



<p>Mr Sergio Luis Pinzon Gutierrez Former Licensee Exotik Latin Pty Ltd [REDACTED]</p>	<p>Mr Dimitri Argeres Director of Compliance & Enforcement Department of Enterprise, Investment and Trade [REDACTED]</p>
<p>Section 140(3) – Third parties Mr Aquiles Adrian Arevalo Llinas Licensee Exotik Latin Pty Ltd [REDACTED]</p>	<p>Section 140(3) – Third parties EXOTIK LATIN PTY LTD Business owner [REDACTED]</p>

Our ref: DOC24/073195

2 April 2024

Dear Sir/Madam

Decision regarding complaint about Mr Sergio Luis Pinzon Gutierrez under section 139 of the *Liquor Act 2007*

Our decision

We are satisfied that the grounds of complaint are established and have determined to:

- **Disqualify** Mr Sergio Luis Pinzon Gutierrez from holding a licence, or from being the manager of licensed premises under section 141(2)(f) of the *Liquor Act 2007* (Act), for a period of two years.

Background

In 2019, a strike was imposed on Mr Pinzon Gutierrez under the former Three Strikes Scheme for selling liquor outside authorised hours. As a result, we required Mr Pinzon Gutierrez to undertake both the licensee and advanced licensee training courses.

Despite additional training, in 2022 Mr Pinzon Gutierrez committed a further two offences under the Act. These failings demonstrate a lack of appropriate staff training and patron management to ensure liquor is not sold or supplied to persons under the age of 18. Selling alcohol to minors is considered one of the most serious offences under the Act and constitutes the misuse and abuse of alcohol.

Initial 2022 Offence

Details of the first minors related offences are as follows:

- on 20 January 2022, a group of four minors attended the venue and ordered a jug of Long Island Iced Tea via the QR code on the table
- the manager on duty prepared the alcoholic beverage which was served to the group by a staff member who was a minor and did not hold a current RSA competency card
- the manager also supplied and consumed shots of Fireball Whisky with the group
- a video of the consumption was recorded on Snapchat with the caption ‘Shots with the boss’

- the group were not requested to show identification during the night and stayed until the venue closed.

Subsequent 2022 Offence

Details of the second minors related offences are as follows:

- on 4 February 2022, Police attended the venue and observed a minor at a table with a female friend
- the minor ordered two Margaritas via the QR code at the table
- the manager on duty prepared the drinks which were served by a staff member who did not hold a current RSA competency card
- at no point did any staff members request identification from the minor.

Mr Pinzon Gutierrez was issued two penalty infringement notices in relation to alcohol being supplied to minors on two separate occasions by staff members who did not hold current RSA competency cards. One of these staff members was also a minor.

On 30 December 2022, we received a disciplinary complaint from Mr Dimitri Argeres, Director of Compliance & Enforcement, as a delegate of the Secretary of the Department of Enterprise, Investment and Trade (complainant) about Mr Sergio Luis Pinzon Gutierrez, the former licensee of an on-premises licence (LIQO660031551) for Exotik Latin Pty Ltd, located at 284 King St Newtown.

On 21 June 2023, we determined to take remedial action in the form of a reprimand, additional training and licence conditions following the accumulation of demerit points for the same matter.

Grounds of complaint

The grounds of complaint are that Mr Sergio Luis Pinzon Gutierrez has, while holding a licence or managing licensed premises:

- been convicted of an offence under the Act for the purpose of section 139(3)(a) of the Act; and
- engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption) for the purpose of section 139(3)(f) of the Act.

Consultation and submissions

On 7 November 2023, we issued a show cause notice inviting submissions as to why we should not take further disciplinary action. No submissions were received in response.

Our findings

In consideration of the repeat offending, we agree with the complainant that more severe disciplinary action is warranted in this instance.

Relevant legislation

Prescribed grounds of complaint

We are satisfied that the complaint was made validly and that the established grounds of complaint are prescribed grounds under sections 139(3)(a) and (f) of the Act.

The material we considered

Complaint material

The following material submitted in Liquor and Gaming NSW's application was considered in the determination of this matter:

- a one page cover letter
- a five page submission dated 30 December 2022 and
- six attachments:
 - Attachment A – Complaint form AM0222
 - Attachment B – Liquor Licence LIQO660031551
 - Attachment C – Police material
 - Attachment D – Penalty Infringement Notice 4933704995
 - Attachment E – Penalty Infringement Notice 4942602244
 - Attachment F – 2019 Three Strikes decision

If you are dissatisfied with this decision

The respondent or complainant may apply to [NCAT](#) for a review of this decision under the *Administrative Decisions Review Act 1997*.

For more information, please contact the NCAT Registry at 1300 006 228 or visit the [NCAT website](#).

This decision may be published on the [Liquor and Gaming website](#).

If you have any questions

Please contact the Office of ILGA at office@ilga.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**