

**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**

**Red Sea Bar & Restaurant Limited (Licensee)  
o/a Red Sea Bar & Restaurant  
1816 36 Street SE  
Calgary, AB T2B 0X6**

<b>DATE OF HEARING:</b>	<b>July 10, 2024</b>
<b>HEARING PANEL:</b>	<b>Vincent Vavrek, Presiding Member Angela Tu Weissenberger, Panel Member Wayne Drysdale, Panel Member</b>
<b>LICENSEE / REPRESENTATIVE:</b>	<b>Samuel Angesom Negash, Owner/Operator Berhane Yohanes, Owner/Operator Hailom Ghirmay, Interpreter</b>
<b>REGULATORY SERVICES DIVISION:</b>	<b>Petrina Nash, Hearing Officer</b>

**DECISION OF THE HEARING PANEL**

The Panel finds that the Licensee contravened sections 71(2) and 68(1)(b) of the *Gaming, Liquor and Cannabis Act* (the Act).

In accordance with section 91(2)(d) of the Act, the Panel cancels the Licensee's Class A Minors Allowed liquor licence numbered 784774-1 effective August 1, 2024.

Alberta Gaming, Liquor and Cannabis Commission (AGLC) will need to make a determination with respect to the disposition of the liquor, in accordance with section 95 of the Act.

**I. Jurisdiction and Preliminary Matters**

[1] On May 16, 2024, Gary Peck, the Vice President of the Regulatory Services Division (Regulatory Services) of AGLC contacted Len Rhodes, Board Chair, via email to request that the Board convene a hearing for Red Sea Bar & Restaurant Limited operating as Red Sea Bar & Restaurant (Red Sea), as a result of the following alleged contraventions:

- section 71(2) of the Act: Except as provided in the regulations, no liquor licensee or employee or agent of a liquor licensee may permit any person to be in licensed premises when the sale and consumption of liquor in those premises are prohibited under the regulations or stadium bylaws; and
- section 68(1)(b) of the Act: No liquor licensee or employee or agent of a liquor licensee whose licence authorizes the sale or provision of liquor at licensed premises may sell, offer to sell or provide liquor at the licensed premises except during the hours and on the days when the liquor may be sold or provided under the regulations or stadium bylaws.

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

[3] In accordance with section 11 of the Act, the 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), Angela Tu Weissenberger and Wayne Drysdale.

[4] The Licensee was provided with a Notice of Hearing and hearing record via recorded mail and email on May 22, 2024, which provided details regarding the hearing and the alleged contraventions.

[5] The parties and the Hearing Panel were provided with a record containing various documents pertaining to the issues before the panel. The Licensee confirmed receipt of the Notice of Hearing dated May 22, 2024 and the attached hearing record. The following documents were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs 1 to 2
- Exhibit 2 Written statement provided by the Licensee

## **II. Issues**

[6] Did the Licensee contravene section 71(2) of the Act and/or section 68(1)(b) of the Act?

[7] If the Licensee contravened section 71(2) of the Act and/or section 68(1)(b) of the Act, what sanction should the Panel impose in accordance with section 91(2) of the Act?

## **III. Regulatory Services Submissions**

[8] Regulatory Services called two witnesses: AGLC Inspectors Kenan Dedic and Minsun Chun. Inspector Dedic has been an inspector with AGLC for one year, and Inspector Chun has been an inspector with AGLC for one year. Inspectors Dedic and Chun co-authored an Incident Report, which details an incident that occurred at Red Sea on May 5, 2024 (Exhibit 1, Tab 1).

[9] The following is a summary of the evidence provided by Inspectors Dedic and Chun.

[10] Inspector Dedic explained that the Licensee's Class A Minors Allowed liquor licence numbered 784774-1 (the Licence) permits minors in Red Sea until 9:00 PM and liquor service until 2:00 AM. All

patrons, along with any alcohol that has been served, must be cleared from the licensed premises by 3:00 AM, and only staff members should be inside closing down and cleaning up the licensed premises.

