

**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

**M.A.R Ltd.
o/a Arena 7 Lounge (Applicant)
10586 109 Street NW, Lower Level
Edmonton AB, T5H 3B2**

DATE OF HEARING:	September 13, 2024
HEARING PANEL:	Patti Grier, Presiding Member Jack Fujino, Panel Member
LICENSEE / REPRESENTATIVE:	Shawn Allan, Representative
REGULATORY SERVICES DIVISION:	Petrina Nash, Hearing Officer

DECISION OF THE HEARING PANEL

The Panel finds that M.A.R Ltd., operating as Arena 7 Lounge (the Licensee), contravened section 91(1)(a) of the *Gaming, Liquor and Cannabis Act* (the Act) by failing to comply with licence condition numbers 2(a), 2(b), 3 and 4.

In accordance with section 91(2) of the Act, the Panel imposes the following sanctions:

- For the violation of licence condition 2(a), a fine of \$2,000 or a 4-day suspension of the Class A Minors Prohibited liquor licence numbered 783410-1 (the Licence). The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 7, 2024 and continuing until the normal close of business on November 10, 2024.
- For the violation of licence condition 2(b), a fine of \$500 or a 1-day suspension of the Licence. The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 11, 2024.
- For the violation of licence conditions 3 and 4, a fine of \$2,000 or a 4-day suspension of the Licence. The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 12, 2024 and continuing until the normal close of business on November 15, 2024.

The Licensee may make a lump sum payment or pay in installments. The licensee is directed to contact the Regulatory Services Division to make payment arrangements.

Further, the Panel confirms all existing conditions on the Licence.

I. Jurisdiction and Preliminary Matters

[1] On May 23, 2024, Gary Peck, the Vice President of the Regulatory Services Division (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 M.A.R Ltd., operating as Arena 7 Lounge (the Licensee), as a result of the following alleged contravention:

- 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.

[2] The alleged contravention of section 91(1)(a) of the Act is in relation to violations of certain conditions on the Licence. Regulatory Services imposed the following conditions on the Licence on October 18, 2021 (collectively, the Conditions):

1. An incident log book is to be maintained at the premises to record incidents (e.g. patron removals, intoxication, fights, disturbances, police attendance, etc.) and action taken by staff. The incident log shall include the date, time type of incident, incident details, and names of parties involved. The incident log is to be available to the AGLC and/or police on request and retained for 24 months.
2. At point and time of entry and re-entry to the premises, the Licensee must:
 - (a) Request and require (as a condition of entry) approved identification from all patrons entering the premises. All identification must be scanned by a scanning system and have the capability of retaining a name, age, and picture. A scanning system must be in place within 30 days of the implementation of these conditions.
 - (b) Check/store all patron's coats.
 - (c) Search all bags/purses for weapons/drugs (anyone found in the possession of weapons or illegal drugs is to be refused entry).
 - (d) Scan all patrons using a metal detector to prevent the entry of weapons (anyone found in the possession of weapons is to be refused entry).
3. The premises must have video surveillance approved by the AGLC, as follows:
 - (a) Video surveillance recording devices and lighting at each entrance to the premises, of sufficient quality to identify facial features of patrons entering the premises and door staff working at the entrances.
 - (b) Video surveillance recording devices and lighting to provide complete/surveillance coverage of patron areas (excluding washrooms) of sufficient quality to identify facial features of patrons and staff.

4. The video surveillance recordings must be retained for a minimum of 28 days and shall be made available to AGLC and/or police on request. Recordings must be accurately dated and labeled for ease of reference.

[3] 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.

[4] In accordance with section 11 of the Act, the Board Chair designated two members of the Board to sit as a Panel to conduct the hearing and make a decision – Patti Grier (Presiding Member) and Jack Fujino.

[5] The hearing was scheduled for July 18, 2024, and the Licensee was provided with a Notice of Hearing and hearing record via email and recorded mail on May 31, 2024 which provided details about the hearing and the alleged contravention.

[6] On July 5, 2024, Conrad Rattray of the Traffic Ticket Specialist advised the Hearing Panel Office that he had been retained as the representative for the Licensee and requested that the hearing be adjourned as he would be out of the country from July 24, 2024 to August 13, 2024 for personal reasons.

[7] The Panel granted a short adjournment on the condition that the hearing be held before September 20, 2024, being the 120-day limitation date required by the Act.

[8] The Hearing Panel Office provided new date options to the parties, and Mr. Rattray emailed the Hearing Panel Office on July 11, 2024 stating that he would be available after September 15, 2024. The Hearing Panel Office responded to Mr. Rattray and reiterated that the hearing adjournment was granted on the condition that the hearing be held before September 20, 2024.

[9] After several emails were exchanged between the Hearing Panel Office and Mr. Rattray's office, the hearing was re-scheduled for September 13, 2024 and an Updated Notice of Hearing and attached hearing record were provided to Mr. Rattray and Regulatory Services via email on July 18, 2024.

[10] On September 4, 2024, Mr. Rattray's office advised the Hearing Panel Office that Shawn Allan would be representing the Licensee at the hearing.

[11] On September 9, 2024, Mr. Rattray requested that the hearing be adjourned so that Mr. Allan could properly prepare the Licensee and the Licensee's witnesses. The Panel denied Mr. Rattray's request on the basis that Exhibit 2 was not lengthy, and the documents contained therein had previously been provided to or discussed with the Licensee.

[12] At the outset of the hearing, all witnesses for the Licensee were present in the room with Mr. Allan. Presiding Member Grier advised it would be inappropriate for all of the witnesses to be present throughout the entirety of the proceedings and asked them to leave the room to a sound-proof location.

[13] The parties and the Panel were provided with a record containing various documents pertaining to the issues before the Panel. Mr. Allan confirmed receipt of the Updated Notice of Hearing dated July 18, 2024 and the attached hearing record.

[14] At the outset of the hearing, Regulatory Services and Mr. Allan asked the Panel to accept additional evidence. Following some back-and-forth, both parties agreed to the introduction of the other's evidence. The Panel took a recess to review the evidence and decide whether the evidence should be accepted.

[15] At the time that Mr. Allan was being moved into a virtual break room, Presiding Member Grier heard him say "Did you hear that?"

[16] When the Panel returned from their recess, Presiding Member Grier advised Mr. Allan that she overheard him say "Did you hear that?" and asked him to provide assurance that the witnesses could not hear the proceedings. Mr. Allan stated that the purpose of his question was to determine whether the witnesses could hear the proceedings, and the witnesses advised him that they could hear him speaking to the Panel. Mr. Allan assured the Panel that the witnesses were moved down the hall to a lounge area and could no longer hear the proceedings.

[17] Presiding Member Grier advised both parties that the Panel determined that the new evidence would be accepted and weighed accordingly.

[18] The following documents and video footage were entered into evidence:

- Exhibit 1 Hearing Record, including Tabs 1 to 2
- Exhibit 2 Reports and correspondence provided by Regulatory Services, including Tabs 1 to 9
- Exhibit 3 Image of a logbook provided by the Licensee
- Exhibit 4 Screenshot of a text message provided by the Licensee
- Exhibit 5 Screenshot of text messages provided by the Licensee
- Exhibit 6 Screenshot of a text message provided by the Licensee
- Exhibit 7 Premises video footage provided by the Licensee
- Exhibit 8 Premises video footage provided by the Licensee
- Exhibit 9 Premises video footage provided by the Licensee
- Exhibit 10 Premises video footage provided by the Licensee (duplicate of Exhibit 9)
- Exhibit 11 Email correspondence provided by Regulatory Services

[19] Mr. Allan made a request to have either R.H., a staff member of Arena 7 Lounge, or Samson Elias act as an interpreter for Amine Gebrehab when he was called as a witness. Regulatory Services did not oppose Mr. Allan's request. The Panel agreed that either R.H. or Mr. Elias could act as Mr. Gebrehab's interpreter.

II. Issues

[20] Did the Licensee contravene section 91(1)(a) of the Act?

[21] If the Licensee contravened section 9(1)(a) of the Act, what sanction should the Panel impose in accordance with section 91(2) of the Act?

III. Regulatory Services Submissions

[22] Regulatory Services called two witnesses: AGLC Inspectors Taylor Hadley and James Kulak. Inspector Hadley has been an inspector with AGLC for approximately seven years, and Inspector Kulak has been an inspector with AGLC for 24 years. The inspectors co-authored an Incident Report dated May 21, 2024, which details an incident that occurred on April 20, 2024 at Arena 7 Lounge (Exhibit 1, Tab 1).

