

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	LASSETERS HOTEL CASINO
LICENSEE:	FORD DYNASTY PTY LTD
LICENCE NUMBER:	80103004
NOMINEE:	Chris Satori
PROCEEDING:	Alleged Breach of Section 106B of the <i>Liquor Act</i> – Minor on Licensed Premises
HEARD BEFORE:	Mr Richard O’Sullivan (Presiding Member) Mr Philip Timney (Legal Member) Ms Helen Kilgariff
DATE OF HEARING:	28 April 2011
APPEARANCES:	Senior Inspector Wayne Sanderson, for the Deputy Director of Licensing (South) Mr Tony Whitelum, Counsel for the Licensee Mr Chris Satori, CEO of the Licensee and current Nominee Mr Craig Jervis, Operations Manager for the Licensee (formerly Nominee)

BACKGROUND

- 1) On 15 March 2011 the Deputy Director of Licensing (South) lodged a complaint with the Licensing Commission pursuant to Section 48(2) of the *Liquor Act* (“the Act”) alleging that the Licensee of Lasseters Hotel Casino had committed a breach of Section 106B of the Act by allowing a minor to enter and remain on licensed premises the subject of a declaration under Section 106(1)(a).
- 2) The complaint alleged that on 23 November 2010, at approximately 10.30 am, a female minor entered the Casino via the main entrance door and proceeded to the gaming area. She then approached the cash desk and exchanged a note for coins and proceeded to play several poker machines. The minor was approached by security personnel at around 11.15 am and asked for identification. The identification produced by the minor showed her birth date of 19 May 1994 indicating that she was 16 ½ years old at the time. The minor was immediately removed from the premises.
- 3) The alleged breach came to the attention of the Deputy Director when the security officer who had removed the minor from the Casino informed Licensing Inspectors of the incident on the day on which it occurred.

- 4) The gaming area of the premises is subject to a declaration issued pursuant to Section 106(1)(a) of the Act which prohibits a person under eighteen years of age from entering that area at any time.
- 5) The Licensee provided a formal response to the complaint in a letter from its solicitors, dated 25 January 2011, admitting the breach and raising a number of submissions in mitigation which may be summarised as follows:
 - The Licensee reported the breach without which the incident would probably have remained undetected;
 - A Responsible Gambling Audit conducted for the premises in February 2010 did not identify any relevant issues in respect of minors;
 - An updated Responsible Service of Alcohol policy has been submitted to the Deputy Director (South) and had been approved;
 - Rosters for security staff have been changed so that security staff are on duty at the front entry when the gaming floor is opened for trade;
 - Staff up skilling in relation to the *Liquor Act* and *Gaming Control Act* has been undertaken;
 - Changes have been made to the camera surveillance system;
 - The Security Officer responsible for monitoring patrons at the time of the incident was assisting Police in an unrelated matter when the breach occurred;
 - The responsible Security Officers have received final warnings after giving their respective versions of the incident; and
 - The breach occurred as a result of the inattention of staff and not as a result of an inadequate system.
- 6) Despite several attempts prior to the Hearing, Licensing Inspectors have been unable to locate the minor involved in the incident.
- 7) By decision dated 15 March 2011, the Commission determined to conduct a Hearing on the papers at a date to be set. The Commission was subsequently advised that both parties wished to be heard and be provided with an opportunity to make submissions on the matter, following which the complaint was set down for formal Hearing.

THE HEARING

- 8) The Hearing was convened in Alice Springs on 28 April 2011. Senior Inspector Sanderson provided the Commission with the background facts leading up to the complaint, as set out above. He outlined that following entering the premises the minor approached the cashier's desk and exchanged a \$10 note for \$1 coins and was then seen to play four poker

machines. On questioning from the Commission, Senior Inspector Sanderson agreed that at the time of providing change to the minor, the cashier would have made eye contact with the minor and been in a position to make some assessment of her likely age. Mr Whitelum agreed that the cashier was the only person in the chain of events involving the minor on the premises who had a realistic ability to assess her age. Mr Whitelum also confirmed that the facts as alleged were agreed by the Licensee.

- 9) The Commission formally found that the complaint as alleged had been made out and invited the parties to make submissions on penalty.

SUBMISSIONS ON PENALTY

- 10) Senior Inspector Sanderson outlined the history of the Licensee in relation to prior breaches of the Act and its licence conditions. He referred the Commission to a decision of 26 April 2006 involving the sale of liquor to a minor on the premises. He also specifically referred the Commission to paragraph 9(e) of that decision stating in effect that the Casino was a large building with a large number of points of entry which created an opportunity for minors to exploit by offering entry at a number of points at the premises. He advised the Commission of a further decision of November 2009 relating to a minor on the premises which referred to the need for *“positioning of additional security guards to ensure all points of access to the licensed premises are monitored”*.
- 11) Senior Inspector Sanderson drew from these previous decisions in making recommendations on penalty with his submission having two penalty elements. The first was a recommendation for a variation of licence conditions to the effect that the licensee is to provide security personnel at all access points to the venue when the venue is open for trade. Further, he sought a specific penalty of a suspension of the liquor licence for the entire premises for two days, with the penalty to be fully suspended for twelve months.
- 12) Mr Whitelum responded by stating that the Commission’s decision of 2006 needed some clarification. He advised that Senior Inspector Sanderson, in making submission on penalty, had referred to paragraph 9(e) of the 2006 decision whereas paragraph 9(f) states the Casino *“... .. must either employ security at every external door at times of high risk (such as Friday and Saturday nights) so as to ensure that no minors are allowed entry. If this is uneconomic the Casino must “up-skill” all of their staff to be absolutely vigilant when it comes to checking a re-checking of proof of age of those who remain on premises”*.
- 13) Mr Whitelum advised that a requirement to have security at all entry points at all times would be uneconomic as the Casino had at times up to five separate access points. To change the licence condition in such a way he submitted was onerous due to it being uneconomic, impractical and unlikely to cure the likelihood of minors gaining entry. He submitted to the Commission that the Casino currently has adequate security at the relevant points of entry at peak times. He submitted that whilst his client wanted neither of the penalties as