[11] Inspectors Dedic and Chun stated that Red Sea has a history of operating and allowing liquor service during unauthorized hours. The Licensee was sanctioned for these offences in May 2023, September 2023, December 2023 and March 2024 and paid fines. During each incident, either one or both owners were present.

[12] Inspector Dedic said that the Licensee was offered a staff training seminar after the hearing in March 2024 but declined the offer.

[13] After overhearing patrons at another licensed premises talking about going to Red Sea for after hours, Inspectors Dedic and Chun conducted an operating check at Red Sea and arrived at the licensed premises at 3:20 AM on May 5, 2024. The inspectors stated that the licensed premises appeared to be closed as the open sign was off, the chairs were on the tables, and no patrons could be seen at the front of Red Sea. Inspector Chun said that he observed four or five cars parked outside of Red Sea, and no other businesses in the area appeared to be open.

[14] Inspectors Dedic and Chun advised that they checked the front door, found that it was unlocked, and upon entering Red Sea saw a waitress and a man behind the service bar.

[15] When Inspectors Dedic and Chun identified themselves, a patron opened a blackout curtain revealing ten patrons socializing in a back room, and two of the patrons were in possession of Budweiser beer bottles. There were numerous other bottles and glasses on the wall ledge, and nothing indicated that the patrons were in the process of leaving the licensed premises.

[16] Inspectors Dedic and Chun confirmed that they had not seen the blackout curtain during their previous visits to Red Sea, and Inspector Chun stated that the blackout curtain shows that the Licensee was intentionally trying to conceal Red Sea's after hours activities.

[17] Inspectors Dedic and Chun stated that Mr. Negash was in the back room, and he and a patron immediately started clearing the beer bottles and glasses from the patrons and the wall ledge and took everything to the kitchen attached to the back room.

[18] Inspectors Dedic and Chun advised that Mr. Yohanes:

- came to the front of the blackout curtains;
- loudly stated that Red Sea is closed, the chairs are on the tables, and the patrons are waiting for their cab; and
- blocked the inspectors' path to the back room.

[19] Inspector Chun contended that it was unlikely that the patrons were waiting for a cab since he and Inspector Dedic observed the patrons exiting Red Sea and either departing on foot across the street, getting into their cars that were parked in front of the licensed premises, getting picked up or waiting outside.

[20] Inspectors Dedic and Chun stated that the Licensee has previously used the excuse that patrons are waiting for cabs numerous times, and the Licensee has been advised repeatedly that patrons are not permitted in the licensed premises after 3:00 AM.

[21] Once Mr. Negash was finished dumping the bottles and glasses in the kitchen, Inspector Dedic said that he explained AGLC's policies to Mr. Negash. Inspectors Dedic and Chun then went to the kitchen and found the two Budweiser beer bottles and glasses in the sink (Exhibit 1, Tab 1, Attachment 1). Inspector Dedic opined that Mr. Negash empties the Budweiser beer bottles in the sink in order to deliberately destroy the evidence showing that the liquor was still out and available to patrons for consumption during unauthorized hours. Inspector Chun stated that in his opinion, the Licensee provided the two Budweiser beer bottles to the patrons.

[22] Inspector Dedic asked Mr. Negash and Mr. Yohanes to show him Red Sea's point of sale system in order to review the purchase history, and he said they were uncooperative and initially ignored his requests. The Licensee eventually provided the inspectors with one receipt dated May 5, 2024 at 3:02 AM in the amount of \$107.10, but it lacked any itemization of what was sold (Exhibit 1, Tab 1, Attachment 2).

[23] Inspectors Dedic and Chun contended that Mr. Yohanes was confrontational and shouted that the final receipt for liquor sales was at 3:02 AM. Inspector Dedic stated that the receipt shows that payment was made after Red Sea should have been closed for business, and the last sale of liquor should occur no later than 2:00 AM.

