

Decision No. QLDLC 0007/14

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012

**AND**

**IN THE MATTER**

of an application by **SAMANTHA  
JOANNE MCALPINE** 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 J M Mann

**HEARING** at QUEENSTOWN on 10 February 2014

**APPEARANCES**

Ms Z Hammett – Queenstown Lakes District Licensing Inspector – to assist  
Sergeant L K Stevens – N Z Police – in opposition  
Ms S J McAlpine - Applicant

**ORAL DECISION OF THE COMMITTEE**

- [1] Before the Committee is an application by Samantha Joanne McAlpine for a Managers Certificate. The application was filed on or about the 5<sup>th</sup> of November 2013. Miss McAlpine has worked most of her adult life in the hospitality industry in a variety of roles but in May 2013 she began working for Mr Brendan Quirk and his businesses firstly in a part time role and eventually as a bar person and finally as a trainee Manager.
- [2] In June of last year, Miss McAlpine completed the training course and the unit standards and holds the Licence Controller Qualification. In January of this year she completed her LCQ Bridging Course as required by the regulations. When she made her application there was initially no opposition but approximately a week after filing the application an incident occurred.

- [3] At the time, this was the 17<sup>th</sup> November of last year, Miss McAlpine was working as a temporary Manager at the Opium Bar in Wanaka, Police CCTV footage indicated that there were problems outside the premises of Opium, at 68 Ardmore Street. This was a Sunday morning at around 2am and there were issues of disorder outside the bar on the street, it should be stated that the bar itself is up a set of stairs and the way the bar is operated is that there is a doorman at the bottom of the stairs. The Police were able, by CCTV footage, observe a Male, who was intoxicated and was seen to vomit outside the bar, he was involved with play fighting and then entered the bar and was allowed to do so by the Security Person at the bottom of the stairs. There were other incidents of bad behaviour outside the bar but because of the person entering the bar and he is readily identifiable the Police visited the premises where they found the intoxicated patron inside the bar.
- [4] The evidence was that he was inside the bar for approximately 8 minutes, there is some dispute in the evidence as to whether Miss McAlpine, who as stated was Temporary Manager, observed this person or not, we have heard from her and there is no question that she was relatively busy and was working in fact behind the bar as well as carrying out her duties as Manager.
- [5] It is clear that lessons were learnt, as a result of this incident the Police immediately opposed the application and the applicant has not been employed as a Temporary Manager or in a Managers role since.
- [6] Furthermore that she has been given a serious retraining and that it is clear that lessons have been learnt. Mr Brendan Quirk was good enough as the employer, to appear before the hearing to confirm that more training had been undergone and the matter was regarded seriously enough for the doorman, who had been employed for some 5 years, to be dismissed.
- [7] Its possible that the Police will be taking further action against the licensee because of the incident. There is no question that Miss McAlpine has learnt some valuable lessons from this all, that equally there is no question but that

intoxicated persons being on licenced premises is one of the more serious types of incidents that can occur under the new Act.

- [8] Since 2000 the law in respect of the management of licence premises has been amended and strengthened by Parliament on 3 occasions. On the first occasion in early 2000 a new section under the old act, 115, was inserted at that provided that at all times when liquor was being sold or supplied to the public, a certificated Manager had to be on duty and that person was responsible for compliance with the Act and the conditions of the licence.
- [9] Approximately 6 years later the Manager also became responsible for the enforcement of the provisions of the Act and the conditions of the licence, as well of the conduct of the premises with the aim of contributing to the reduction of liquor abuse. And the third case was when the Sale and Supply of Alcohol Act 2012 was passed in December of last year, and this new act will obviously be analysed in some detail but sufficed to say that the relation to its predecessor this act has strengthened the way that Liquor is sold in this country or made an attempt to ensure that there is a reduction in alcohol related harm.
- [10] Section 214 of the new act reads as follows:  
Except as provided in section 215, a manager must be on duty at all times when alcohol is being sold or supplied to the public on any licensed premises
- A manager on duty on any licensed premises is responsible for—
- (a) the compliance with and enforcement of—
    - (i) the provisions of this Act; and
    - (ii) the conditions of the licence in force for the premises;  
and
  - (b) the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.

At all times while a manager is on duty on any licensed premises, the full name of the manager must be prominently displayed inside the premises so as to be easily read by people using the premises; and the person named as manager at any time is to be treated for the purposes of this Act as the manager at that time.

At all times when alcohol is being sold or supplied on licensed premises the licensee must take all reasonable steps to enable the manager to comply with this section.

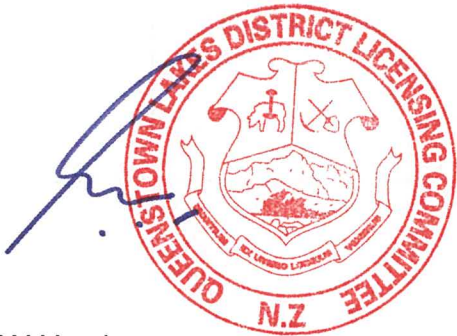
[11] Now as has been stated before, we believe that all these provisions are designed to encourage the drive to raise the standards of those charged with the responsibility of supplying alcohol to the public. It could be argued that the degree of responsibility might deter some people from applying for a certificate, on the other hand it is stated that it is expectation that licensees will do their best to enable their managers to comply with these new rules. It's abundantly clear that parliament expect that the management of licensed premises will be conducted only by persons of integrity who are committed to the reduction of alcohol related harm. The effect of these provisions is that a Managers Certificate has not only become a symbol of responsibility but a confirmation of ability and competence. In other words it has an intrinsic value in terms of monetary reward to the holder. As long as standards are kept high the value of a certificate will not be diminished, by making sometimes difficult decisions we hope to send a message that reinforces the new object as contained in section 4 of the act.

[12] In summary the message that we hope to send is that we hope Managers spend as little time as possible behind the bar, it is clear to us that in this case the lessons have been learnt. The decision of the committee is to adjourn the application for a period of 6 months, it could be described as a further probationary period, report form the Police and Inspectors will be called for, if these are satisfactory then the Certificate will be granted without a further hearing. If the reports raise any issues, then a further hearing will be convened.

[13] In an effort to ensure that the applicant receives more responsibility, to see how she reacts under pressure, there is no objection to her being granted some opportunity to run the premises on her own provided that any period of time is no longer than six weeks during the six month period.

[14] The application is adjourned.

**DATED** at Queenstown this 14<sup>th</sup> day of February 2014



E W Unwin  
Chairman