

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012 Act

AND

IN THE MATTER

of an application **SEYNI JAMIE
McWILLIAMS** pursuant to s.219
of the Act for a Manager's
Certificate

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin
Members: Ms M W Rose
Mr L Cocks

HEARING at Queenstown on 19 October 2015

APPEARANCES

Ms S J McWilliams - applicant
Ms J J Mitchell – Queenstown Lakes District Licensing Inspector – to assist
Sergeant L K Stevens – N Z Police – in opposition

ORAL DECISION OF THE COMMITTEE

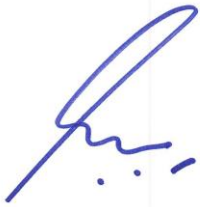
- [1] This is an application by Seyni Jamie McWilliams for a general manager's certificate.
- [2] Section 222 of the Act sets out the criteria which we are required to consider. These are as follows;
- (a) *The applicant's suitability to be a manager:*
 - (b) *Any convictions recorded against the applicant:*
 - (c) *Any experience, in particular recent experience, that the applicant has had in controlling any premises which a licence was in force:*
 - (d) *Any relevant training, in particular recent training, that the applicant has undertaken and evidence the applicant holds the prescribed qualification required under section 218:*
 - (e) *Any matters dealt with in the reports under section 220.*
- [3] In this case the relevant issues are (1) the reports that have been received both from the Licensing Inspector and the Police and (2) the convictions which have been recorded against the applicant and therefore (3) her suitability to be a manager.

- [4] Miss McWilliams was born in 1985. It is fair to say that in her early 20's she went through a 'purple patch' in her life. Something, that happens quite often to young people. This period of behaviour started in 2007 with an obstruction charge for which a fine was imposed. This was followed in April 2009 when Miss McWilliams was stopped for driving with an excessive blood alcohol with a level of 119mg per 100ml of blood. She was fined relatively heavily and disqualified from driving.
- [5] There was a conviction for careless driving which is not necessarily a criminal offence but the drink driving charge was compounded in its seriousness by an incident on the 13th November 2011 nearly four years ago, when she found to be driving with excessive breath alcohol content with a level of 768mcg of alcohol per litre of breath, nearly twice the allowable limit. Miss McWilliams was convicted and ordered to carry out community work and received a further sentence of disqualification.
- [6] Ms McWilliams breached that order by driving when disqualified in 2011. There was subsequently a breach of community work but she carried out her required hours by the time the matter came to court. In terms of seriousness the picture that has been painted is relatively concerning particularly as there were two events involving alcohol abuse.
- [7] The Police quiet properly opposed the application when it was filed six months ago in April of this year. The evidence is that Miss McWilliams starting working in an off licence known as "Betty's". She filed what could be described as a generic reference indicating she commenced her employment on 20th January 2014 so she has now been working for a little over 18 months. Because the reference is generic it is impossible to say how well she carry out the task, but as far as this committee is concerned she made a good I impression.
- [8] The issue as always is how much she has learnt from her experiences in her youth, and how she can apply that experience in her future conduct both privately and holding a position of some authority being a manager of an off licence. Miss McWilliams has the added responsibility for a 10 year old daughter. Her drinking habits are minor she appears to have 'turned the corner'. She has another job that she is going to start in November which will also involve responsibility.
- [9] In terms of the convictions, the relevant case is that of G L Osbourne (LLA PH 2238/95. This case sets out several guidelines as to how to deal with previous convictions. For example a single drink driving offence involving abuse of alcohol might require a two year stand down period. The decision also refers to a five year stand down period for serious offending or convictions involving alcohol abuse. The object of the Act is to ensure that alcohol is sold and consumed safely and responsibly and that the harm caused by excessive or inappropriate consumption is minimised, is just as applicable in the licensing of managers as it is with the licensing of the sale of alcohol.
- [10] Making previous convictions relevant to the process is an important way of achieving the Act's objective. The stand down period is simply to find out if applicants have learnt lessons from their previous conduct and have applied

that experience to their present lives. Clearly nobody should be prevented from advancing their lives and their careers by a conviction from which the lesson has been well and truly learnt.

- [11] We accept the Sergeant's submission that the combination of the offending is quite serious. There was even an issue about the applicant's failure to disclose her offending which can be equally serious. However in the case the applicant explained why she had only included the most recent matter thinking that this would be sufficient to trigger a full search.
- [12] The issue before us has been made a little less difficult to decide because Miss McWilliams has given an undertaking to this Committee, that if granted a manager's certificate it will only be used to manage off licence premises. There is a difference in our view between the responsibilities of managing off against on-licensed premises. Miss McWilliams has acknowledged that the undertaking is serious, and that any breach would result in her losing her managers certificate.
- [13] The undertaking cannot last forever but at a minimum it would be recorded on the certificate for the first year. The words "undertaking given" may be removed from the certificate by application to this Committee. In those circumstances we are satisfied that the criteria listed in section 222 of the Act have been met and propose to grant the application.

DATED at Queenstown this 22nd day of October 2015



Mr E W Unwin
Chairman