[24] Inspectors Dedic and Chun contended that the kitchen was clearly not operating during their check, they neither smelled nor saw any food anywhere in Red Sea, no patrons were seen leaving with packages of food, and no patrons were seen eating food. Further, Inspector Dedic stated that there was no evidence of hookah being smoked in Red Sea. As a result of these observations, Inspector Dedic stated that there was nothing to indicate that the entries in the point of sale system and the receipt were for anything other than liquor.

[25] Inspector Dedic stated that due to Mr. Yohanes' extremely agitated state, he and Inspector Chun decided to leave Red Sea at 3:35 AM in order to avoid any further escalation.

[26] Inspectors Dedic and Chun returned to Red Sea on May 6, 2024 to look at the point of sale system and request video surveillance footage. They were told the video surveillance footage was not available due to faulty wiring. From the point of sale system, the inspectors were able to see a total of 13 transactions were made between 2:00 AM and 3:26 AM totaling \$1,149.74 and each transaction had Mr. Negash's name beside it (Exhibit 1, Tab 1, Attachment 3). Inspector Dedic contended that this shows that the licensed premises did not stop selling liquor right up until the time he and Inspector Chun arrived.

[27] Inspector Dedic advised the Panel that because Red Sea's point of sale system did not show any itemization of what was sold, he could not confirm what had been sold on May 5, 2024. Further, licensees decide how items are shown in a point of sale system.

[28] Inspector Chun submitted that it was very reasonable to conclude that the transactions listed in the point of sale system were for liquor.

[29] When asked by the Licensee whether he saw anyone consuming alcohol, Inspector Dedic confirmed that he saw two patrons holding full beer bottles in the back room.

[30] When asked by the Licensee why he did not take any pictures of the patrons holding beer bottles, Inspector Dedic stated that he did not have the opportunity to take any pictures because Mr. Negash and a patron took the beer bottles away immediately while Mr. Yohanes obstructed the inspectors from entering the back room.

[31] When asked by the Licensee whether he took any pictures, Inspector Chun stated that he did not take any pictures immediately since Red Sea appeared to be closed.

[32] When asked by the Licensee whether they had the right to enter Red Sea and take pictures of the point of sale system on May 6, 2024 without the Licensee's consent, Inspectors Dedic and Chun confirmed that they have the right to inspect every area of a licensed premises.

[33] When Mr. Negash asked Inspector Chun why he did not wait for him and Mr. Yohanes to arrive at Red Sea on May 6, 2024, Inspector Chun stated that he and Inspector Dedic did not have time to wait around for them to show up and wanted to avoid any further confrontation.

[34] When asked by the Licensee whether he checked the oven in the kitchen during the operating check on May 5, 2024, Inspector Dedic stated that they checked the kitchen, found it to be clean, and did not see any food nor anything indicating that food was being prepared.

[35] When asked by the Panel whether they had any evidence showing that liquor was either sold or consumed during the operating check on May 5, 2024, Inspectors Dedic and Chun stated that they witnessed two patrons holding Budweiser beer bottles but did not have the opportunity to take pictures. Inspector Chun further advised the Panel that he did not witness any patrons consuming alcohol.

[36] When asked by the Panel to describe how the ten patrons were dressed, Inspector Dedic stated that they were in casual wear. He further confirmed that he did not see any patrons in long white robes or special ceremonial clothing.

[37] When asked by the Panel whether Mr. Negash or Mr. Yohanes mentioned that the patrons had come from some type of service, Inspector Dedic stated that they did not mention any service and only mentioned that the patrons were waiting for a taxi.

[38] Inspector Chun confirmed that neither Mr. Negash nor Mr. Yohanes mentioned anything about a cultural celebration going on during the evening of the incident.

#### **IV. Red Sea Submissions**

[39] Samuel Angesom Negash, a Representative for the Licensee, gave evidence on behalf of Red Sea.

[40] The following is a summary of the evidence provided by Mr. Negash.

[41] Mr. Negash advised that Red Sea has been operating for one year and seven months.

[42] Mr. Negash stated that Red Sea's kitchen was operating on May 5, 2024, and they were serving food as it was Orthodox Easter and people were breaking their fast that day.