outlined by Senior Inspector Sanderson to be applied, the change to the licence condition sought was less preferable to a two day suspension.

- 14) Mr Whitelum further submitted that no system is foolproof but the approach of his client did identify the risk and provided resources accordingly.

CONSIDERATION OF THE ISSUES

- 15) The Commission considers a breach of licence conditions relating to minors on licensed premises to be at the higher level in the scale of offending. In this case the facts relating to the minor entering the premises unchallenged, exchanging a \$10 note for coins with which to play poker machines and remaining on the premises for a total of 40 to 45 minutes, are not contested by the Licensee. Additionally, the minor was allowed to enter the premises wearing a beanie which is against the house rules of the Casino and creates an impairment to the ready visual identification of minors. She was also wearing the beanie when she presented at the cashier's desk to obtain coins to play the poker machines. It is therefore apparent to the Commission that due to the time the minor was on the premises wearing the beanie there was a lapse in vigilance on the part of all staff who may have seen her on the Casino gaming floor or through watching CCTV footage from within the venue.
- 16) The Commission was advised that security staff had been severely reprimanded to the point that they were placed on what are, in effect, twelve month good behaviour bonds and a notice to this effect placed on their personnel records. The responsible head of security at the time the minor was on the premises was attending to an appointment he had with NT Police over car park theft and security issues and had passed responsibility for monitoring patron entry and behaviour within the venue to CCTV monitoring technician. No-one was at the main front entrance checking patron entry and no-one picked up that a person had entered the premises wearing a beanie and who was subsequently identified as a minor.
- 17) The cashier, who did have direct line of sight and an exchange with the minor, was verbally counselled over her failure to identify the minor and the failure to request removal of the beanie, as required by the house rules.
- 18) The Commission views the failure to prevent a minor from entering the premises and the liberty with which she was able to remain at the venue and engage in gaming activity for around forty minutes, as a most serious breakdown in Casino management.
- 19) The Commission regards the submission by Senior Inspector Sanderson that a licence condition be included to require security on all entry points at all trading times as being a severely costly impost to the Casino. At the time the offence was committed on 23 November 2010 there were only around six patrons on the premises. A requirement that security be present at up to five entry points at all trading times is, to the Commission, an untargeted approach to risk management which should apply a most vigilant screening system at times of highest numbers entering the premises.

- 20) The Commission does not accept the penalty advocated on behalf of the Director but does notify the Casino that it must apply the strictest of security regimes to prevent minors, intoxicated persons and banned troublesome persons from gaining entry to the premises. The Commission is of the view that it is up to Casino management to come up with solutions to the problems and to determine the best way to address issues such as the potential for minors to gain entry to the premises. If the Casino is unable to manage its obligations in this regard the Commission will, in the event of any future similar breach, entertain the option of imposing the type of licence condition referred to by Senior Inspector Sanderson, regardless of the financial implications to the Licensee.
- 21) In relation to the recommendation for a two day licence suspension to be fully suspended for a period of twelve months, the Commission notes that this element of the penalty submission is not as strongly contested as that of a variation to licence condition. The chain of events that lead to the minor being on the premises for nearly $\frac{3}{4}$ of an hour do not cast the Licensee in a good light.
- 22) Clearly there has been a serious breach and breakdown of security arrangements and staff responsibilities to question patrons of suspect age or identify minors who are on the premises. The Commission therefore, in view of the seriousness of the matter and in consideration of the potential harm that can come to a minor from being on licensed premises, considers it appropriate to impose a 2 day suspension of licence.
- 23) However, on the basis of the Licensee advising Licensing Inspectors of the offence on the day on which it occurred and of putting in place improved surveillance, particularly at the main entrance, the Commission is minded to suspend the penalty for a period of twelve months. The issue of self identification of the breach casts the Licensee in an honest and repentant light which gave significant cause for mitigation in what would have been a "normal" suspension penalty of around two days to be served. In reaching that decision the Commission also notes the submission of Senior Inspector Sanderson that the fact that this Licensee is a Casino operator imports a positive contractual obligation to report such breaches.

DECISION

- 24) The Commission has determined to impose a suspension of the licence for the whole of the premises of Lasseters Hotel Casino for a period of two days, with that penalty being suspended for a period of twelve months from the date of this decision. Any future breach of the Act of licence conditions occurs within that twelve month period the two day suspension will be automatically imposed in addition to any penalty applied for the latest breach.

Richard O'Sullivan
CHAIRMAN

29 April 2011