing the adequate protection to his staff and the patrons that attend the store.

[71] Regarding the contravention of section 109(2)(f) of the Regulation, Inspector Fowler testified that he found the cannabis storage room unsecured. This room houses the vast majority of the store's cannabis and allowing it to be unlocked presents a risk to the staff working in that store. The Handbook details through its Physical Security policy in section 3.3 that any cannabis in the store must be secured at all times.

[72] Regulatory Services contends that the policies and legislation around the security of cannabis retail stores were developed with public safety in mind. Cannabis products and cannabis accessories must be secured to lessen the risk of thefts and robberies. These preventative measures help to ensure the safety of both the staff and the patrons in the store. If the store becomes complacent about securing products and accessories, they create an opportunity for an individual to target them and thereby put their staff and any patrons in the store at risk, and that is not acceptable.

[73] Regulatory Services submits that since the initial licensing of the Lethbridge Atomic Cannabis store in June of 2020, Mr. Naidoo has received a total of ten cautions and six incident reports, including the one before the Panel today. These violations are far in excess of any other licensed cannabis retail store, and the AGLC Lethbridge office has spent extensive time providing the Licensee with multiple chances to correct issues at the premises by educating him after each infraction. Despite all of the education and cautions, no progress was made in terms of compliance.

[74] As such, the AGLC put conditions on the retail cannabis store licence as the next graduated step.

[75] In trying to gain compliance after implementing those conditions, Regulatory Services contends that the Licensee was educated thoroughly on each condition, both verbally and in writing.

[76] Since the implementation of those conditions, the Licensee has received three additional cautions for not following the conditions culminating in the incident report that is the matter before the Panel today. The imposition of conditions has turned into just another avenue for noncompliance.

[77] Regulatory Services takes the position that it has made every possible effort to work with the Licensee. However, Mr. Naidoo's desire to work with Regulatory Services has not improved since the first submission of an incident report in relation to Atomic Cannabis.

[78] Regulatory Services prides itself on the education and working relationships it has with licensees. However, that relationship must be reciprocated.

[79] Regulatory Services is of the opinion that in this case, there is a consistent long history of non-compliance without any indication that things will change. This concentrated effort involving graduated compliance with Mr. Naidoo should have resulted in compliance, but the evidence presented today shows that it has not.

[80] Regulatory Services respectfully requests that instead of the original sanctions of a warning and a total of a \$4,000 fine or a combined 16-day suspension, the panel should instead, at minimum, suspend the retail cannabis store licence for a period of 16 days during which the Licensee and his staff must undergo mandatory training provided by AGLC.

[81] Mr. Naidoo must also develop and provide to AGLC a training plan, which he will be required to meet and discuss with his staff every 90 days.

[82] Additionally, Regulatory Services requests that the panel reaffirm all four conditions that Regulatory Services has already placed on the licence for Atomic Cannabis - Coleman.

Atomic Cannabis - Coleman

[83] The Licensee was absent and did not provide a summation.

VI. Analysis

[84] In accordance with section 97 of the Act and rule 5.3 of the Hearing Panel Rules & Procedures, the Panel is satisfied that the Notice of Hearing was received by the Licensee as it was sent via recorded mail, email and hand delivered to Mr. Naidoo. In addition, several attempts were made by the Hearing Panel Office to contact Mr. Naidoo, including on the day of the hearing. As such, the Panel finds that the Licensee received notice and was notified of the hearing.

[85] In accordance with rule 4.6.2 of the Hearing Panel Rules & Procedures, a participant who has been given notice of a hearing and fails to attend is presumed to have waived their right to receive and respond to evidence of submissions presented at or after the hearing. As such, the Panel heard the matter in the absence of the Licensee and any evidence pursuant to rule 4.6.1(a) of the Hearing Panel Rules & Procedures and carefully considered the oral and documentary evidence submitted by Regulatory Services in making its finding of fact.

[86] Based on the background information provided in the Incident Report (Exhibit 1, Tab 2) and Inspector Fowler's submissions detailing the multiple operating checks of Atomic Cannabis - Coleman and communications with Mr. Naidoo, the Panel finds that Mr. Naidoo received education on and an Inspector's caution relating to contraventions of the Act, the Regulation, the Handbook and the Licence conditions on four separate occasions.

[87] The Panel is of the opinion that Regulatory Services has endeavored to warn and educate the Licensee about the requirements to adhere to the Licence conditions and security standards. The Licensee should have been well aware of the requirements but did not take any steps to rectify the ongoing issues.

[88] The Panel heard evidence that Mr. Naidoo has been offered a free training seminar for himself and his staff on multiple occasions. Given his repeated contraventions of and disregard for the Act, the

Regulation, the Handbook and the Licence conditions, the Panel finds that this lack of regard for training contributes to an increased concern for public and/or client safety.

[89] The Panel considered the evidence before them and found the following salient evidence in relation to each violation:

Section 91(1)(a) of the Act (Contravention 1)

[90] Inspector Fowler submitted that when he asked S.H. to play back the camera recording system to determine whether it was retaining 60 days of camera footage, she responded that she was not confident on how to use the software and instead provided Inspector Fowler with instructions on how to access the camera system.

[91] The Panel finds that the Licensee's staff member's lack of training and inability to show, provide and download camera footage for an inspector immediately upon his request is a violation of the first Licence condition.

[92] Inspector Fowler submitted that when he asked S.H. to produce the training records for Atomic Cannabis - Coleman, she advised that a training session had taken place the previous month but there were no written training records detailing the date, the staff members who attended, and the topics that were discussed.

