

**Liquor Commission of Western Australia**  
**(Liquor Control Act 1988)**

- Complainant:** Commissioner of Police  
*(represented by Ms Thea Chee under the supervision of Clinton Arnold of State Solicitor's Office)*
- Respondent:** Ms Erin Michelle Stevens  
Non-Appearance
- Commission:** Ms Sarah Oliver (Deputy Chairman)  
Ms Kirsty Stynes (Member)  
Ms Alya Barnes (Member)
- Matter:** Complaint for disciplinary action pursuant to section 95 of the Liquor Control Act 1988.
- Premises:** Mukinbudin Hotel  
25 Shadbolt Street, Mukinbudin
- Date of Hearing:** 17 November 2020
- Date of Determination:** 8 March 2021
- Determination:**
1. Ms Stevens is disqualified for a period of five (5) years from the date of this determination from being:
    - a) The holder of a position of authority in a body corporate that holds a liquor licence;
    - b) Interested in, or in the profits or proceeds of, a business carried on under a liquor licence whether as

a natural person or as a partner in an unincorporated body or otherwise;

c) An approved manager in any licensed premises.

2. No monetary penalty is applied.

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**Authorities referred to in Determination:**

- ***Hughes and Vale v New South Wales (No 2)(1955) HCA 28***
- ***Australian Broadcasting Tribunal v Bond (1990) HCA 33***
- ***That's Entertainment (WA) Pty Ltd v Commissioner of Police (2013) WASC 75***
- ***Mavaddat v Real Estate and Business Agents Supervisor Board [2009] WASCA 179***
- ***Luckman and Commissioner of Police (LC 03/2015)***

## Background

- 1 On 5 November 2019, Ms Erin Michelle Stevens (**Ms Stevens** also referred to in these reasons as the **Respondent**) became the joint-licensee of the licence for the Mukinbudin Hotel (the **Licence**), situated at 25 Shadbolt Street, Mukinbudin (the **Hotel**).
- 2 On 12 January 2020, Ms Stevens was charged with several offences under the *Criminal Investigation (Identifying People) Act 2002*, the *Misuse of Drugs Act 1981*, and the *Road Traffic Act 1974* (the **Charges**).
- 3 On 20 April 2020, Ms Stevens pleaded guilty to all the Charges (the **Convictions**).
- 4 On 29 July 2020, the Commissioner of Police (the **Police**), pursuant to s95 of the *Liquor Control Act 1988* (the **Act**) lodged a complaint (the **Complaint**) against the Respondent with the Liquor Commission (the **Commission**) alleging cause for disciplinary action pursuant to s95(4) of the Act on the ground the licensee otherwise is, or became, an unsuitable person to hold a licence under the Act (s95(4)(g)).
- 5 On 8 October 2020, the Police lodged submissions and the matter was listed for hearing on 22 October 2020.
- 6 On 13 October 2020, the Respondent by email requested a deferral of the hearing to allow time to instruct solicitors to prepare for the hearing. The Commission granted the adjournment request on around 15 October 2020, and the matter was relisted for hearing on 17 November 2020.
- 7 On 1 November 2020, the Respondent and the co-licensee, Mr James Rodney Pascov (**Co-Licensee**) ceased operating the Hotel.
- 8 On 3 November 2020, the liquor licence in respect of the Hotel was transferred from the Respondent and the Co-Licensee to Rosalia Piccolo, the original Licence owner.
- 9 On 3 November 2020, the Respondent lodged submissions.
- 10 On 3 November 2020, the Complainant lodged submissions and a list of authorities.
- 11 On 10 November 2020, the Complainant lodged submissions in response.
- 12 On 16 November 2020, the Commission received from the Respondent's solicitor, David Shi, a notice of ceasing to act.
- 13 On 17 November 2020, a hearing of the Commission was held. The Respondent failed to attend that hearing. The Commission decided to proceed and determine the matter in the Respondent's absence, pursuant to s96 of the Act, it having been established that:
  - a the Respondent had been properly served the Complainant's submissions and had received notice of the matter for hearing;

- b the Co-Licensee had also been properly served the Complainant's submissions and notice of the hearing as an interested party;
- c the Respondent had called the Commission shortly after the hearing commenced to say her solicitor would not represent her due to non-payment of fees and she had messaged and called him that morning on her way in and was told if she did not feel confident she should not appear at the hearing, so she chose not to attend;
- d the Commission was satisfied proper notice to the parties had been given; and
- e the Commission had before it submissions which had been filed on behalf of the Respondent.

