



Ms Rebecca Wakelin Former Licensee Frisco Hotel [REDACTED] C/- Gwynne Thompson Solicitors [REDACTED]	Superintendent Paul Carrett Kings Cross Police Area Command [REDACTED]
Mr Matthew McFarlane Current Licensee Frisco Hotel [REDACTED]	Sun Frisco Hotel Pty Ltd Queensland Hotel Investment Pty Ltd Business/Premises Owner Frisco Hotel [REDACTED]

4 April 2022

Dear Sir/Madam

Decision on complaint against Ms Rebecca Wakelin under section 139 of *Liquor Act 2007*

On 1 November 2021, the Independent Liquor & Gaming Authority (Authority) notified you of its findings on the complaint against Ms Rebecca Wakelin, former licensee of a hotel licence LIQH400102437 for the Frisco Hotel located at Dowling & Nesbitt Sts, Woolloomooloo NSW (Premises), under the *Liquor Act 2007* (Act).

The Authority invited you to make a submission on what, if any, disciplinary action should be taken against Ms Wakelin under section 141 of the Act on the basis of its findings.

The Authority subsequently received and considered a submission from Ms Wakelin's legal representative. No other submissions were received.

At its meeting on 15 December 2021, the Authority decided to:

- disqualify Ms Wakelin from holding a liquor licence, or from being the manager of a licensed premises or the close associate of a licensee, for a period of three years pursuant to section 141(2)(f) of the Act.

A statement of reasons for the Authority's decision is attached.

If you have any questions about this letter, please contact the Authority Secretariat at ilga.secretariat@liquorandgaming.nsw.gov.au

Yours faithfully

Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Background

1. On 27 October 2020 the Independent Liquor & Gaming Authority (Authority) received a complaint (Complaint) about Ms Rebecca Wakelin (Respondent), the former licensee of a hotel licence LIQH400102437 for the Frisco Hotel, located at Dowling & Nesbitt Sts, Woolloomooloo NSW (Premises).
2. The Complaint was made by a delegate of the Commissioner of the NSW Police Force (Complainant) under section 139 of the *Liquor Act 2007* (Act).
3. The Complainant alleged that the Respondent:
 - provided permission to a covert police officer for the Premises to be used for the sale of prohibited drugs and;
 - had knowledge of people within the local community who frequented the premises, and could provide the illicit drugs on the Premises at a later time.
4. Accordingly, the Complainant alleged three grounds for the Complaint under section 139(3) of the Act:
 - Ground 1 - That the Respondent has failed to comply with any of the conditions to which the licence is subject, within the meaning of section 139(3)(b) of the Act.
 - Ground 2 - That the Respondent has failed to comply with any other requirement under the Act or the regulations relating to the licence or licensed premises, within the meaning of section 139(3)(d) of the Act.
 - Ground 3 - That the Respondent is not a fit and proper person to be a holder of licence within the meaning of section 139(3)(i) of the Act.
5. On 22 December 2020, the Authority issued a letter to the Respondent, inviting her to show cause as to why disciplinary action should not be taken on the basis of the Grounds of Complaint.
6. The Respondent provided submissions in response to the Complaint on 16 February 2021.
7. On 3 March 2021, a further submission was received from the Complainant, to which the Respondent provided her response to, on 12 March 2021.
8. The Authority considered the Complaint at its meeting on 14 April 2021, and found that Grounds 2 and 3 for the Complaint were established.
9. The Authority found that there was insufficient evidence to establish Ground 1 of the Complaint.
10. On 1 November 2021, the Authority issued a findings letter to the Respondent, the current licensee, the business/premises owner and the Complainant, inviting their submissions on what, if any, disciplinary action should be taken in light of its findings.
11. On 29 November 2021, the Respondent's legal representative made a submission in response to the Authority's findings letter. No other submissions were received in response.
12. The Authority made a final decision at its meeting on 15 December 2021.