[93] By failing to retain and produce written training records at the licensed premises, the Panel finds that the Licensee violated the second Licence condition.

[94] As such, the Panel finds that the Licensee contravened section 91(1)(a) of the Act by failing to comply with the first and second Licence conditions.

Section 3.3.3(c) of the Handbook (Contravention 2)

[95] Inspector Fowler provided photo evidence (Exhibit 1, Tab 2, Attachment 3) of the Licensee's camera system showing that it was only retaining 17 days of camera footage.

[96] The Panel finds that Atomic Cannabis - Coleman's camera system does not comply with section 3.3.3(c) of the Handbook, which requires a camera system to have 60 days minimum recording retention.

[97] As such, the Panel finds that the Licensee contravened section 3.3.3(c) of the Handbook.

Section 3.3.3(g) of the Handbook (Contravention 3)

[98] Inspector Fowler provided photo evidence (Exhibit 1, Tab 2, Attachment 4) of the Licensee's camera test log, which showed that the last camera system check occurred in August 2023 on an unknown date. Further, the camera test log shows that the camera system was checked one time in July 2023 and one time in August 2023.

[99] The Panel finds that Licensee's camera system checks and camera test log do not comply with section 3.3.3(g) of the Handbook, which requires a camera system to be checked weekly and the test results of each check to be recorded in a camera test log.

[100] As such, the Panel finds that the Licensee contravened section 3.3.3(g) of the Handbook.

Section 109(2)(f) of the Regulation (Contravention 4)

[101] Inspector Fowler submitted that the vault door of the cannabis storage room in Atomic Cannabis - Coleman was left unsecured and accessible.

[102] The Panel finds that the cannabis storage room in Atomic Cannabis - Coleman was left unlocked and accessible by someone other than the authorized employees of the Licensee.

[103] As such, the Panel finds that the Licensee contravened section 109(2)(f) of the Regulation.

Section 1.7.7 of the Handbook (Contravention 5)

[104] During his visit to Atomic Cannabis - Coleman on October 17, 2023, Inspector Fowler conducted a search of S.H.'s SellSafe certification in the AGLC SMART Training database and presented search results showing that S.H.'s certification had expired on October 15, 2023 (Exhibit 1, Tab 2, Attachment 5).

[105] SellSafe certification must be maintained by successfully repeating the SellSafe program before the certification expiration date.

[106] As such, the Panel finds that the Licensee contravened section 1.7.7 of the Handbook.

[107] Operating a licensed retail cannabis store is a privilege and not a right. It comes with significant responsibilities, including the requirement for licensees and their employees to comply with the Act, the Regulation, all relevant AGLC policies and any licence conditions. Mr. Naidoo is not exempt and cannot be selective in which provisions he chooses to abide by.

VII. Finding

[108] For the reasons stated above, the Panel finds that the Licensee contravened:

- Section 91(1)(a) of the Act;
- Section 109(2)(f) of the Regulation; and
- Sections 3.3.3(c), 3.3.3(g) and 1.7.7 of the Handbook.

[109] In accordance with sections 91(2) and 94(7)(b) of the Act, the Panel replaces the original administrative sanctions imposed by Regulatory Services with a suspension of the Licensee's Class CS-Retail Cannabis Store Licence numbered 784975-1 for a period of sixteen (16) consecutive days, effective April 2, 2024, with the reinstatement of the Licence contingent upon the following:

- Mr. Naidoo and all employees of Atomic Cannabis - Coleman must participate in a staff training seminar conducted by Regulatory Services.
- The Licensee must develop and provide to Regulatory Services for approval a training plan, which must be in accordance with the first Licence condition.
- The Licensee must prove that the camera system has 60 days minimum recording retention, in accordance with section 3.3.3(c) of the Handbook.

[110] Specifically, if the staff training seminar is not completed by Mr. Naidoo and all employees of Atomic Cannabis - Coleman during the 16-day suspension period, the Licence shall remain suspended. If the Licensee does not develop and provide to Regulatory Services a training plan that is in accordance with the first Licence condition during the 16-day suspension period, the Licence shall remain suspended. If the Licensee does not fix the camera system to ensure that it has 60 days minimum recording retention during the 16-day suspension period, the Licence shall remain suspended.

[111] All conditions must be fully met for the Licence to be reinstated.

[112] Further, the Panel confirms the existing conditions on the Licence, specifically:

1. The licensee must ensure that all staff members, upon hire and every three months (90 days) thereafter, are properly trained and understand the legislation and policies applicable to a retail cannabis store. The following topics must be part of all training sessions: prescribed retail cannabis store security standards, qualified cannabis worker/SellSafe standards, and obtaining identification from customers who appear to be under 25 years of age. A written record of this training, including the topics, must be kept on the premises, and produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
2. The licensee must ensure that all staff members are able to operate the digital camera security system and recording equipment, and that the staff members have access to the camera monitor. All staff members must be trained and capable to show, provide, and download camera footage for an inspector (as defined by the *Gaming, Liquor and Cannabis Act*) immediately upon request.
3. The licensee must maintain an accurate and legible staff schedule. The staff schedule must be kept in the premises and be produced immediately upon request of an inspector (as defined by the *Gaming, Liquor and Cannabis Act*).
4. The licensee must ensure their staff members are always under the supervision of an on-duty and competent manager or supervisor.

Signed at Calgary, this 26th day of March, 2024



Patti Grier, Presiding Member, Hearing Panel