

**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

**Mikey Mac's Bar & Hotel Ltd.
o/a Mikey Mac's Bar & Hotel (Licensee)
c/o Shores Jardine LLP
Suite 2250 Bell Tower
10104 – 103 Avenue
Edmonton, AB T5J 0H8**

DATE OF HEARING:	April 18, 2024
HEARING PANEL:	Len Rhodes, Presiding Member Maureen Moneta, Panel Member Jack Fujino, Panel Member
LICENSEE / REPRESENTATIVE:	Tracy Zimmer, Legal Counsel Michael McDonald, Owner/Operator Rebecca Scales, Owner/Operator
REGULATORY SERVICES DIVISION:	Alisha Hurley, Legal Counsel Petrina Nash, Resource Officer

DECISION OF THE HEARING PANEL

The Panel finds that Mikey Mac's Bar & Hotel (the Licensee) contravened section 69(1)(a) of the *Gaming, Liquor and Cannabis Act* (the Act).

In accordance with section 91(2) of the Act, the Panel imposes the sanction set out in the Joint Submission on Sanction submitted jointly by the Regulatory Services Division (Regulatory Services) and the Licensee as follows:

1. A thirty-three (33) day suspension of the Licensee's Class A liquor licence numbered 783060-2 commencing on April 14, 2024 and continuing until the end of May 16, 2024, inclusively.
2. A fine of \$11,750 to be paid by Mikey Mac's Bar & Hotel in installments in the following manner:
 - i. a payment of \$2,750 on April 25, 2024; and
 - ii. payments of \$500 per month for the following eighteen (18) months, commencing in May of 2024, with payment to be made by the last day of each month.

3. Michael McDonald will not be eligible to participate in the business operations of Mikey Mac's Bar & Hotel for a period of five (5) years commencing April 18, 2024, but Mr. McDonald may participate in the maintenance of the premises.

I. Jurisdiction and Preliminary Matters

[1] On January 9, 2023, Gary Peck, the Vice President of Regulatory Services of the Alberta Gaming, Liquor and Cannabis Commission (AGLC) contacted Len Rhodes, Board Chair, via email to request that the Board convene a hearing for Mikey Mac's Bar & Hotel Ltd. operating as Mikey Mac's Bar & Hotel, as a result of an alleged contravention of:

- section 69(1)(a) of the Act: No liquor licensee or employee or agent of a liquor licensee may permit any activity in the licensed premises that is contrary to any municipal bylaw or any Act or regulation of Alberta or Canada.

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

[3] A hearing was held on March 24, 2023, and the Panel issued their decision on April 18, 2023.

[4] Pursuant to the order of Justice R. Paul Belzil dated November 21, 2023, the decision of the Panel for Mikey Mac's Bar & Hotel was quashed. Further, AGLC was ordered to convene a new hearing with a new Panel.

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

[6] On April 11, 2024, Regulatory Services and Mikey Mac's Bar & Hotel submitted an Agreed Statement of Facts and Joint Submission on Sanction to the Hearing Panel Office and requested that the hearing proceed by way of written submissions.

[7] Pursuant to rule 1.11.3(b) of the Hearing Panel Rules & Procedures, the Panel directed that the hearing be conducted by document exchange.

[8] The Panel was provided with a record containing various documents pertaining to the issues before the Panel. The following documents were accepted into evidence:

- Agreed Statement of Facts with the following exhibits attached:
 - Exhibit 1 Hearing Record, including Tabs 1 to 3
 - Exhibit 2 Edmonton Police Service files, including Tabs 1 to 9
- Joint Submission on Sanction
- Filed consent order of Justice R. Paul Belzil dated November 21, 2023 (court file number 2314-00347)

II. Issues

[9] Did Mikey Mac's Bar & Hotel contravene section 69(1)(a) of the Act?

[10] If so, what sanction should the Panel impose in accordance with section 91(2) of the Act?

III. Agreed Statement of Facts submitted by Regulatory Services and Mikey Mac's Bar & Hotel

[11] The following is an excerpt of the facts and admissions set out in the Agreed Statement of Facts, as agreed to and submitted by Regulatory Services and the Licensee.