[23] The following is a summary of the evidence provided by Inspectors Hadley and Kulak.

[24] Inspector Hadley provided a brief summary of the Conditions and explained that Regulatory Services imposes conditions after a licensed premises has received repeated education and continues to have public safety issues. The purpose of the conditions is to help reduce risks for staff and patrons of a licensed premises. Further, AGLC has a policy that allows Regulatory Services to keep conditions on a licence whenever a premises changes ownership to ensure that the new owners provide a safe environment for their staff and patrons.

[25] Inspector Hadley advised that the premises currently occupied by Arena 7 Lounge has a long history of public safety issues, including gang activity, contraband tobacco sales, a hostile attitude from previous licensees, and a shooting in the premises in 2017. Despite the changes of business ownership, over the years, the same types of people continue to spend time in the premises, which has resulted in persistent problems.

[26] As a result of the 2017 shooting, the City of Edmonton imposed conditions on the business licence. Regulatory Services copied those same conditions and imposed them on the liquor licence. Despite the imposition of the conditions on both licences, the previous licensees did not comply with the conditions. Issues with afterhours service and non-scanning of patrons who had been identified as criminals and gang members continued.

[27] Inspector Hadley advised that another shooting took place inside the premises in July 2020. This resulted in an AGLC hearing, and a Panel of the Board of AGLC terminated that licensee's liquor licence. The ownership of the premises changed in 2021, and the conditions were placed onto the new liquor licence.

[28] In 2022, the ownership changed again to M.A.R Ltd. operating as Arena 7 Lounge, with Amine Gebrehab on record as the sole director and shareholder of the company. Mr. Gebrehab was also a director and a shareholder of a different company that held a liquor licence and previously operated in the same premises location. Inspector Hadley referred to a CORES corporation search (Exhibit 1, Tab 2) and noted that the director and shareholder of M.A.R Ltd. changed to Mr. Gebrehab on June 27, 2022, and he has been involved in the premises from that time forward.

[29] When asked by Mr. Allan whether the shootings took place before Mr. Elias became the approved manager, Inspector Hadley confirmed that was correct.

[30] Inspectors Hadley and Kulak explained that the Licensee has had numerous breaches of AGLC policies and legislation since they were licensed, and Regulatory Services has cautioned the Licensee and provided the Licensee with extensive education. Inspector Hadley provided the following summary of events:

- A caution was issued to Mr. Gebrehab on October 29, 2022, and he responded to Inspector Kulak by email on November 14, 2022 confirming that he would abide by the Conditions.
- On November 26, 2022, the Licensee was found to be in violation of the coat-checking condition. Mr. Gebrehab stated he made a mistake by allowing patrons to enter Arena 7 Lounge with coats and would not let it happen again. Mr. Elias was also present at the licensed premises. Regulatory Services requested video surveillance footage, and the Licensee refused to provide it. They were sent a section 100 demand letter for the footage and did not fulfill the request. Inspector Kulak contacted Mr. Elias, educated him about his obligation to comply with the Conditions, and Mr. Elias confirmed he understood it was the Licensee's responsibility to comply with the Conditions (Exhibit 2, Tab 1).
- On December 16, 2022, the Licensee was found to be in violation of the coat-checking condition. An incident report covering both the November 26, 2022 and December 16, 2022 incidents was issued. Mr. Elias was present at the licensed premises at that time.
- On February 10, 2023, the Public Safety Compliance Team (the PSCT) attended Arena 7 Lounge with AGLC Inspector Heather Snodgrass and reviewed all the Conditions and operating procedures in detail with Mr. Elias and Mr. Gebrehab (Exhibit 2, Tabs 2 and 4). Mr. Elias took over as premises manager at that time and signed a letter acknowledging that he understood the Conditions (Exhibit 2, Tab 3).
- On March 9, 2023, Inspector Snodgrass met with Mr. Elias and Mr. Gebrehab as they had not paid their fine for the previous incident report despite being repeatedly contacted by Regulatory Services. As a result, the Licensee was served a suspension and again educated on their responsibilities.
- On August 25, 2023, the PSCT conducted an inspection with AGLC Inspector Hamilton. It was observed that patrons were not having their identification scanned or checked, and the metal detector wand was not being used. Mr. Elias was present, spoken to about the Conditions, and issued a caution for the violations (Exhibit 2, Tab 7).
- On November 3, 2023, Inspector Kulak and AGLC Inspector Kim Bodson conducted an operating check at Arena 7 Lounge. Patrons were observed wearing coats in the licensed premises. Mr. Elias was present and was spoken to about the Conditions. He stated that since nothing had happened recently at Arena 7 Lounge, he was allowing patrons to wear their coats. He was further advised that the Conditions must be followed at all times. A caution was issued for the violation (Exhibit 2, Tab 8).
- On January 8, 2024, Inspector Snodgrass issued a caution to the Licensee for allowing shisha smoking in the licensed premises (Exhibit 2, Tab 9).

[31] When asked by Mr. Allan who set up the meeting between Mr. Elias, Mr. Gebrehab and the PSCT on February 10, 2023, Inspector Hadley stated that was not aware as she did not attend the meeting.

[32] When asked by Mr. Allan whether she remembered the previous premises manager identified as S.T., Inspector Hadley confirmed that she remembered him and was aware that he no longer worked there, but she did not know exactly when his employment ended. She further stated that Mr. Elias is the current premises manager of Arena 7 Lounge, but she does not know exactly when he moved into that role.

[33] Inspectors Hadley and Kulak attended Arena 7 Lounge on April 20, 2024 at 1:12 a.m. to conduct a routine operating check and to ensure that the Licensee was meeting the Conditions.

[34] Inspector Kulak described the layout of Arena 7 Lounge as follows:

- There is a door you walk through, and you are immediately at the top of a stairwell.
- At the bottom of the stairs there is a door security station where patrons provide their identification for scanning and check their coats.

[35] Upon arriving at Arena 7 Lounge, Inspector Hadley stated that there was a single security guard at the front entrance who advised them that the scanning system was not working and their identifications would have to be checked manually. At that time, the inspectors identified themselves as AGLC inspectors. They stated that they counted approximately 22 patrons inside the licensed premises at the time of their operating check.

[36] Inspector Hadley said that she spoke with Mr. Elias, asked him if he knew that the scanning system was down, and showed him the error message on the screen. She further stated that Mr. Elias said he had no idea that the system was down. Upon reviewing the system, Inspector Hadley found that only four patrons had been scanned in that night. The security guard said the scanning system was working when Arena 7 Lounge opened, but then the system asked for an update and subsequently stopped working and showed an error message.

[37] Inspector Hadley explained that the purpose of the scanning condition is to keep gangs and organized criminals out of the licensed premises. When they know there's a record of their attendance at a licensed premises, they are less likely to attend and less likely to cause an issue.

[38] When asked by Mr. Allan whether he asked anyone at Arena 7 Lounge if they had made a service call regarding the PatronsCan system, Inspector Kulak confirmed that he did not ask anyone.

[39] When asked by Mr. Allan if he inspected the PatronsCan system, Inspector Kulak confirmed that he did not inspect it.

[40] When asked by Mr. Allan whether he has seen PatronsCan stop working or go offline at other licensed premises, Inspector Kulak stated that this is the first time in his career that he has seen this happen.

[41] When asked by Mr. Allan how he would counsel licensees if they have a scanning condition and their scanning system goes down, Inspector Kulak stated that he would:

- inquire as to why the system is down and take that into consideration;
- advise the licensee to have the system fixed as soon as possible;
- not direct the licensee to shut down for the evening; and

- ask for a timeline as to when it will be fixed.

[42] When asked by Mr. Allan whether any of the patrons who were not scanned on April 20, 2024 were gang members, Inspector Hadley advised that she would not be aware of who they are since they were not scanned. Further, it would be the job of the police to determine that.

[43] When asked by Mr. Allan whether PatronsCan is an AGLC-approved scanning system, Inspector Hadley stated that AGLC does not approve scanning systems and has no issue with the Licensee using PatronsCan.

[44] When asked by Mr. Allan whether the Licensee can still operate if PatronsCan stops working as long as they make a service call and put the note in their log book about the incident, Inspector Hadley explained that when she and Inspector Kulak attended the licensed premises on April 20, 2024, Mr. Elias advised them that he was not aware that the system had gone down, so there had not been an entry that she was aware of since he was not aware that the system had stopped working.