[43] Mr. Negash explained that his brother and Mr. Yohanes' brother were making food deliveries for Red Sea that morning since they had a lot of food orders. He further stated that the food orders were packed and waiting in the kitchen when the inspectors were conducting their operating check.

[44] With regard to the cars parked outside of Red Sea, Mr. Negash stated that the cars belonged to him, Mr. Yohanes, their brothers and a staff member.

[45] Mr. Negash contended that the point of sale system did not show any alcohol sales.

[46] Mr. Negash stated that when AGLC inspectors have previously visited Red Sea, they always take pictures.

[47] Mr. Negash submitted that the chairs were on the tables.

[48] Mr. Negash stated that when Inspectors Dedic and Chun asked what they were doing there, he explained to them that they still had a lot of work to do after 3:00 AM.

[49] When asked by Regulatory Services whether the Licensee has been spoken to on at least five occasions about after hours, Mr. Negash confirmed that was correct and further confirmed that he and/or Mr. Yohanes have been present during prior offences involving after hours.

[50] When asked by Regulatory Services what actions the Licensee took after each incident involving after hours to ensure that it would not happen again, Mr. Negash said that they ensure people leave Red Sea by 3:00 AM and the exception was that day.

[51] When asked by Regulatory Services whether the Licensee has provided any training to their staff, Mr. Negash stated that he has learned from past incidents and always tells patrons at 2:45 AM that they must leave by 3:00 AM.

[52] When asked by Regulatory Services to explain Red Sea's closing down process, Mr. Negash explained that the Licensee clears patrons out, cleans the kitchen after 3:00 AM and determines what stock is needed.

[53] When Regulatory Services asked what time last call is at, Mr. Negash stated that it is at 2:00 AM.

[54] When asked by Regulatory Services why Inspectors Dedic and Chun overheard patrons at another licensed premises talking about after hours at Red Sea, Mr. Negash stated that his people are always checking what after hours are occurring. He further stated that after the Licensee was fined \$8,000, Red Sea always closes by 3:00 AM.

[55] When Regulatory Services asked why the door was open at 3:27 AM, Mr. Negash stated that he was cleaning the kitchen and Mr. Yohanes and a waiter were cleaning tables. Further, Red Sea's door was open so that patrons waiting for taxis could leave when their ride arrived.

[56] When Regulatory Services stated that Inspectors Dedic and Chun observed ten people in a back room behind a blackout curtain and asked what the purpose of the blackout curtain is, Mr. Negash stated that:

- the blackout curtain is for the billiard table; and
- there were seven people in the back room, including himself, his brother, Mr. Yohanes, Mr. Yohanes' brother, a waiter and two patrons.

[57] When asked by Regulatory Services whether he was aware that only staff involved in cleaning and closing activities are permitted in a licensed premises after 3:00 AM and why there were patrons in the Red Sea at 3:27 AM, Mr. Negash stated that:

- he is aware of that rule;
- Easter is his people's holy day, and the patrons were there to eat their food and take their food; and
- the patrons were waiting for a taxi but left on foot when the inspectors arrived.

[58] When asked by Regulatory Services whether the blackout curtain was pulled across to intentionally hide people in the back room, Mr. Negash asserted that it was not.

[59] When asked by Regulatory Services whether he is under the impression that a holder of a Class A Minors Allowed liquor licence is allowed to be open and serving food at 3:27 AM, Mr. Negash stated that he sees some restaurants selling food after 3:00 AM and thought he could do the same.

[60] When Regulatory Services asked Mr. Negash why he grabbed two bottles of Budweiser beer bottles from the patrons sitting in the back room and dumped them down the sink, Mr. Negash stated that:

- he didn't take any beer bottles from the patrons;
- the beer bottles were already in the sink;
- the blackout curtain was open; and
- he was cleaning the kitchen.

[61] When asked by Regulatory Services why the inspectors would lie about him taking the Budweiser beer bottles from the patrons and dumping them in the sink, Mr. Negash stated that he didn't know and asserted that one of the inspectors told him "I'm going to take your licence."