7. Due to a significant number of thefts and robberies from retail liquor stores, which had resulted in the sale of stolen liquor to various licensed premises, the Edmonton Police Service (EPS) initiated an undercover project.
8. As part of the undercover project, EPS undercover officers sold liquor that was held out to be stolen to individuals in an effort to determine which businesses and licensees were purchasing stolen liquor. Markings on the bottles of liquor held out to be stolen were noted for future identification (the "ID Markings").
9. As part of the EPS operation, EPS members conducted surveillance on an individual who had obtained some of the liquor alleged to be stolen. Through a warrant, EPS members also obtained cell phone records from that individual's cell phone. A review of the cell phone records revealed that he had recently contacted McDonald, and revealed that on February 22, 2022, McDonald purchased 18 cases of liquor from him, totalling \$3,515.00. None of the texts indicate that the liquor was stolen.
10. On July 27, 2022 (the initial date of July 22, 2022 in the Agreed Statement of Facts was corrected by Regulatory Services and the Licensee via email), two AGLC Inspectors and an Investigator attended Mikey Macs' premises, however the premises were closed. One of the Inspectors was able to speak to Scales and arrange a time for inspection on August 5, 2022.
11. On August 5, 2022, an AGLC Inspector and an AGLC Investigator attended Mickey Macs' (note that a typo was made in the Agreed Statement of Facts and the name should appear as Mikey Macs' as per the Class A liquor licence no. 783060-2) and that premises to conduct an inspection. During the inspection, the following liquor bottles that had the ID Markings were located on the display shelf and in the storage area:
 - (a) Nine 1.14L bottles of Bacardi Superior White Rum (one opened but full);
 - (b) Six 750ml bottles of Grey Goose Vodka (one opened and half full);
 - (c) Five 1.14L bottles of Crown Royal Whisky (one opened and two thirds full);
 - (d) Four 750ml bottles of Jack Daniels Whiskey (one opened and three quarters full);
 - (e) One 750ml bottle of Smirnoff Vodka;
 - (f) Eight 750 ml bottles of Captain Morgan Spiced Rum.
12. The Respondents admit that McDonald acquired liquor to be sold at Mikey Macs that was not purchased from the Commission or acquired in accordance with Board policies, in contravention of s. 69(1)(a) of the Act.

13. The Respondents admit that Mikey Macs sold liquor that was not purchased from the Commission or acquired in accordance with Board policies, in contravention of s. 69(1)(a) of the Act.

IV. Joint Submission on Sanction submitted by Regulatory Services and Mikey Mac's Bar & Hotel

[12] The following is an excerpt of the sanction proposed by Regulatory Services and the Licensee, as set out in the Joint Submission on Sanction:

- (a) A thirty-three (33) day suspension of Mikey Macs license from April 14-May 16, 2024;
- (b) A fine of \$11,750 to be paid by Mikey Macs in installments in the following manner:
 - (i) A payment of \$2750 within five (5) business days of the pronouncement of the Panel;
 - (ii) Payment of \$500 for per month for the following 18 months, commencing in May of 2024, with payment to be made by the last day of each month.
- (c) McDonald will not be eligible to participate in the business operation of Mikey Macs for a period of five (5) years from the date of pronouncement of the Panel but may participate in the maintenance of the premises.

V. Analysis

[13] The Panel carefully considered the documentary evidence submitted jointly by Regulatory Services and Mikey Mac's Bar & Hotel.

[14] The Panel carefully considered the Agreed Statement of Facts that was submitted jointly by Regulatory Services and Mikey Mac's Bar & Hotel.

[15] The Panel accepts the facts set out in the Agreed Statement of Facts.

VI. Finding

[16] The Panel finds that Mikey Mac's Bar & Hotel contravened section 69(1)(a) of the Act.

[17] The Panel considered and accepts the Joint Submission on Sanction submitted jointly by Regulatory Services and Mikey Mac's Bar & Hotel.

[18] In accordance with section 91(2) of the Act, the Panel imposes the sanction set out in the Joint Submission on Sanction submitted jointly by Regulatory Services and the Licensee as follows:

1. A thirty-three (33) day suspension of the Licensee's Class A liquor licence numbered 783060-2 commencing on April 14, 2024 and continuing until the end of May 16, 2024, inclusively.

2. A fine of \$11,750 to be paid by Mikey Mac's Bar & Hotel in installments in the following manner:
 - iii. a payment of \$2,750 on April 25, 2024; and
 - iv. payments of \$500 per month for the following eighteen (18) months, commencing in May of 2024, with payment to be made by the last day of each month.

3. Michael McDonald will not be eligible to participate in the business operations of Mikey Mac's Bar & Hotel for a period of five (5) years commencing April 18, 2024, but Mr. McDonald may participate in the maintenance of the premises.

Signed at St. Albert, this 18th day of April, 2024

A handwritten signature in black ink, appearing to read "Len Rhodes". The signature is written in a cursive, flowing style.

Len Rhodes, Presiding Member, Hearing Panel