

Decision No. QLDLC 0010/14

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

of an application by **STEPHEN
ALEXANDER MCATEER**
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 Mann

HEARING at QUEENSTOWN on 4 March 2014

APPEARANCES

Ms J Mitchell – Queenstown Lakes District Licensing Inspector – to assist

Sergeant L K Stevens – N Z Police – in opposition

Mr S A McAteer - Applicant

ORAL DECISION OF THE COMMITTEE

[1] Before the committee is an application by Stephen Alexander McAteer for a Manager's Certificate. The criteria that we must consider are set out in section 222 of the Sale and Supply of Alcohol Act 2012 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 for which a licence was in force;***

(d) Any relevant training' in particular recent training, that the applicant has undertaken and evidence the applicant hold the prescribed qualification required under section 218;

(e) Any matters dealt with in any report made under section 220.

[2] Mr McAteer is a British citizen some 30 years of age. He is here in New Zealand with a work visa which expires in August of this year. He holds the license controller qualification. He has an extremely supportive reference from a lodge where he works. This states that he is regarded by the general manager of the business as trusted honest and an outstanding professional, who has a work ethic like no one he has ever seen. And he is passionate about his job.

[3] In our view Mr McAteer would be an asset to the hospitality industry except that he does not qualify under the criteria. In particular his suitability is in question arising from a conviction against him for an offence involving alcoholic use and abuse. When Mr McAteer files his application in June 2013, there no opposition at that time. On the 31 July 2013, at about 1.20am Mr McAteer was driving a motor vehicle in the Queenstown area. He failed to take a corner and drove off the road colliding with a parked car. Although there was no injury suffered he was taken to hospital. A blood alcohol reading showed 230 mg of alcohol per 100ml of blood, some 2 and a half times the allowable limit.

[4] It is clear the Mr McAteer was under some personal stress at the time. It is equally clear that he accepts the correlation between his behaviour and the object of the Act. Furthermore Mr McAteer did have some difficulty completing the personal test that takes place with an Inspector. He has explained how this came about, and how he was unable to keep appointments. In the event no serious opposition has been taken in respect of that issue.

[5] Following Mr McAteer's conviction the Police filed a late opposition. As they pointed out, in the decision of *Martin Ferguson v Alistair Robert Lyon* (PH 57/2003) the Authority stated:

“New Zealand's drinking culture has become defined by many factors and social changes. Its manifestation is often seen in binge drinking or drinking harmfully. If the object of the Sale of Liquor Act is to be taken seriously, then eventually standards of good drinking behaviour will have to be set. Because people are inclined to be tolerant of alcohol abuse, then the focus must inevitably fall on the law. If the law becomes tolerant towards such behaviour the object of the act will lose credibility. If managers of licensed premises are shown to lack discipline, then why should patrons take the issue seriously.”

[6] And we also refer to the well-known decision of *G L Osbourne* (LLA 2238/95) where the authority stated:

“Without fettering ourselves with this or other applications it may be helpful if we indicate that we commonly look for a five year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol or arising in the course of an applicant’s duty on licensed premises. Less serious convictions are also weighed. By way of example is an isolated excess breath or blood alcohol conviction or a single driving offence disclosing no pattern of offending. In these and similar cases we frequently indicate that a minimum of two years from the date of conviction may result in subsequent favourable consideration.”

[7] On the one hand we have a serious event in Mr McAteer's life. On the other is the evidence that has been given in support of the application. A further significant factor is the undertaking he has just given. That undertaking which will be recorded on the eventual managers certificate with the words “Undertaking Given”. This will warn other potential employers. In its solemn form the undertaking reads:

“I Steven Alexander McAteer hereby undertake that if granted a Managers Certificate it will be used only at Matakauri Lodge. And further, that any breach of this undertaking is accepted as a sign of lack of suitability. It is acknowledged that any time after twelve months from the date of the issue of the Manager's Certificate the undertaking can be changed to other suitable employment or cancelled, by decision of an Inspector of the Queenstown Lakes District Council.”

[8] On the basis of this undertaking we are prepared to bend the rules. The decision of the Committee is that the application will be adjourned for twelve months from today. During the second 6 month period Mr McAteer may be employed as a temporary manager but only for a maximum of 6 weeks. If at the end of twelve months there are no more concerns expressed by the Police or the Inspector, the application may be granted on the papers without further public hearing. If there are adverse matters, then another public hearing will be called.



E W Unwin

Chairman