[62] When asked by Regulatory Services why the inspectors' evidence with respect to not seeing and smelling any food and not observing anyone cleaning Red Sea during their operating check is so different from his evidence, Mr. Negash said he doesn't know why and was surprised by their testimony.

[63] When asked by Regulatory Services whether he took any pictures showing that the Red Sea was preparing food, Mr. Negash confirmed that he did not take any pictures.

[64] When asked by Regulatory Services whether he told Inspectors Dedic and Chun that the receipt (Exhibit 1, Tab 1, Attachment 2) was the last one put through the point of sale system that evening, Mr. Negash stated that:

- the inspectors misunderstood him as it was not the last receipt from the point of sale system;
- the receipt was for the last people that left Red Sea at 3:02 AM; and
- people in his culture always pay after eating and drinking.

[65] When Regulatory Services referred to the photos of the point of sale system (Exhibit 1, Tab 1, Attachment 3) and asked why there were 13 sales after 2:00 AM and whether there was any evidence substantiating what was ordered, Mr. Negash stated the sales were for food ordered by the church and that he could provide Regulatory Services with a telephone number for the card that was used to purchase the food.

[66] When the Panel referred to the pictures of the point of sale system (Exhibit 1, Tab 1, Attachment 3) and asked Mr. Negash if he entered the transactions, whether any of the transactions were for alcohol, and whether he could provide the itemized sales behind the transactions, he stated that:

- the login for the point of sale system is in his name and that's why the transactions show his name;
- none of the transactions were for alcohol; and
- he could not provide anything to show what was sold.

[67] When asked by the Panel whether it is Red Sea's general practice to enter transactions without showing what is being sold, Mr. Negash stated that he didn't know and that's the way the system is.

[68] When asked by the Panel what church Red Sea's customers came from and when the church service started, Mr. Negash stated that:

- the customers came from St. Michael Church; and
- the Easter church service started at 9:00 PM and finished between 2:00 AM – 3:00 AM.

[69] When asked by the Panel whether special clothing is worn for Easter church service in Mr. Negash's culture, he confirmed that white clothing is worn.

[70] When asked by the Panel why the inspectors did not see anyone in Red Sea wearing special white clothing, Mr. Negash stated that:

- the special white clothing is worn on Sundays;
- one person was wearing a white shirt; and



- people wear whatever they want at night.

## **V. Summation**

### **Regulatory Services**

[71] Regulatory Services submits that there are two matters before the panel today: a contravention of section 71(2) of the Act and a contravention of section 68(1)(b) of the Act.

[72] With respect to section 71(2) of the Act, the inspectors testified that they gained entry to Red Sea at 3:27 AM through the unlocked front door, and a waitress and another staff member were present behind the service bar.

[73] Regulatory Services submits that ten patrons were found behind a blackout curtain used to conceal their presence. The patrons were found in possession of liquor and were socializing behind the curtain with no indication that they were getting ready to leave.

[74] Regulatory Services contends that the Licensee has used the excuse in their past violations that patrons are always waiting for cabs. However, the inspectors observed some of the patrons leaving the premises on foot and some getting into vehicles that were already parked at the licensed premises when the inspectors arrived.

[75] Regulatory Services submits that the licensee has been educated numerous times about having patrons in the premises after the hours of operation have ceased, and instead of choosing to abide by the rules, the Licensee purposefully staged the premises to look closed by turning off the open sign and putting chairs on tables at the front of Red Sea.

[76] Considering the inspectors also heard about this premises as a place to go for after hours service when they were visiting a different premises, Regulatory Services is of the opinion that it is very clear that Red Sea has a reputation for operating after hours. A minors prohibited premises must close at 3:00 AM in accordance section 5.1.3 of the Liquor Licensee Handbook.

[77] With respect to section 68(1)(b) of the Act, the inspectors testified that they observed multiple patrons in possession of Budweiser beer bottles in addition to other bottles and glassware in the vicinity of patrons. Regulatory Services takes the position that Mr. Negash purposefully grabbed those bottles and dumped them down the sink to destroy evidence.