### **The Complaint**

- 14 The Complaint dated 9 July 2020 and lodged with the Commission on 29 July 2020 included the following attachments:
- (a) Hotel Licence No 6010011189 (Attachment A);
  - (b) ASIC Business Names extract for Mukinbudin Pub (Attachment B);
  - (c) Disclosable Court Outcomes of Erin Michelle Stevens (Attachment C); and
  - (d) Statement of Material Facts with respect to 5 charges (Attachment D).
- 15 The Complaint alleged that pursuant to s95(4) of the Act there is proper cause for disciplinary action on the following grounds:
1. The licensee otherwise is, or becomes, an unsuitable person to hold a licence under this Act (s95(4)(g)).
- 16 The evidence in this matter is that Ms Stevens has, as evidenced by the Disclosable Court Outcomes Attachment C, 12 criminal convictions, 5 of which were committed on the same date as the most serious conviction for possession of methylamphetamine with intent to sell or supply it to another (the **Latest Incident**).
- 17 As for the Latest Incident, on 12 January 2020:
- (a) Ms Stevens drove a vehicle and was stopped by the police whilst driving in a Northerly direction on Northam-Pithara Road, Goomalling and when stopped by the police at the intersection of Northam-Pithara Road and Goomalling-Wyalkatchem Road falsely stated her name to be "Amy Stevens";
  - (b) Ms Stevens was driving whilst suspended which suspension was reactivated by certain active fine suspensions;
  - (c) The Police found in Ms Steven's vehicle: cannabis; a glass smoking implement; digital scales; 2 clip seal bags containing approximately 1.85 grams and 2 grams

respectively of white crystal methamphetamine; foam with detectable traces of a prohibited drug; 2 empty clip seal bags; and a mobile phone with electronic data pertaining to drugs;

(d) Ms Stevens pleaded guilty to the following charges:

- A. Giving false personal details to police contrary to s16(8) of the *Criminal Investigation (Identifying People) Act 2002*;
- B. Possess a Prohibited Drug (Cannabis) contrary to s6(2) of the *Misuse of Drugs Act 1981*;
- C. Possess drug paraphernalia in or on which there was a prohibited drug or plant contrary to s7B(6) of the *Misuse of Drugs Act 1981*;
- D. Possession of a Prohibited Drug With Intent to Sell or Supply it to another (Methylamphetamine) contrary to s6(1)(a) of the *Misuse of Drugs Act 1981*;  
and
- E. No authority to drive – suspended contrary to s49(1)(a) & (3)(c) of the *Road Traffic Act 1974*.

18 The Police submit that the above convictions, together with the Respondent's prior convictions, demonstrate she is not a "fit and proper" person to hold a licence under the Act and sought the Respondent's disqualification as a holder of a position of authority in a body corporate that holds a licence for such period as the Commission thinks fit and to make such other order the Commission thinks fit.

### **The Commissioner of Police's submissions**

19 The Police lodged with the Commission primary submissions dated 8 October 2020 and 3 November 2020 (the latter being the **November Submissions**). It was confirmed at the hearing the two sets of submissions are one and the same apart from certain case citations which were updated in the latest version. Since there is no prejudice to the Respondent, the Commission finds the earlier version can and should be disregarded and references in the Respondent's Outline of Submissions dated 3 November 2020 to the "Complainant's Submissions" dated 8 October 2020 should be read and construed as referring to the November Submissions.

20 The Police in the November Submissions recite the Complaint details and submit that the Respondent's criminal conduct history is equally relevant as criminal conduct contrary to the Act when determining if a person is not "fit and proper" under the Act and the enlivening of disciplinary proceedings under the Act. The Police submit that based on the Respondent's criminal record, the Respondent is not a fit and proper person to hold a licence and the appropriate disciplinary action is for the Respondent to be disqualified for such period as

the Commissioner thinks fit from being the holder of a position of authority in a body corporate that holds a licence; or otherwise interested in, or in the profits or proceeds of, a business carried on under a licence (s96(1)(g) of the Act).

