

## Northwest Territories Liquor Licensing Board

**IN THE MATTER** of The Black Knight Pub, Licensed Premises, and Licence # 2011-A-14

**AND IN THE MATTER** of the *Liquor Act* S.N.W.T. 2007, c.15 (“the Act”) and the *Liquor Regulations*, R-069-2008 (“the Regulations”);

**AND IN THE MATTER** a hearing before the Liquor Licensing Board;

### REGARDING:

**The Black Knight Pub Ltd.**

Licence Holder

and

**The Black Knight Pub**

Licensed Premises

The Liquor Licensing Board, having conducted a hearing on the 6<sup>th</sup> day of December 2011 in the City of Yellowknife, has found:

The Licence Holder has failed to comply with:

Section 92 of the Act; “Except as may be permitted in the regulations, a licence holder shall not allow an intoxicated person to enter or remain in a licensed premises.”

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### ORDER

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**IT IS HEREBY ORDERED** pursuant to section 30 of the Act:

1. The Licence Holder shall pay a compliance penalty in the amount of seven hundred fifty dollars (\$750) on or before January 6, 2012.

Dated at the City of Yellowknife, this 5<sup>th</sup> day of January 2012.

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Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.

## Northwest Territories Liquor Licensing Board

**IN THE MATTER** of The Black Knight Pub, Licensed Premises, and Licence # 2011-A-14

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### Reasons for Decision

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**Liquor Licensing Board Case #:** 11-007

**Date of Inspection:** October 15, 2011

**Heard at** Yellowknife, NT on the 6<sup>th</sup> day of December, 2011

### Panel Board Members:

Colin Baile  
Wayne Smith  
Stanley Jones  
Albert Monchuk

### Appearances:

Sarah Kay – Counsel for the Government of the Northwest Territories (Enforcement)  
Scott Wray – Representing the Licence Holder  
Dale Bardeau – Representing the Licence Holder

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## Preliminary Matters

At hearing, the parties submitted an Agreed Statement of Facts.

## Enforcement Evidence

Counsel for the Government of the Northwest Territories (“Enforcement”) submitted an Agreed Statement of Facts. A summary of the Statement included:

- On October 15, 2011 a memorial gathering took place at the Top Knight. The Top Knight is a separate establishment on the second floor of the Black Knight Building. The memorial took place from 2:00pm to 7:00pm.
- A special event was scheduled that the Licensed Premises (“the Premises”) starting at 8:30pm.
- The Premises was staffed on October 15, 2011 by two bartenders, 2 servers, one doorman and the General Manager for a total of six.
- At 11:18pm, Liquor Inspectors Kerry Nicholson and Frank Yakimchuk attended at the Premises. A head count revealed the Premises was at its capacity of 115 people with people waiting outside to get in.
- Inspect or Nicholson observed a patron who was intoxicated. The patron showed several common indicia of the consumption of liquor. Upon speaking with the patron, Inspector Nicholson was informed by the patron that he had been drinking since 2:00pm. He also stated he was drunk and had cut himself off but had not been asked to leave the premises.
- The Licence Holder advised that the patron had left the Premises after the memorial at 5:00pm. He returned at about 8:00pm. He left a second time and again returned at 11:10pm. The patron was served 3 pints of beer in the afternoon a 1-pint when he returned at 8:00pm. The Patron was not served anything when he arrived at 11:10 pm.

- The Licence Holder was trying to balance its obligations and responsibilities under the Act while being sensitive to the emotional nature of the day.

Also submitted was a copy of the Notice of Hearing and Licence #2011-A-14.

**Licence Holder Evidence**

Mr. Wray, representing the Licence Holder, agreed with the Statement of Facts.

**Analysis**

We find the charge of non-compliance is made out.

We accept the events of October 15, 2011 are as described in the submitted Statement of Facts. We also accept Mr. Wray’s admission of guilt.

The intoxicated patron was allowed to enter and remain in the Licensed Premises. This action is in violation of section 92 of the *Act*.

We shall next address the submissions and considerations regarding penalty.

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**PENALTY**

**Summary of Joint Submissions**

- Recommend a \$500 to \$1,500 compliance penalty and no suspension of the Liquor License.
- It is a significant factor that the Licence Holder has shown a high level of cooperation and has accepted responsibility for its non-compliance.
- This is not an egregious example of a s. 92 breach.
- The Licence Holder has been in business for 15 years and this is the first time it has faced an allegation of non-compliance. The Licence Holder has a long history of taking its responsibilities seriously.

- It is appropriate to consider the circumstances that lead to the charge. The Licence Holder attempted to balance its responsibilities under the *Act*, while being sensitive to the patrons’ needs who had earlier attended a memorial event. Staff members were trying to move people along as quickly, quietly and respectfully as possible.
- All staff members have received Server Training.
- The Licence Holder has since reconsidered its policies and discussed the matter with staff. Enforcement has been contacted in order to receive further advise with its policies.

**Summary of License Holder’s Submissions**

- The Licence Holder prides itself on its professionalism.
- Of the 35 staff, many are full-time employees. Many staff members have been employees for over 5 years.
- A light sentence is appropriate.

**Penalty Analysis**

We have considered all of the facts and submissions. We acknowledge there are several mitigating factors. The most significant of these factors are:

- This is the Licence Holder’s first offence. It has maintained an exemplary record considering the length of time it has been in operation.
- The Licence Holder has established procedures and has since up-dated it procedures.
- The Licence Holder’s conduct since the inspection.

Other factors considered include:

- This is a Class A liquor license. As a liquor primary license, the Licence Holder has a high level of responsibility for monitoring patrons.

An order shall issue pursuant to section 30 of the *Act* that:

1. The Licence Holder shall pay a compliance penalty in the amount of seven hundred fifty dollars (\$750) on or before January 6, 2012.

Dated at the City of Yellowknife, this 5<sup>th</sup> day of January 2012.

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Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.