[78] Regulatory Services takes the position that the receipts from the point of sale system were not itemized, which is very unusual in a licensed premises, and they show that 13 sales took place after 2:00 AM when the sale of liquor must cease. These sales resulted in an additional profit of \$1,149.74 for the Licensee, and according to the point of sale system, all of these sales were rung through by Mr. Negash.

[79] Regulatory Services submits that the kitchen was not operational, there were no dishes or food observed within the premises, there were no patrons carrying food and there was no smell of food. Therefore, the reasonable conclusion is that the receipts were for liquor.

[80] Under section 68(1)(b) of the Act, Regulatory Services does not have to prove that the sale of liquor took place. Regulatory Services must prove that liquor was provided by the Licensee. The fact that

liquor was in the premises in possession of patrons and then taken by the Licensee and dumped down the sink shows that liquor was provided by the Licensee.

[81] Regulatory Services contends that based on the evidence of the inspectors, it was apparent the premises was operating when not authorized to do so, and had the inspectors not attended when they did, there is nothing to indicate when or how long the premises would have stayed in operation.

[82] Regulatory Services submits that this is the fifth instance of Red Sea having been found operating outside of authorized hours. On all five occasions, at least one of the owners of Red Sea has been present and in charge of the licensed premises at the time of the violations.

[83] Regulatory Services is of the opinion that it is clear from the repeated behavior that the Licensee has no interest whatsoever in adhering to the rules that govern the licensed premises. Instead of working to prevent these activities, the Licensee has taken steps to become more duplicitous in their attempt to hide these activities.

[84] The hours of operation for a Class A Minors Prohibited licensed premises, stipulated under section 92(1) and 92(2) of the Gaming, Liquor and Cannabis Regulation (the Regulation), allow for all like premises to operate in a competitive manner. Regulatory Services submits that when one licensed premises decides to operate outside of the Regulation, it potentially affords them an advantage to gain additional business not granted to its compliant competitors.

[85] Regulatory Services respectfully submits that contraventions of sections 71(2) and 68(1)(b) of the Act did in fact occur.

[86] Regulatory Services asserts that the Licensee does not act with integrity. As such, Regulatory Services has no interest in a continued relationship with the Licensee and asks the Panel to cancel Red Sea's Licence.

[87] If the Panel does not think that a licence cancellation is warranted, then Regulatory Services asks that at a minimum, a fine of \$8,000 or 32-day suspension for a breach of section 68(1)(b) of the Act and a fine of \$8,000 or 32-day suspension for a breach of section 71(2) of the Act be imposed. Further, Regulatory Services also asks that a condition be placed on the Licence requiring mandatory video surveillance at all times of operation.

### **Red Sea**

[88] Mr. Negash submits that after receiving an \$8,000 fine, the Licensee learned their lesson and ensures that no alcohol is sold at Red Sea after 2:00 AM and all patrons are cleared from the licensed premises by 3:00 AM.

[89] Mr. Negash contends that a video surveillance system has already been installed at Red Sea, and Regulatory Services can check the video surveillance footage any time.

[90] Mr. Negash submits that Red Sea will not be able to continue to operate without alcohol service.

[91] Mr. Negash asserts that Regulatory Services told the Licensee that they would hold a staff training seminar but never followed up.

[92] Mr. Negash asks that the Panel impose a warning.

## **VI. Analysis**

[93] The Panel carefully considered the oral and documentary evidence submitted by Regulatory Services and the Licensee in making its finding of fact.

[94] The Panel heard testimony from Inspectors Dedic and Chun that after overhearing patrons at another licensed premises talking about going to Red Sea for after hours, they visited Red Sea, entered the licensed premises at 3:27 AM, and observed approximately ten patrons in a back room behind a blackout curtain that the inspectors had not seen during previous operating checks. The Panel finds that the Licensee purposely put up the blackout curtain to conceal after hours activities at Red Sea.