- 21 The Police submit the Respondent's conduct reflects particularly adversely upon her character and reputation and can only be a result of a conscious decision to disregard the law. It is indicative of both her likely future conduct and the public perception of her likely future conduct.
- 22 It is submitted that, by her conduct, the Respondent has demonstrated that she is not someone whom the Commission can trust, or whom the public can trust, to adhere to the standards of behaviour set out in the Act which standards are of "fundamental importance" in achieving the objects of the Act, particularly the object of minimising harm or ill-health to people as a result of the use of liquor.
- 23 The Police seek the permanent disqualification of the Respondent from holding a position of authority in a licensee company which they submit is necessary to protect the public.
- 24 Further, the Police submit a fitting monetary penalty is also needed to send a message to the industry, and to the public more generally, that conduct of this kind will not be tolerated.

#### **Submissions on behalf of the Respondent**

- 25 The Respondent's submissions dated 3 November 2020 (the **Respondent's Submissions**) detail the history of the Respondent since completing Year 12 until she and the Co-Licensee, through their partnership, became the joint liquor licence holders for the Hotel.
- 26 The Respondent submits that the methylamphetamine was intended for personal use and that she did not have any intention to sell or supply the prohibited drugs in or around the Hotel. It had been a busy period over Christmas 2019, and she was very tired from working at the Hotel and the drugs were to help give her a boost.
- 27 The Respondent pleaded guilty to the charge of possess a prohibited drug with intent to sell or supply on advice of her criminal lawyer and submits that she never intended to supply the prohibited drugs to anyone.
- 28 The Respondent moved to Mukinbudin under the Co-Licensee's persuasion; she was deeply unhappy at the town; and the stress of running the hotel took a toll on her mental health which was the cause of her taking the prohibited drugs.
- 29 She further submitted that panic compelled her to give a false name to the police when she was stopped, but the Respondent submitted that she had always cooperated with the police.
- 30 The Respondent acknowledges that the offences are serious and says she is remorseful, regrets her actions and is willing to make serious changes to her life.

- 31 The Respondent says that the hotel was not used as a vehicle for the laundering of drug money.
- 32 The illicit drugs had nothing to do with her role in the Hotel.
- 33 The Respondent submitted that she has been working in the liquor industry since she was 24. She has worked in numerous positions as an Approved Manager and has never had any issues in her capacity as an Approved Manager. She provided the Commission with a character reference from the Chief Executive Officer of the Shire of Westonia in support.
- 34 The Respondent further submitted that the Hotel has been professionally managed and conducted in accordance with the requirements of the Act and there is no suggestion otherwise.
- 35 The Respondent told the Commission that she did not realise at the time of the offences the seriousness of her actions and the impact it would have on her life.
- 36 The Respondent said she had procured the illicit drugs after a busy Christmas period in the hope that they would help alleviate pressure and give her some energy.
- 37 The Respondent submitted that she has been punished for her offences and she is currently on a drug rehabilitation program that requires her to report monthly to her councillor.
- 38 To show the Commissioner her genuine remorse and contrition, trust insight and understanding of the earlier turpitudes, the Respondent submits that:
- a she and the Co-Licensee have decided not to continue to operate the Hotel. Their lease for the Hotel ceased in October 2020 and the licensees ceased operating the hotel 1 November 2020;
  - b the licence will be transferred back to its original owner;
  - c the Respondent will move back to Westonia where her family resides and where she will receive support from her family and community;
  - d the Respondent is undergoing counselling and a drug rehabilitation program as part of her sentence;
  - e the Respondent is committed to overcome the use of prohibited drugs and she understands that any further conviction will jeopardise her livelihood; and
  - f the Respondent has committed to not drive again until she is permitted to.
- 39 The Respondent submitted that a permanent disqualification from holding a position of authority in a licensee company or from holding a licence would seriously jeopardise her financial future and her capacity to live and work in country WA. This would be a manifestly disproportionate outcome to what was an error of judgement.