Relevant legislation

Prescribed grounds of complaint

13. Section 139 of the Act identifies the types of persons, including Police, who can make a complaint to the Authority in relation to a licensee, manager or close associate of a licensee.
14. The grounds on which a complaint can be made under section 139 include, relevantly:
 - that the licensee or manager has failed to comply with any of the conditions to which the licence is subject

- that the licensee or manager has failed to comply with any other requirement under this Act or the regulations (or under the former Act), relating to the licence or the licensed premises
 - that the licensee is not a fit and proper person to be the holder of a licence (whether for the same reason as that set out in section 45(5) or otherwise) or the manager is not a fit and proper person to be the manager of the licensed premises (whether for the same reason as that set out in section 68(4A) or otherwise).
15. Section 141 of the Act confers on the Authority powers to take disciplinary action against a licensee, manager or close associate of a licensee, if it is satisfied that any of the complaint grounds set out under section 139 of the Act are established.
16. Section 137(1)(a) of the Act provides that a licensee includes a former licensee.
17. The Authority is satisfied that the two established grounds of the Complaint are prescribed grounds under sections 139(3)(d) and (i).

Procedure for taking disciplinary action

18. Section 140 of the Act requires the Authority to notify a licensee in writing of the ground on which the Authority is proposing to take disciplinary action, and invite the licensee to show cause as to why disciplinary action should not be taken. The Authority is also required to invite submissions from the relevant interested parties listed in section 140(3).
19. The Authority is satisfied that the relevant parties were afforded the requisite procedural fairness under section 140 of the Act, and given the opportunity to make submissions about the Complaint and whether disciplinary action should be taken.

Presence of legal member of the Authority

20. Section 143 requires the presence of an Authority member who is a Judge or an Australian lawyer of at least seven years when a Complaint is determined and a decision made on the action to take.
21. The Authority is satisfied that when the Complaint was finally determined at its meeting on 15 December 2021, at least one of its members involved in the decision making was an Australian lawyer of at least seven years.

Decision

22. The Authority has had regard to the information provided in the submission from the Respondent's legal representative that:
- there is no evidence on any of the material that there was supply of any illegal substance and no evidence that any person suffered as a result of the conduct
 - the Respondent acknowledged having poor judgement at the time she was the licensee
 - the Respondent is no longer in the industry and is seeking a career in another field
 - the Respondent holds concerns that this finding may have some adverse impact on her future career
 - a reprimand would be appropriate in the circumstances.
23. The Authority nevertheless considers the Respondent's conduct which led to the Complaint and the Authority's findings to raise serious concerns about her competence and integrity to act in a role that could influence the management and operation of a licensed premises.
24. The gravity and culpability of the Respondent's dishonest conduct of permitting the Premises to be used for the sale of a prohibited drug are, in the Authority's view, exacerbated by the fact that:
- a) she had knowledge of people within the local community who frequented the Premises, and could provide the illicit drugs on the Premises at a later time

- b) she directed the covert police officer away from staff who would not have permitted the sale of drugs at the Premises
- c) she was unaware of a range of legislative obligations and public regulatory matters that she was expected to comply with.

25. The Authority is not satisfied that, if the Respondent were to be the holder of a licence again in the future, that she would possess the skills to avoid engaging in a similar pattern of behaviour.

26. The Respondent's conduct fell below the reasonably expected standards of a licensee and there is no evidence before the Authority to indicate that her character and integrity has changed in any significant way since the time of the Complaint.

27. In these circumstances, the Authority considers it necessary and in the public interest to ban the Respondent from participating in any role that could influence the management or operations of any licensed premises in the immediate future.

28. Accordingly, the Authority has decided to take the following disciplinary action:

- a) Pursuant to section 141(2)(f) of the Act, disqualify Ms Wakelin from holding a liquor licence, or from being the manager of a licensed premises or the close associate of a licensee, for a period of three years.



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Important Information:

In accordance with section 144 of the Act, the person against whom disciplinary action is taken may apply to NCAT for an administrative review of this decision under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days after the person receives notification of this decision.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

This decision will be published on the Liquor and Gaming website at:

<https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/disciplinary-decisions>