[95] Mr. Negash contested the inspectors' observations with respect to the number of patrons in Red Sea, but he admitted that there were two patrons in Red Sea at 3:27 AM who were waiting for their taxi to arrive. The Panel finds that the Licensee should be fully aware that allowing patrons to remain in a licensed premises well after authorized hours is not permitted.

[96] Based on the oral evidence provided by Inspectors Dedic and Chun and Mr. Negash's admission, the Panel finds as fact that the Licensee allowed at least two patrons to remain in Red Sea during unauthorized hours.

[97] As such, the Panel finds that the Licensee contravened section 71(2) of the Act.

[98] Inspectors Dedic and Chun provided oral evidence that they observed two patrons holding Budweiser beer bottles in the back room behind the blackout curtains, and Mr. Negash and another patron immediately grabbed and emptied the beer bottles in the kitchen sink. The inspectors also observed numerous beer bottles and glassware on the wall ledge in the back room, and a photograph was presented showing two beer bottles and glassware in a sink (Exhibit 1, Tab 1, Attachment 1).

[99] Regulatory Services presented photographs of a receipt with a timestamp of 3:02 AM and the point of sale system showing 13 transactions occurred at Red Sea between 2:00 AM and 3:26 AM on May 5, 2024 (Exhibit 1, Tab 1, Attachments 2 and 3), however, the transactions do not include a breakdown of what was sold. Inspectors Dedic and Chun provided testimony that the kitchen was clean and not operating, they neither saw nor smelled any food in Red Sea, they did not see any patrons leaving with takeout food packages, and they did not smell hookah smoke.

[100] Mr. Negash provided testimony that nobody was consuming alcohol in Red Sea when the inspectors entered the licensed premises. He further stated that Red Sea was still operating its kitchen for food service, however, he did not provide any evidence to substantiate what was sold at Red Sea between 2:00 AM and 3:26 AM. Given the Licensee's history of allowing patrons to consume alcohol in Red Sea during unauthorized hours and the lack of evidence showing that Red Sea was only operating for food service and did not sell any alcohol between 2:00 AM and 3:26 AM, the Panel does not find Mr. Negash's testimony credible. Further, after receiving numerous sanctions arising from the sale of alcohol

during unauthorized hours, the Licensee ought to be aware of what they are required to show in order prove that neither the sale nor the provision of alcohol was occurring during unauthorized hours.

[101] Based on the oral testimony provided by Inspectors Dedic and Chun, the photograph showing the empty Budweiser beer bottles and glassware in the kitchen sink (Exhibit 1, Tab 1, Attachment 1), the receipt and the point of sale system lacking any itemization and showing transactions occurring during unauthorized hours (Exhibit 1, Tab 1, Attachments 2 and 3), and the absence of any evidence indicating that anything other than alcohol was sold, the Panel finds that, on a balance of probabilities, the Licensee provided alcohol to patrons of Red Sea during unauthorized hours.

[102] As such, the Panel finds that the Licensee contravened section 68(1)(b) of the Act.

[103] Despite having received numerous sanctions for permitting patrons to consume alcohol in Red Sea during unauthorized hours, the Licensee has continued to show a total lack of regard for the Act. Operating a licensed premises is a privilege and not a right that comes with significant responsibilities.

[104] AGLC is responsible for acting in the public interest and ensuring licensees operate in accordance with the law for the safety of other licensees and Albertans as a whole.

[105] Pursuant to section 13 of the Regulation, the Panel finds that the Licensee has not acted in accordance with the law, with honesty and integrity and in the public interest and is not eligible to hold a liquor licence at this time.

## **VII. Finding**

[106] For the reasons stated above, the Panel finds that the Licensee contravened sections 71(2) and 68(1)(b) of the Act.

[107] In accordance with section 91(2)(d) of the Act, the Panel cancels the Licence effective August 1, 2024.

[108] AGLC will need to make a determination with respect to the disposition of the liquor, in accordance with section 95 of the Act.

Signed at Calgary, this 1<sup>st</sup> day of August, 2024



Vincent Vavrek, Presiding Member, Hearing Panel