[45] When asked by Mr. Allan whether a licensee must stop operating if their scanning system stops working, Inspector Hadley stated that most premises do not have a condition on their liquor licence stating that all identification has to be scanned upon entry and re-entry to the premises.

[46] Mr. Allan referred to the business licence conditions (Exhibit 2, Tab 5) and read out the following condition: "If the patron scan system malfunctions, the licensee must immediately contact the vendor that is responsible for servicing the equipment to arrange for repair at the earliest possible opportunity. The licensee must document the date and time of the request and the date and time of scheduled repair in the incident log." When asked by Mr. Allan whether Arena 7 Lounge violated the scanning condition by checking identification manually when the scanning system went down, Inspector Hadley explained that Mr. Elias was not aware that PatronsCan had stopped working, he did not immediately notify PatronsCan, and he did not write it in the incident log book.

[47] When asked by Mr. Allan whether she checked the log book on April 20, 2024, Inspector Hadley confirmed that she did not review it.

[48] When Mr. Allan asked if he reviewed the log book with respect to April 19 – 20, 2024, Inspector Kulak stated that he did not review it.

[49] Inspector Hadley clarified that the requirement to report PatronsCan system malfunctions in the log book and to the vendor are part of the business licence conditions, not the liquor licence Conditions. Further, a licensee should not be operating a business if they are not complying with these conditions.

[50] When asked by Mr. Allan whether she asked Mr. Elias or any other staff members if a service call had been made to PatronsCan, Inspector Hadley advised that she took Mr. Elias saying on three separate occasions that he was unaware that PatronsCan had malfunctioned to mean that he was not aware that the system was down. She further stated that during her discussion with Mr. Gebrehab and Mr. Elias, neither she nor Inspector Kulak specifically asked if a service call had been made to PatronsCan. When they spoke to the security guard, he said that the scanning system requested an update, so he left it alone and an error message came up.

[51] When Mr. Allan asked whether anyone from Regulatory Services advised Arena 7 Lounge that they must shut down if Patrons can stop working, Inspector Hadley stated that she is unaware of anyone saying that but could not speak to what other inspectors have said to the Licensee.

[52] When Mr. Allan suggested that Mr. Elias was the one who brought the Patrons can error message to Inspector Hadley's attention by walking her over to the system and scanning his own identification, Inspector Hadley asserted that she brought the error message to Mr. Elias' attention, and he was unaware of the system malfunction. She confirmed that he did attempt to scan his own identification.

[53] Inspector Hadley stated that she observed multiple patrons wearing outdoor coats in the licensed premises, and there was nothing to indicate that they were trying to hide the fact that they were wearing coats.

[54] Inspector Kulak stated that he saw two male patrons wearing outdoor coats and described one as a varsity-style jacket and the other as a thin puffy coat. Neither of the patrons were attempting to hide the fact that they were wearing coats.

[55] With regard to the condition on coats, Inspector Hadley explained that it exists because coats are an effective way to hide things such as weapons. Asking all patrons to remove their coats and check them in deters them from bringing weapons into the licensed premises.

[56] When asked by Mr. Allan whether he saw the male patrons wearing coats immediately upon entry or after speaking to the premises manager, Inspector Kulak said he would not be able to give a definitive timeline.

[57] When Mr. Allan asked Inspector Kulak whether he discussed the patrons wearing coats with Inspector Hadley and compared notes, Inspector Kulak stated that he discussed people wearing coats but did not recall talking about how many people they each saw wearing coats.

[58] When asked by Mr. Allan whether he saw someone wearing an oversized fur coat, Inspector Kulak said that he did not recall seeing that and did not go out of his way to look for anyone else wearing coats after observing the two male patrons wearing coats.

[59] When asked by Mr. Allan whether he has said to anyone at Arena 7 Lounge that Regulatory Services considers anything over a shirt or single layer of clothing to be a jacket and must be removed, Inspector Kulak confirmed that he has not said that, has not heard of that policy, and has not heard any other AGLC inspectors say that to a licensee.

[60] When Mr. Allan inquired whether he would be asked to remove his blazer if he entered Arena 7 Lounge, Inspector Kulak said he did not know and would have to ask if blazers are considered coats.

[61] When Mr. Allan asked whether anyone told him that the coats worn by the two male patrons were fashion statements, Inspector Kulak said he did not recall being told that.

[62] When asked by Mr. Allan how many patrons she saw wearing coats on April 20, 2024, Inspector Hadley said that she saw:

- one male patron wearing an outdoor windbreaker coat that would be worn over an outfit to go outside;
- one male patron wearing an outdoor suede varsity coat with leather sleeves; and
- one female patron wearing a very thick, oversized fur coat.

[63] When asked by Mr. Allan whether she has had a discussion with Mr. Elias or any other staff member at any time about what does and does not amount to a coat, Inspector Hadley confirmed that she has not.

[64] When asked by Mr. Allan whether it is the position of Regulatory Service that anything over a shirt or a single layer of clothing amounts to a coat, Inspector Hadley stated she has not heard that specific wording and has not conveyed that to licensees who have coat-checking conditions.

[65] When asked by the Panel whether he noticed any checked coats near the security station, Inspector Kulak said that he was not looking for coats there and did not notice any.

[66] When asked by the Panel whether short waistcoat jackets are allowable or should be checked, Inspector Kulak stated that the coats he saw worn in the licensed premises were outdoor coats that are specifically worn because it is cool or cold outside.

[67] Inspector Hadley confirmed that she was not asked by the security guard at the front entrance to check her coat, however, he may not have asked since she identified herself as an AGLC inspector.

[68] Inspectors Hadley and Kulak said that they spoke with Mr. Elias and Mr. Gebrehab, and Mr. Elias did not have an explanation as to why coats were being worn inside and apologized. He further advised that he uses an external security company, and the workers do not always understand their duties. Inspectors Hadley and Kulak stated that they reminded Mr. Elias that it is the Licensee's responsibility to ensure that everyone working in Arena 7 Lounge knows the expectations of their jobs at the beginning of each shift, especially when they are in a position that requires them to follow the Conditions.

[69] Inspector Kulak explained that the Conditions state that all patron areas of Arena 7 Lounge and the security staff at the door security station must be clearly visible in video surveillance footage.

[70] With regard to the video surveillance footage retention condition, Inspector Hadley confirmed that the Licensee is required to retain footage for 28 days.

[71] Inspector Kulak said that he asked Mr. Elias about the video surveillance footage and retention, and Mr. Elias stated that he would provide the video surveillance footage but would need his camera technician to access the footage.

[72] With respect to video surveillance footage, Inspector Kulak explained that:

- on April 23, 2024, he called the Licensee and requested video surveillance footage of Arena 7 Lounge from opening on April 19, 2024 to closing on April 20, 2024;

- he called the Licensee on April 25, 2024 to clarify that he specifically needed footage of the security station at the bottom of the stairwell, not the front entrance;
- Mr. Elias questioned why he required this footage, and Inspector Kulak stated that he needed the footage to see if patrons were being scanned and having their coats checked and stored;
- he picked up the video surveillance footage on April 26, 2024;
- he reviewed it on May 2, 2024, found that it only had footage from 7:00 p.m. to 9:00 p.m. on April 20, 2024, there was no footage of the security station at the bottom of the stairwell, and there was only footage of the door at the top of the stairwell; and
- relative to the Conditions, there was no value in receiving video surveillance footage of the front door of the licensed premises.

[73] Inspector Kulak stated that he called Mr. Elias on May 2, 2024 and reiterated that he required footage from opening on April 19, 2024 to closing on April 20, 2024 showing the security station at the bottom of the stairwell, and he was advised by Mr. Elias that:

- Arena 7 Lounge opens at 9:00 p.m. and closes at 2:45 a.m.;
- there was no footage of the security station for the requested dates and times;
- the camera in the area does not cover the security station, and he realized that after Inspector Kulak requested the footage;
- the Licensee subsequently changed the camera angle on April 26, 2024 to show the security station;
- the video surveillance system retained only 20 days of footage.

[74] When asked by Mr. Allan why the Incident Report does not state that the Licensee provided him with video surveillance footage, Inspector Kulak stated that he believes he initially included that information in the Incident Report and that he was subsequently instructed by a superior to remove it. Inspector Kulak further stated that he could not speak to why that information was removed, and he signed the Incident Report after making his superiors' edits.