40 It was further submitted that, other than the charges outlined in paragraph 4 of the Complainant's Submissions, there is no indication that the Respondent is not a "fit and proper" person for the purposes of the Act.

41 In this regard, it was submitted that her convictions were not related to the operation of the Hotel which was managed professionally.

42 The Respondent said that she did not think she needed to report her own convictions to the Department of Local Government, Sport and Cultural Industries and she is prepared to undertake additional training about her responsibilities under the Act.

43 The Respondent requests the Commission not to disqualify her from holding positions of authority in a licensee company or holding a licence as this would seriously jeopardise her livelihood and for a career which she had worked hard to build.

### **The Commissioner of Police's submissions in response (Police Responding Submissions)**

44 During the hearing, the Police sought leave to amend the Complaint so as to rely on s95(4)(g) as the grounds for disciplinary action and not, contrary to paragraph 10 of the Complaint, s95(4)(h); and further, to seek a period of disqualification of the Respondent as the Commission thinks fit, not permanent disqualification, and does not seek a monetary penalty.

45 The Police submit that as co-licensee business partner with Mr Pascov, the Respondent was at all material times a licensee to which s95(4)(g) of the Act applied.

46 At the hearing, in support of the application for leave to amend, the Police sought to rely specifically on paragraphs 23 to 27 of the Police Responding Submissions and paragraphs 40 to 49 of the November Submissions.

47 As to paragraphs 23 to 27 of the Police Responding Submissions, the Police submit:

(a) given the Respondent's case that the prohibited drug-use was caused by stress from operating the Hotel, the Commission cannot be assured that the Respondent would not engage in similar behaviour again if she were to operate or work at another licensed premises in which she held an interest in the business or was the licensee;

(b) the drugs were used proximate to or resulting out of the Respondent's work and responsibilities at the Hotel thereby posing a risk to the public the protection of which is the purpose of disciplinary proceedings under the Act;

(c) it cannot be accepted the drugs were for personal use and not for sale or supply because the Respondent was convicted of being in



possession of a prohibited drug with intent to sell or supply, contrary to s6(1) of the *Misuse of Drugs Act 1981*; and

(d) convictions that occur outside the carrying out of the occupation of inquiry may be serious and bear upon a person's character.

48 As to Paragraphs 40 to 49 of the November Submissions, the Commission notes the Police's submissions to be:

- (a) the Respondent's convictions for the drug offences put her culpability and responsibility for those offences beyond doubt;
- (b) once it is accepted that the Respondent was engaged in the supply of an unlawful drug, it is a small step to conclude she is not a fit and proper person to hold a position of authority in a licensee company;
- (c) the Act manifests a clear legislative intention that persons involved in the supply of unlawful drugs should not be permitted on licensed premises. By inference such persons should also not be permitted to manage a body corporate holding a liquor licence;
- (d) it is a notorious fact that the supply and use of unlawful drugs may occur in or around licensed premises. The liquor industry is attractive to persons involved in the drug trade. The sale and purchase of liquor is notoriously cash reliant and as such a business carried on under a liquor licence may provide a vehicle for the laundering of drug money. The operation of the premises also gives persons involved in the supply of unlawful drugs access to a large number of potential customers;
- (e) there is an obvious and unacceptable risk that the premises will become involved in the supply of unlawful drugs if the Respondent is permitted to continue in the position of joint-licensee of the premises;
- (f) the impact of the Respondent's conduct on her character is significant. The conduct is serious criminal conduct having regard to the minimum penalties in respect of each of the drug offences;
- (g) the offending was made more serious by the Respondent's refusal to comply with the police officers and dishonesty about her identity and ownership of the drugs to avoid responsibility for the offending;
- (h) the Respondent's conduct reflects particularly adversely upon her character and reputation and can only be a result of a conscious decision to disregard the law and is indicative of both her likely future conduct and the public perception of her likely future conduct;
- (i) the Respondent has demonstrated she is not someone whom the Commission can trust, or whom the public can trust, to adhere to the standards of behaviour set out in the Act; and

- (j) by engaging in serious criminal conduct, the Respondent has shown that she lacks the integrity necessary to enjoy the privilege, and discharge the obligations, associated with the provision of liquor in the public interest. Such behaviour is incompatible with the onerous responsibilities of a licensee, and of a person in a position of authority under the Act.

