

IN THE MATTER

of the Sale of Liquor Act 1989

AND

IN THE MATTER

of an application by **NATHAN
GEORGE HESP** pursuant to
s.123 of the Act for renewal of a
General Manager's Certificate

BEFORE THE ALCOHOL REGULATORY AND LICENSING AUTHORITY

Chairman: District Court Judge J D Hole

Member: Mr D E Major

HEARING at LEVIN on 31 March 2014

APPEARANCES

Mr N G Hesp – applicant – in person

Sergeant S Chamberlain – NZ Police – in opposition

Ms L Roiri – Levin District Licensing Inspector – to assist

DECISION OF THE AUTHORITY

[1] As a result of decision [2013] NZARLA PH 780, the application by Mr Hesp for the renewal of his General Manager's Certificate was adjourned. At the time Mr Hesp was facing a defended drink-driving hearing.

[2] As a result of an incident which occurred on 24 January 2013, on 18 October 2013 Mr Hesp was convicted of refusing an officer's request for a blood specimen. He was fined and disqualified from holding or obtaining a driver's licence.

[3] In addition to that conviction, the Police also submitted that convictions of 17 August 2011 and 20 March 2012 should be taken into account. Their first concern relating to these earlier convictions was that Mr Hesp had not included them in his application form. The failure to include relevant convictions in an application for the renewal of a manager's certificate is of crucial importance because s.126 of the Sale of Liquor Act 1989 includes as relevant criteria any convictions recorded against the applicant since the certificate was issued or last renewed. The failure to record convictions in the application form could result in an application being granted on an erroneous basis.

[4] The Police were also concerned at the nature of the convictions. That of 17 August 2011 was for obstructing the Police. That has close similarities (factually) to the conviction of 18 October 2013 for refusing an officer's request for a blood specimen. Both offences indicated an uncooperative attitude towards the law enforcement authorities.

[5] The conviction of 20 March 2012 was for allowing a person to be on licensed premises outside licensed hours. This offence is always regarded by the Authority as serious.

[6] In *Re Marx* NZLLA 946/97, the Authority indicated that it usually gives added weight to any conviction:-

“For any offence occurring or involving or arising from conduct on licensed premises; relating to or involving the use or abuse of drugs or liquor.”

In this case both those two factors are present.

[7] The Police submitted that the application for the renewal of the certificate should be refused. When the Authority considers Mr Hesp’s recent convictions and the inferences that can be drawn from them, plainly the Police have a good case.

[8] However, the Authority is impressed that the Police concede that since the conviction of October 2013, Mr Hesp’s conduct has not come to the notice of the Police in any adverse way. Thus, it seems that he may have learned his lesson.

[9] On that basis, the Authority is prepared to give Mr Hesp the benefit of the doubt and grant the application for the renewal of his certificate. However, the renewed term should be for a truncated period. This is to remind Mr Hesp that the way in which he conducts himself as a manager must be exemplary. Also, it takes into account the nature of the Police’s concerns and ensures that Mr Hesp’s conduct will remain under scrutiny for the next year.

[10] Accordingly, the application for the renewal of Mr Hesp’s General Manager’s Certificate is granted upon the basis that the renewed certificate will expire on 11 May 2015.

DATED at WELLINGTON this 11th day of April 2014

A E Cannell
Deputy Secretary