[75] When Mr. Allan asked Inspector Kulak whether his notes about his requests for and review of the video surveillance footage were submitted to Supervisor Nash or anyone else before the hearing, Inspector Kulak confirmed that he submitted them to Supervisor Nash.

[76] Mr. Allan raised a concern that Inspector Kulak's notes were not submitted as evidence and ought to have been provided to him before the hearing.

[77] Presiding Member Grier advised that an administrative tribunal is bound by the rules of administrative justice, not the rules of court. As such, the rules of evidence give the Panel the latitude to admit any evidence they consider relevant. Further, verbal evidence is considered evidence in administrative tribunals and does not have to be backed up by documentary evidence.

[78] Supervisor Nash advised that she received Inspector Kulak's notes after the evidence disclosure deadline, and the notes do not affect the information in the Incident Report.

[79] When Mr. Allan asked him where the thumb drive is today and whether he submitted it to anyone else, Inspector Kulak stated that:

- the thumb drive is in his home office; and
- he did not provide it to anyone else.

[80] When asked by Mr. Allan whether he was asked by Supervisor Nash to bring the thumb drive to the hearing, Inspector Kulak confirmed that he was not asked to bring it.

[81] When Mr. Allan suggested that the thumb drive had video surveillance footage for April 19, 2024 and April 20, 2024 and asked him whether he would agree or disagree, Inspector Kulak stated that he disagreed because Mr. Elias told him that he didn't have footage of the security station at the bottom of the stairwell.

[82] When Mr. Allan suggested that the thumb drive had video surveillance footage with an angle showing patrons entering Arena 7 Lounge, Inspector Kulak explained that:

- the footage showed patrons entering the building from the outside door to the top of stairwell; and
- patrons' facial features could be seen.

[83] When Mr. Allan asked if he saw something called a gate and the scanning system when he reviewed the video surveillance footage, Inspector Kulak said that he did not see anything called the gate and the footage did not show the scanner.

[84] When asked by Mr. Allan how many camera angles the video surveillance footage contained, Inspector Kulak said that there were two angles, with one showing the top of the stairs and the other one showing the outside entrance of the licensed premises.

[85] When Mr. Allan asked whether he was told that the remaining camera angles were deleted by the video surveillance system due to it having a 20-day retention period, Inspector Kulak clarified that he was told by Mr. Elias that Arena 7 Lounge did not have the angles. Inspector Kulak was subsequently told that the video surveillance system only had a 20-day retention period.

[86] When asked by Mr. Allan whether the Licensee advised him that they changed the video surveillance system retention period to 30 days, Mr. Allan confirmed that he was advised of that.

[87] When asked by Mr. Allan whether the Licensee provided him with the camera technician's contact information, Inspector Kulak said he could not recall.

[88] When Mr. Allan presented a screenshot of a text message sent from Mr. Elias to Inspector Kulak (Exhibit 6) which included the camera technician's contact information and asked whether Mr. Elias sent that message to him, Inspector Kulak confirmed that:

- he received the text message from Mr. Elias;
- they sent a few text messages to each other;
- he did not contact the camera technician because arrangements had been made by AGLC inspectors to attend Arena 7 Lounge and obtain video surveillance footage; and

- on May 10, 2024, he spoke with Mr. Elias who indicated that he attempted to obtain video surveillance footage for the requested dates and times but the retention period was only 20 days.

[89] When Mr. Allan asked why he did not send Mr. Elias a text message acknowledging the changes he made, Inspector Kulak asserted that he did not think that message necessitated a response on his part because the incident had already happened and was dealt with.

[90] When asked by Mr. Allan whether Mr. Elias advised him that he changed the camera angles so that they captured door staff, the scanning system, door station and faces of staff, Inspector Kulak confirmed that he did.

[91] When asked by Mr. Allan whether Mr. Elias sent him videos of cameras being replaced and the video surveillance system screen, Inspector Kulak confirmed that he did.

[92] When asked by Mr. Allan whether he was satisfied with the changes that Mr. Elias made to the video surveillance system to ensure compliance with the Conditions, Inspector Kulak stated that he was glad that Mr. Elias made the changes.

[93] Inspector Hadley stated that if the Conditions are not followed, the potential for violence remains the same or has the potential to get worse since the Licensee operates the same style of business with the same clientele.

[94] Inspector Hadley advised that the Licensee did not contact Regulatory Services to advise that there were any issues with either their scanning system or their video surveillance system.

[95] When asked by Mr. Allan whether Mr. Elias has shown a hostile attitude when she has dealt with him, Inspector Hadley stated that he is good to speak with, however, he has argued and shown frustration during discussions about following the Conditions and providing video surveillance footage.

[96] When Mr. Allan asked Inspector Hadley whether there have been any public safety issues since Mr. Elias took over as approved manager, Inspector Hadley confirmed that she was not personally aware of any but could not speak to what other inspectors have found during their inspections of Arena 7 Lounge.

[97] When asked by Mr. Allan whether she is aware of any fights between patrons at Arena 7 Lounge since Mr. Elias became approved manager, Inspector Hadley said she was not aware of any such incidents.

[98] When asked by Mr. Allan whether guns and knives in Arena 7 Lounge were a concern, Inspector Hadley confirmed that they were a concern and further stated that there are items that can be considered a weapon if they're used in the right way.

[99] When asked by Mr. Allan whether there have been any documented instances of weapons being found in Arena 7 Lounge since Mr. Elias became the approved manager, Inspector Hadley stated that

she was not aware of a specific time that a weapon has been found, however, the Licensee has been found a few times to not be using the metal detector wand.

[100] When Mr. Allan asked what she has discussed with Mr. Elias regarding the use of a metal detector wand, Inspector Hadley stated that she had previous discussions on different dates with the Licensee about keeping one wand plugged in at all times so that the wands can be switched when one dies.

[101] When Mr. Allan asked Inspector Hadley whether she discussed with the Licensee using a pat down procedure when the wands aren't working, Inspector Hadley stated that:

- pat down procedures can be used a secondary method, but the metal detector wand must still be used;
- she is not aware of anyone from Regulatory Services advising the Licensee that pat down procedures could be used in lieu of the metal detector wand; and
- if the wands are not working and cannot be used, then the Licensee would not be following the Conditions and should not be operating until that condition can be met.

[102] When asked by Mr. Allan if it is acceptable to conduct a bag check and pat down when a metal detector wand stops working, Inspector Kulak said that:

- the conditions state that wands must be used as part of the entry process;
- he would bring that information to his supervisor and let them decide;
- if the wand was not working at the time of the inspection, he would not direct them to shut down.

[103] When the Panel asked how common it is to have a licence condition requiring the use of a metal detector wand, Inspector Hadley advised that it is a common condition in other premises, especially in places that have had public safety issues.

[104] When asked by Mr. Allan whether she agreed that improvements and positive changes have occurred at Arena 7 Lounge since Mr. Elias took over as approved manager, Inspector Hadley said that while it is great if the licensed premises has not had any public safety concerns, there have still been issues with the Licensee not following the Conditions.

[105] When Mr. Allan asked whether Mr. Elias ultimately complies when asked to do something, Inspector Hadley said that she disagreed because Mr. Elias does not follow through with meeting the Conditions.

[106] Inspector Hadley stated that a licensee must comply with conditions on their licence during all hours of operation.

[107] When asked by Mr. Allan whether there was any reason to believe that any of the patrons in Arena 7 Lounge had not been asked for identification, Inspector Hadley stated that she would not know because she was not watching patrons getting asked for identification.

[108] When Mr. Allan asked whether she has been present for any incidents involving contraband shisha tobacco smoking at Arena 7 Lounge, Inspector Hadley stated that there were four patrons

smoking shisha from hookah pipes when she visited the licensed premises on April 20, 2024 and that it was not reported in the Incident Report because the inspectors decided to deal solely with the violations of the Conditions. She further stated that when patrons are found smoking in a licensed premises, the incidents are generally referred to the bylaw enforcement department of the City of Edmonton.

[109] When asked whether she was aware that Inspector Kulak received a thumb drive with video surveillance footage, Inspector Hadley confirmed that she was aware of it but was unaware of any of the details of the video surveillance footage.

[110] When asked by Mr. Allan who the premises manager was on November 26, 2022, Inspector Hadley stated that she did not know.

[111] When the Panel referred to nine instances of education detailed in the Incident Report (Exhibit 1, Tab 1) and asked whether it is standard practice for Regulatory Services to issue that many cautions, Inspector Hadley explained that Regulatory Services always tries to take the road of education and work with licensees as much as possible. She further stated that this was about an average amount of cautions that Regulatory Services gives a licensed premises.

IV. Arena 7 Lounge Submissions

[112] The representative for the Licensee, Shawn Allan, called three witnesses:

- Samson Elias, Premises Manager
- Amine Gebrehab, Owner/Operator
- R.H., staff member

[113] The following is a summary of the evidence provided by Mr. Elias, Mr. Gebrehab and R.H.

[114] R.H. acted as an interpreter for Mr. Gebrehab when he provided his testimony.

[115] Mr. Elias stated he started working at Arena 7 Lounge at the end of 2022. He initially shadowed former premises manager S.T., and he became the premises manager in February 2023.

[116] Mr. Elias said that to the best of his knowledge, S.T. did not comply with Regulatory Services and was replaced as a result.

[117] Mr. Elias advised that he acts differently from S.T., and when he replaced S.T. he called a meeting with the PSCT to clarify what was required of Arena 7 Lounge and ask how he could make it a better place. Further, they provided him with a document with agreed upon details and he signed it.

[118] With respect to April 19, 2024, Mr. Elias confirmed that he started his shift at approximately 9:00 p.m. He further stated that every time he starts a shift at Arena 7 Lounge he checks everything, including the PatronsCan system and the video surveillance system.

[119] Mr. Elias stated that when he checked the scanning system on April 19, 2024 at the start of his shift, he found that it was working. He recalled that about four identifications had been scanned into PatronsCan.

[120] Mr. Elias said that the PatronsCan system stopped working at some point on April 19, 2024, so he noted the incident in the log book and had R.H. call PatronsCan but they did not answer. He further stated that the scanning system was fixed the following day by remote service.

[121] Mr. Elias advised that PatronsCan has previously stopped working on several occasions. On each occasion they called for PatronsCan, they typically received service after 24 hours.

[122] Mr. Elias explained that when the PatronsCan system stops working, he understands that he is supposed to:

- put an entry in the log book;
- ensure that a security staff member checks the identification of all patrons regardless of their age; and
- continue operating the licensed premises.

[123] When Inspectors Hadley and Kulak attended Arena 7 Lounge on April 20, 2024, Mr. Elias said that the PatronsCan system had not yet been fixed.

[124] Mr. Elias said that when he talked to the inspectors, he took Inspector Hadley to the PatronsCan system and scanned his identification to show her that the system had an error message and that it wasn't their fault. He further stated that Inspector Hadley took a picture of the error message.

[125] Mr. Elias said that he does not see eye to eye with Regulatory Services on the coat issue. On the day of the incident, Mr. Elias said he advised Inspector Kulak that the two male patrons with jackets on were wearing them as a fashion statement.

[126] Mr. Elias stated that staff at Arena 7 Lounge ask patrons to check their jackets that are big enough to hide things. He further stated that the licensed premises has a coat check room, which he has shown to AGLC inspectors.

[127] Mr. Elias stated that when staff ask patrons to check their small jackets, the patrons argue.

[128] Mr. Elias confirmed that some patrons checked their jackets on April 19, 2024, and they were stored in the coat check room located next to the security station.

[129] With respect to video surveillance footage, Mr. Elias stated that:

- Inspector Kulak asked him for footage of the entrance of Arena 7 Lounge the day after the operating check;
- the camera technician prepared a flash drive with video surveillance footage of the licensed premises from 9:00 p.m. on April 19, 2024 to 3:00 a.m. on April 20, 2024 with two angles, including the outside door entrance and the scanner station at the bottom of the stairs;
- Inspector Kulak picked up the flash drive from Arena 7 Lounge on April 26, 2024;
- Inspector Kulak called on May 2, 2024 and said that he was unsatisfied with the footage and required footage of the security staff checking identification;
- he met with Inspector Kulak on May 7, 2024 at Arena 7 Lounge, and Inspector Kulak requested footage from four cameras inside the licensed premises;

- he changed the angle of the camera from the stairs to the scanner;
- he advised Inspector Kulak on or around May 9, 2024 that their video surveillance system was retaining footage for 20 days, so the requested footage could not be provided;
- their video surveillance system was only retaining footage for 20 days because when Arena 7 Lounge underwent renovations, they changed the video surveillance system and the camera technician did not set the retention period for 28 days despite being told to do so;
- currently, the retention period for the video surveillance system is set to 30 days and the camera angles meet the Conditions; and
- he has no issue with providing Regulatory Services video surveillance footage in the future.

[130] When asked by Regulatory Services whether Arena 7 Lounge has been found to be in non-compliance with various Conditions on several occasions since he started working there in 2022, Mr. Elias stated there were a couple of Conditions they were in non-compliance with and that the licensed premises has improve a lot since he took over as premises manager.

[131] When Regulatory Services asked Mr. Elias if he and Mr. Gebrehab dealt with an incident report for violations of the Conditions that occurred on November 22, 2022 and December 16, 2022, Mr. Elias stated that he was shadowing S.T. at that time and was not the premises manager.

[132] When asked by Regulatory Services if he attended a meeting on February 2, 2023 with Mr. Gebrehab and the PSCT, Mr. Elias confirmed that was correct.

[133] When Regulatory Services asked Mr. Elias if he signed a document in February 2023 stating that he understood the Conditions, Mr. Elias confirmed that he did.

[134] When asked by Regulatory Services if he was at Arena 7 Lounge on August 25, 2023 when Inspector Hamilton attended the licensed premises, found that patrons were not being scanned and issued a caution to the Licensee, Mr. Elias said he recalled the incident but did not recall receiving a caution. He further stated that they had purchased a new scanning system but it was not yet functional.

[135] When asked by Regulatory Services if he recalls an incident on November 23, 2023 where Inspectors Bodson and Kulak attended Arena 7 Lounge and found patrons wearing coats, Mr. Elias confirmed that he recalls that incident and receiving a caution.

[136] When Regulatory Services asked Mr. Elias if he remembers Inspectors Kulak and Hadley attending Arena 7 Lounge on April 20, 2024 and finding patrons wearing coats, Mr. Elias said that the patrons were not wearing coats according to his definition of a coat.

[137] When asked by Regulatory Services if he has ever asked anyone in Regulatory Services for clarification on what constitutes a coat, Mr. Elias said that he has not sought clarification.

[138] When Regulatory Services asked him what his understanding is of the video surveillance condition, Mr. Elias stated that the cameras must cover every direction.

[139] When asked by Regulatory Services whether he has reviewed the licence condition regarding door staff, Mr. Elias confirmed that he has.

[140] When Regulatory Services asked why Inspector Kulak would request video surveillance footage of the outside front door when the incident involved scanning patrons' identifications and checking coats, Mr. Elias stated that he:

- did not deny Regulatory Services the video surveillance footage;
- provided footage for police enforcement;
- does not have any issues with providing Regulatory Services with whatever they need;
- provided video surveillance footage to Inspector Kulak within five days of his request;
- attempted to provide Inspector Kulak with additional video surveillance footage, but it was deleted due to the 20-day retention period;
- could have provided the video surveillance footage to Inspector Kulak had he requested it sooner; and
- understands that they were supposed to retain video surveillance footage for 28 days.

[141] When Regulatory Services asked Mr. Elias if he contacted PatronsCan on April 19, 2024 at the start of the evening when he recognized there was a problem with the scanning system, Mr. Elias confirmed that was correct.

[142] When Regulatory Services asked Mr. Elias why he informed Inspector Hadley that he was not aware that the PatronsCan system had stopped working, he stated that based on his knowledge, they contacted PatronsCan at approximately 10:30 p.m. on April 19, 2024 to request service.

[143] When Regulatory Services asked Mr. Elias to explain why PatronsCan advised Supervisor Nash by email that Arena 7 Lounge did not contact them until April 20, 2024 at the start of business (Exhibit 11), Mr. Elias asserted that they called and sent PatronsCan a text message on April 19, 2024. Further, he does not know why PatronsCan sent Supervisor Nash that email.

[144] When asked by Regulatory Services whether he is aware the text messages cannot be sent to PatronsCan for service requests as stated in their email, Mr. Elias stated that they have a history of texting the PatronsCan support team.

[145] When Regulatory Services stated that Mr. Elias and Mr. Gebrehab have been spoken to on seven occasions and asked Mr. Elias how many times Regulatory Services must speak to Arena 7 Lounge about following the Conditions, Mr. Elias said multiples times.

[146] When Regulatory Services asked him what assurances they have that the Licensee will follow the Conditions going forward, Mr. Elias stated that they have tried their best to comply with the Conditions. He further stated that he advised Inspector Kulak that he disagrees with him on what is considered a coat but will comply with the coat-checking condition.

[147] When Regulatory Services asked whether it is the Licensee's responsibility to reach out to Regulatory Services and ask for clarification on the Conditions, Mr. Elias said he spoke with Inspector Kulak about jackets.

[148] R.H. stated that he is currently a bartender at Arena 7 Lounge and is currently training to be the second manager of the licensed premises.

[149] R.H. asserted that the licensed premises complies with all Conditions but has had days where they failed.

[150] R.H. said that he started his shift at 1:00 p.m. on April 19, 2024 and was present at Arena 7 Lounge when Inspectors Hadley and Kulak attended at 1:12 a.m. on April 20, 2024. He further stated that was the first time he was with Mr. Elias and Mr. Gebrehab in the camera room, and he explained how the system works to Inspectors Hadley and Kulak.

[151] With regard to the PatronsCan system, R.H. stated that:

- the system was working when Arena 7 Lounge opened on April 19, 2024;
- several patrons' identifications were scanned;
- the incident was documented in the log book (Exhibit 3);
- he tried to call and text PatronsCan technical support using his cellphone but did not receive a response;
- he previously reached PatronsCan technical support by way of text message;
- the issue with PatronsCan system was resolved on April 20, 2024 by remote service;

[152] R.H. said that when the PatronsCan system fails, they have security guards perform physical hand checks and use the metal detector and pat down procedure on patrons when they enter. He further stated that these procedures were used on April 19, 2024.

[153] R.H. stated that when AGLC inspectors have attended Arena 7 Lounge in the past, they have pointed out regular, small fashion jackets, called them coats and said they are not allowed in the licensed premises.

[154] R.H. said that Inspector Kulak explained to him that anything on top of a t-shirt is a jacket, and another inspector said that dress shirts on top of a t-shirt are coats.

[155] R.H. stated that he was surprised by the inspectors' definition of a coat but accepted it.

[156] R.H. confirmed that he did not discuss coats with Inspector Kulak or Inspector Hadley on April 20, 2024. He further stated that a coat can be defined as something that is bigger than a jacket.

[157] With respect to video surveillance footage, R.H. said that Inspector Kulak was provided with footage. After Mr. Elias and Inspector Kulak discussed the footage, R.H. called the camera technician to make changes to the video surveillance system so that it would capture the angles that Inspector Kulak wanted. They recorded the camera technician installing the new equipment (Exhibits 7, 8, 9 and 10).

[158] When asked by Regulatory Services if the premises occupied by Arena 7 Lounge was previously occupied by Star Nightclub, R.H. confirmed that was correct and that he was a director of the licensee company that operated as Star Nightclub.

[159] When Regulatory Services asked R.H. if Star Nightclub had conditions on its liquor licence due to violence and activities that were taking place there, R.H. confirmed that Star Nightclub had conditions on its liquor licence and that they were unfair.

[160] When asked by Regulatory Services whether a Panel of the Board of AGLC banned R.H. from being involved in any licensed premises for a period of four years and cancelled Star Nightclub's liquor licence as a result of a shooting and non-compliance with licence conditions, R.H. confirmed that was correct. R.H. further stated that the ban expired on January 1, 2024, and he obtained his ProServe in May 2024.

[161] When asked by the Panel if he checks the scanning system before Arena 7 Lounge opens for business and again at the close of business to ensure it's working, R.H. stated that:

- they have a contract with PatronsCan and pay monthly;
- the system should not stop working, but it has in the past approximately 3 – 4 times due to construction in the area or internet connectivity issues;
- when they open for business each night, they check the scanning system, the video surveillance system and that the log book is ready; and
- when they close the business each night, they check the scanning system and turn it off.

[162] When asked by the Panel why the scanning system does not work at times after it has been checked at opening and closing, R.H. stated that they cannot control when devices such as the scanning system and debit machines stop working.

[163] When the Panel asked why Arena 7 Lounge continues to use PatronsCan if the system is so unreliable, R.H. said that there aren't any better companies in Canada, especially Alberta. He further stated that he does not see a few failures as a problem, and PatronsCan fixes the system when there are issues.

[164] Mr. Gebrehab confirmed that:

- he is currently the owner of Arena 7 Lounge;
- there are conditions on the Licence;
- the Licensee will comply with the Conditions going forward;
- S.T. no longer works for Arena 7 Lounge because he could not be trusted, was causing a lot of problems, and would not comply with the rules;
- Mr. Elias was hired because he could be trusted and understands that he must comply with the Conditions;
- he has confidence in Mr. Elias as the approved manager;

[165] When asked by Regulatory Services whether the Licensee and Mr. Elias have received multiple cautions for violations of the Conditions, Mr. Gebrehab confirmed that was correct.

[166] When asked by Regulatory Services whether it is fair to say that problems have persisted at Arena 7 Lounge since he took over the business, Mr. Gebrehab confirmed that was correct.

[167] When Regulatory Services asked Mr. Gebrehab if he and Mr. Elias met with Regulatory Services in February 2023 to review the Conditions and receive education on them, Mr. Gebrehab confirmed that was correct.

[168] When asked by Regulatory Services whether the Licensee received cautions for not abiding by the Conditions after the February 2023 meeting, Mr. Gebrehab confirmed that was correct.

[169] When Regulatory Services asked if he ever reached out to Regulatory Services to request training for his staff or for an explanation of the Conditions, Mr. Gebrehab said that Mr. Elias takes care of these matters and has reached out on his behalf. He further clarified that Mr. Elias contacted Regulatory Services and asked to set up the February 2023 meeting.

[170] When Regulatory Services asked Mr. Gebrehab why AGLC should continue to stay in business with him given the Licensee's history, Mr. Gebrehab stated that he is aware of the history, they won't repeat any of the issues, and they will comply with the Conditions and rules.

V. Summation

Regulatory Services

[171] Regulatory Services submits that AGLC takes the issue of public safety very seriously. Albertans expect licensees to be responsible business owners and operate their premises in a safe and controlled manner.

[172] Regulatory Services takes the position that holding a liquor licence is a privilege and not a right. That privilege comes with certain responsibilities, including abiding by the applicable legislation, policies and licence conditions.

[173] The requirement regarding public safety can be found throughout the Liquor Licensee Handbook, which states that a licensed premises must be adequately staffed and supervised during all operating times. Staff must be trained, capable and under the supervision of competent and approved management. Further, a licensee is required to maintain a high level of supervision and control to protect the health and safety of all people in the licensed premises.

[174] Regulatory Services submits that Arena 7 Lounge has had violent incidents occur in and around the premises since 2017. As a result, Regulatory Services and the City of Edmonton have provided ongoing education, which eventually led to conditions being placed on both the liquor licence and the business licence.

[175] Regulatory Services asserts that the conditions were put on the Licence to help mitigate any further risk and to help the Licensee run a successful business. The previous licensee did not adhere to the conditions, and as a result, another shooting occurred at the premises. Subsequently, a panel of the Board of AGLC cancelled the liquor licence in 2021.

[176] When the premises was sold to the current ownership, it essentially stayed the same type of premises and appeals to the same clientele. Mr. Elias and Mr. Gebrehab, who were involved with the past ownership, continued with the business in more official capacities.

[177] Regulatory Services submits that AGLC kept the same conditions on the Licence as the past ownership of the premises to ensure that it was operated in a safe and responsible manner. Mr. Elias and Mr. Gebrehab were educated on all the conditions prior to being licensed and accepted them, which is evidenced by the signed documentation referred to in today's hearing.

[178] Regulatory Services takes the position that the Licensee was provided with ongoing education and reminders about the conditions on the Licence to ensure that they understood their responsibilities. Despite numerous conversations, which included a prior incident report referencing two separate dates and four cautions, the Licensee has continued to breach the Conditions.

[179] Regulatory Services is of the opinion that Inspectors Hadley and Kulak provided evidence that they attended the premises on April 20, 2024. During that visit, the premises was operating without an operational scanning system, patrons were walking around openly wearing coats, and when the required video footage was requested, it could not be provided as the premises did not keep their video surveillance for the required 28 days. These three issues represent three breaches of mandatory conditions.

[180] During all the violations observed by Regulatory Services, either Mr. Elias or Mr. Gebrehab have been present, or both have been present. Therefore, no excuses can be made about the Licensee being unaware of what was happening in the premises or that their staff acted against the direction that had been provided.

[181] Regulatory Services takes the position that the Licensee is fully responsible for the condition breaches that have occurred. Each time these conditions were ignored, staff and patrons were put at risk.

[182] Regulatory Services is of the opinion that much of the evidence provided by the Licensee has been designed to show a willingness to work with Regulatory Services in some capacity. While Regulatory Services appreciates efforts are being made by the Licensee, history shows that numerous attempts have been made by Regulatory Services to educate and assist the Licensee. Regardless of those efforts, the Licensee has not worked in a partnership with Regulatory Services and complied with the conditions. Further, the efforts made by the Licensee have only been recently put into place, and they don't meet the standard that they were required to report.

[183] Regulatory Services respectfully submits that three breaches of section 91(1)(a) of the Act occurred and requests that a penalty of \$2,000 per breach be imposed for a total fine of \$6,000, or in the alternative, a 24-day suspension of the Licence.

Arena 7 Lounge

[184] Mr. Allan agrees with Ms. Nash in terms of the purpose of AGLC and its concerns about public safety.

[185] Mr. Allan submits that he hopes that Mr. Gebrehab and his present employees have impressed upon AGLC that things are different at Arena 7 Lounge, and the purpose of taking Inspector Hadley through the same timeline that Supervisor Nash did was to show this.

[186] Mr. Allan asserts that there is a pre-Samson Elias period and a post-Samson Elias period at Arena 7 Lounge. The attitude of the previous premises manager towards Regulatory Services led Mr. Gebrehab to terminate him and put Mr. Elias in his place, and Mr. Elias does not share that same attitude.

[187] Mr. Elias called a meeting with the Licensee and the PSCT in February 2023 in order to discuss what could be done to improve things at Arena 7 Lounge. Mr. Allan submits that the attitudes held by Mr. Gebrehab, Mr. Elias and R.H. should go a long way. They showed great respect, and that is half the battle.

[188] Although they have not achieved everything, Arena 7 Lounge has progressed to a new level and does not have any known violence. While Inspector Hadley stated that it is unknown whether patrons are bringing weapons into Arena 7 Lounge, Mr. Allan submits that there have been no shootings and no stabbings for some time.

[189] With respect to the scanner, Mr. Allan takes the position that the Licensee complied with the conditions. The Licensee has the scanner company's phone number to call when the when it stops working. As a licensee, one cannot predict when something is going to stop working. All you are told is to make a call, and then they usually resolve the issue the next day.

[190] The Panel asked the Licensee why they are using a system that's so unreliable when there are other companies providing the service. Mr. Allan is of the opinion that nothing in the evidence indicates that the scanning system is unreliable. R.H. mentioned that debit machines also stop working, and someone else noted that the scanning system was undergoing an update. Devices must get updated, and that may have been what happened here. These are the vagaries of the Internet.

[191] The scanning system issue was resolved the day after the inspectors attended Arena 7 Lounge. The issue regarding who called and whether you can text or call is beside the point because the e-mail from PatronsCan said the issue was resolved the next day. They did not say there was no issue, and they did not say there was no call. This clearly supports the Licensee's claim that it was not working. Further, it is known that the scanning system was not working because Inspector Hadley saw the error, and it does not matter who brought the error to whose attention. The Licensee cannot control whether the system works or not, and all the Licensee can do is have the equipment and subscription they're required to have. As such, Mr. Allan submits that there was no breach of the scanning condition.

[192] With respect to the coats, Mr. Allan submits that it is obvious why this condition is in place. If you have a place with fights, weapons and violence, you want big coats where weapons could be hidden to be checked. Mr. Allan is of the opinion that there was no big, furry coat because if there had been, Inspector Kulak, R.H. or Mr. Elias would have remembered it. The Licensee has talked about how they understand that the purpose is to stop anyone with a big coat that could have a weapon from entering the licensed premises. The patrons were wearing a varsity coat and thin, puffy windbreaker. When waist-length coats are worn as a fashion statement, there is uncertainty.

[193] Although Supervisor Nash said that the Licensee could reach out to Regulatory Services and ask about coats, Inspector Kulak could not provide a definitive answer about them. Two of the employees from Arena 7 Lounge say that there's been discussions of anything worn over a t-shirt would be a jacket. This comes down to what is the definition of a coat and what is the definition of a jacket.

[194] Mr. Allan is of the opinion that the Licensee would benefit from the wording of the coat condition being amended since the purpose of the condition is that no patron should wear a coat in the licensed premises that is capable of concealing a weapon. True definitions of a coat and a jacket would be welcomed by the Licensee. The word coat has more than one interpretation, and one panel member asked whether it was a jacket. The current wording of the condition does not state anything about indoor coats and outdoor coats.

[195] If the evidence before the Panel was that the Licensee let someone in who was wearing a big, puffy coat capable of concealing a weapon, then there would be a breach. However, the evidence is not clear enough. As such, Mr. Allan submits that there was no breach of the coat condition.

[196] The days of being denied a request for video surveillance footage are over. A request for video surveillance footage was made by Regulatory Services on April 23, 2024, and the Licensee provided Inspector Kulak with a thumb drive. Mr. Allan submits that it is concerning that the thumb drive does not show up in the Incident Report. The Incident Report was edited, and it does not tell you that the Licensee attempted to comply.

[197] Mr. Allan submits that the camera technician obtained the video surveillance footage requested by Inspector Kulak. However, there is a dispute about the dates of the video surveillance footage. Inspector Kulak said that he thought it was April 20, 2024, and Mr. Elias disagreed and said it went back to the day before. In fairness to Mr. Elias, Inspector Kulak could have presented the video surveillance footage. Their discussions spanned from April 23, 2024 to May 9, 2024, and it was at the end of their discussions that it was made clear what was needed. By that time, there was a retention failure for the video surveillance system. As Mr. Elias said, the requested video surveillance footage could have been provided to Regulatory Services had the Licensee been advised sooner as to what was required.

[198] While the Licensee failed to retain the video surveillance footage for 28 days, Mr. Allan submits that he wants the Panel to realize and accept that the Licensee wanted to comply with all the conditions. The Licensee had a video surveillance system in place with a 28-day retention period. When they renovated the licensed premises, a new system was put in place, and the camera technician was told that a 28-day retention period was required but failed to appropriately set up the system. While the Licensee should have ensured that the new video surveillance system had a 28-day retention period, they have since corrected the system and it now retains video surveillance footage for 30 days. Further, the Licensee has implemented Mr. Kulak's suggestions about the camera angles and gone to great lengths to explain how they updated their video surveillance system, including providing the contact information for the camera tech. This is not equivalent to the previous premises manager telling Regulatory Services that he does not want to give video surveillance footage without a court order. That is not the attitude of the current premises manager and Licensee. They made a mistake and should have caught it.

[199] Mr. Allan submits that there was a technical breach of the condition regarding the retention period of the video surveillance system. While the importance of having the proper retention period is not being diminished, the Licensee did not deliberately fail to install the appropriate video surveillance system or obstruct Regulatory Services. As such, an appropriate fine would be one that reflects the technical nature of the violation and should be between \$500 to \$1,000.

VI. Analysis

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

Violation of Licence Condition 2(a)

[201] Inspector Hadley provided evidence that she and Inspector Kulak visited Arena 7 Lounge at 1:12 a.m. on April 20, 2024. Upon arrival, Inspector Hadley said that she was advised by a door security staff member that their scanner was not working. Inspector Hadley asserted that she brought the issue to Mr. Elias' attention, and he was completely unaware that the system had stopped working.

[202] Regulatory Services submitted as evidence an email chain between Supervisor Nash and PatronsCan in which PatronsCan states that they do not accept requests for service by way of SMS text message and did not receive a request for service from Arena 7 Lounge until April 20, 2024 at 9:26 p.m. (Exhibit 11).

[203] The Licensee did not dispute that the scanning system was not working when Inspectors Kulak and Hadley visited Arena 7 Lounge on April 20, 2024. However, Mr. Elias and R.H. provided evidence that they were aware of the system failure and called PatronsCan and sent them a text message at 10:49 p.m. on April 19, 2024 (Exhibit 4) with a service request prior to the inspectors' arrival. The Licensee also provided a photo of a log book entry documenting the scanning system failure (Exhibit 3). The Panel finds as fact that the scanning system was not working at the time Inspectors Kulak and Hadley conducted their operating check on April 20, 2024.

[204] The Panel weighed the conflicting evidence provided by the Licensee and Regulatory Services. The text message to PatronsCan provided by the Licensee is a screenshot, and the Panel does not find it to be credible evidence since there is no way to verify whether it is legitimate. The log book entry (Exhibit 3) was not shown to the inspectors when they conducted their operating check, and the inspectors did not ask to review it. As such, the Panel finds that there is no way to verify whether the entry was made in the log book at the time the scanning system failed. The Panel finds the emails between Supervisor Nash and PatronsCan credible and finds that PatronsCan does not accept service requests by text message and that the Licensee did not report the scanning system failure until the evening of April 20, 2024. The Licensee ought to have contacted Regulatory Services and PatronsCan immediately after becoming aware that the scanning system stopped working.

[205] While licence condition 2(a) does not provide any direction as to what action the Licensee must take when the scanning system fails, the Panel finds that this condition clearly states that all identification must be scanned by a scanning system. Given that there were approximately 22 patrons in Arena 7 Lounge and only four patrons were found in the scanning system by Inspector Hadley, the Panel finds that the Licensee did not scan all patrons' identifications into the scanning system.

[206] As such, the Panel finds that the Licensee violated licence condition 2(a).

Violation of Licence Condition 2(b)

[207] Inspectors Kulak and Hadley provided evidence that they observed two male patrons wearing outdoor coats in Arena 7 Lounge. One coat was described as varsity-style, and the other coat was described as a thin, puffy windbreaker. Inspector Hadley also observed a female patron wearing an oversized fur coat.

[208] Mr. Elias did not deny that there were two patrons wearing jackets in Arena 7 Lounge. However, he stated that he considered these jackets to be fashion statements, not coats.

[209] The purpose of licence condition 2(b) is to prevent patrons from concealing weapons and bringing them into Arena 7 Lounge. As such, the Panel considered whether the garments worn by the patrons were coats that were capable of concealing a weapon and ought to have been removed and checked upon entry to the licensed premises. The Panel finds that a varsity-style coat and a thin, puffy windbreaker are both coats and could easily conceal weapons. As such, the Panel finds that the Licensee failed to check and store the coats of at least two patrons when they entered Arena 7 Lounge.

[210] While the Panel acknowledges that Regulatory Services should provide a clear definition of what constitutes a coat so that there is no ambiguity, the Panel finds that it is the Licensee's responsibility to seek clarification from Regulatory Services when they are uncertain about their responsibilities that arise from the Conditions, the Act, the Regulation and all relevant AGLC policies.

[211] As such, the Panel finds that the Licensee violated licence condition 2(b).

Violation of Licence Conditions 3 and 4

[212] Inspector Kulak provided evidence that he requested video surveillance footage of the security station at the bottom of the stairwell of Arena 7 Lounge from the open of business on April 19, 2024 to the close of business on April 20, 2024. Although he received video surveillance footage from the Licensee, it did not contain the footage of the security station. Further, the footage only ran from 7:00 p.m. to 9:00 p.m. on April 20, 2024. He subsequently asked for the requested footage again but never received it.

[213] Although Mr. Elias stated that he would have been able to provide Inspector Kulak with video surveillance footage of the security station had Inspector Kulak requested it sooner, the Panel finds that Inspector Kulak requested the video surveillance footage within the 28-day retention period as required by licence condition 4. The inadequate retention period of the video surveillance system at the time of the incident does not absolve the Licensee of their duty to provide AGLC inspectors with requested footage.

[214] Mr. Elias admitted that the video surveillance system was only retaining footage for 20 days. However, he stated that he did not become aware of this until Inspector Kulak made a second request for footage, and he blamed the camera technician for not setting up the system in accordance with his instructions. The Panel finds as fact that the video surveillance system at Arena 7 Lounge was only retaining surveillance footage for 20 days. Further, it was the Licensee's responsibility to ensure that their video surveillance system retained footage for 28 days in accordance with licence condition 4.

[215] The Panel finds that there were inconsistencies with Mr. Elias' testimony. If there was a camera in place that was recording the security station at the time of the incident, then the Panel questions why the Licensee installed multiple new cameras in Arena 7 Lounge (Exhibit 8) after the incident. As such, the Panel finds that the installation of the new cameras by the Licensee indicates that the door staff and not all patron areas were being recorded as required by licence condition 3.

[216] As such, the Panel finds that the Licensee violated licence conditions 3 and 4.

[217] As a result of violating licence condition numbers 2(a), 2(b), 3 and 4, the Panel finds that the Licensee contravened section 91(1)(a) of the Act.

[218] Public safety is a paramount concern for AGLC, and licence conditions are proven to mitigate safety risks at licensed premises; it is imperative that the Licensee comply with the Conditions at all times.

[219] The Panel heard oral evidence from Inspectors Kulak and Hadley and were also provided with documentary evidence (Exhibit 2) that the Licensee and Mr. Elias have received multiple cautions and extensive education on numerous occasions by Regulatory Services. Operating a licensed premises is a privilege and not an automatic right, and the responsibilities associated with being a licensee must be taken seriously.

[220] The Panel acknowledges that the Licensee has taken steps since the incident to ensure compliance with the Conditions. The four videos (Exhibits 7, 8, 9 and 10) of the camera technician installing video surveillance equipment at Arena 7 Lounge provided by the Licensee reflect some of these efforts.

[221] The Panel encourages the Licensee to reach out to Regulatory Services in the future if they have any questions or concerns regarding the Conditions, the Act or the relevant AGLC policies.

VII. Finding

[222] For the reasons stated above, the Panel finds that the Licensee contravened section 91(1)(a) of the Act by failing to comply with licence condition numbers 2(a), 2(b), 3 and 4.

[223] In accordance with section 91(2) of the Act, the Panel imposes the following sanctions:

- For the violation of licence condition 2(a), a fine of \$2,000 or a 4-day suspension of the Licence. The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 7, 2024 and continuing until the normal close of business on November 10, 2024.
- For the violation of licence condition 2(b), a fine of \$500 or a 1-day suspension of the Licence. The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 11, 2024.

- For the violation of licence conditions 3 and 4, a fine of \$2,000 or a 4-day suspension of the Licence. The fine is to be paid on or before November 4, 2024 or the suspension period served commencing with the normal opening of business on November 12, 2024 and continuing until the normal close of business on November 15, 2024.

[224] The Licensee may make a lump sum payment or pay in installments. The Licensee is directed to contact Regulatory Services to make payment arrangements.

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

1. An incident log book is to be maintained at the premises to record incidents (e.g. patron removals, intoxication, fights, disturbances, police attendance, etc.) and action taken by staff. The incident log shall include the date, time type of incident, incident details, and names of parties involved. The incident log is to be available to the AGLC and/or police on request and retained for 24 months.
2. At point and time of entry and re-entry to the premises, the Licensee must:
 - (a) Request and require (as a condition of entry) approved identification from all patrons entering the premises. All identification must be scanned by a scanning system and have the capability of retaining a name, age, and picture. A scanning system must be in place within 30 days of the implementation of these conditions.
 - (b) Check/store all patron's coats.
 - (c) Search all bags/purses for weapons/drugs (anyone found in the possession of weapons or illegal drugs is to be refused entry).
 - (d) Scan all patrons using a metal detector to prevent the entry of weapons (anyone found in the possession of weapons is to be refused entry).
3. The premises must have video surveillance approved by the AGLC, as follows:
 - (a) Video surveillance recording devices and lighting at each entrance to the premises, of sufficient quality to identify facial features of patrons entering the premises and door staff working at the entrances.
 - (b) Video surveillance recording devices and lighting to provide complete/surveillance coverage of patron areas (excluding washrooms) of sufficient quality to identify facial features of patrons and staff.
4. The video surveillance recordings must be retained for a minimum of 28 days and shall be made available to AGLC and/or police on request. Recordings must be accurately dated and labeled for ease of reference.

Signed at Calgary, this 4th day of October, 2024



Patti Grier, Presiding Member, Hearing Panel