## Determination

49 A complaint pursuant to s95 of the Act was lodged by the Commissioner of Police. The section allows the Commission to take disciplinary action if satisfied on the balance of probabilities that the grounds upon which the complaint is based have been made out (s96(1) of the Act).

50 The Police submitted at the hearing that the relevant ground of complaint was s95(4)(g), not s95(4)(h) because the latter section referred to an interest in a body corporate that holds a licence and since the licence was held as a partnership of two individuals, being the Respondent and her domestic partner, the Co-Licensee, s95(4)(g) was the appropriate provision. The Commission does not agree with the Police's submission that s95(4)(h) does not apply in the circumstances of this case. Section 95(4)(h) not only applies to licences held by a body corporate, but also applies to a person who is "interested in the business or the profits or proceeds of the business". In the Commission's view, that provision is broad enough to capture the circumstances in the present case, where the licence was held by a partnership. Little turns on this in any event as s95(4)(g) would also apply in this case.

51 Section 95(4)(g) provides:

*There shall be proper cause for disciplinary action if –*

*(g) the licensee otherwise is, or becomes, an unsuitable person to hold a licence under this Act.*

52 Neither "unsuitable" nor "fit and proper" are defined in the Act although if one accepts, as the Commission does, that a person is unsuitable if they are not fit and proper, then one may look to s33(6) of the Act for guidance:

*s33(6) Where the licensing authority is to determine whether an applicant is a fit and proper person to hold a licence or whether approval should be given to a person seeking to occupy a position of authority in a body corporate that holds a licence, or to approve a natural person as an approved unrestricted manager, an approved restricted manager or a trustee –*

*(a) the creditworthiness of that person; and*

*(b) the character and reputation of that person; and*

- (c) *the number and nature of any convictions of that person for offences in any jurisdiction; and*
  - (d) *the conduct of that person in respect to other businesses or to matters to which this Act relates; and*
  - (e) *any report submitted, or intervention made, under section 69,*
- are relevant and amongst the matters to which consideration may be given.*

53 The High Court in *Hughes and Vale v New South Wales (No 2)* gave a general overview of the concept and the discretion that “fit and proper” embodies:

*The expression “fit and proper person” is of course familiar enough as traditional words when used with reference to offices and perhaps vocations. But their purpose is to give the widest scope for judgement and indeed for rejection. “Fit” or “idoneous” with respect to an office is said to involve three things, **honesty, knowledge and ability**...It is evident that the Commissioner is invested with an authority to accept or reject an applicant the exercise of which depends on no certain or reliable criteria and which in truth involves a very wide discretion.*

54 In *Australian Broadcasting Tribunal v Bond* [1990] HCA 33; (1990) 94 ALR 11, 65; (1990) 170 CLR 321, 380, Toohey and Gaudron JJ explained that:

*The expression “fit and proper person”, standing alone, carries no precise meaning. It takes its meaning from its context, from the activities in which the person is or will be engaged and the ends to be served by those activities. The concept of “fit and proper” cannot be entirely divorced from the conduct of the person who is or will be engaging in those activities. However, depending on the nature of the activities, the question may be whether improper conduct has occurred, or whether it is likely to occur, whether it can be assumed that it will not occur, or whether the general community will have confidence that it will not occur. The list is not exhaustive but it does indicate that, in certain contexts, character (because it provides indication of likely future conduct) or reputation (because it provides indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question.*

55 Fitness and propriety is a question of fact to be determined objectively, considering all the evidence: *Smith v Commissioner of Police, New South Wales Police Force and NSW Fair Trading* [2014] NSWCATAD 184.

- 56 The Respondent was provided with notice of both grounds and the Police contend the elements of s95(4)(g) and s95(4)(h) are similar in that one is intrinsically an unsuitable person to hold a licence if one is not a fit and proper person.
- 57 Section 96(1)(g) of the Act provides that the Commission may disqualify, for such period as the Commission thinks fit, a person against whom a ground of complaint was made out from being –
- (i) the holder of a position of authority in a body corporate that holds a licence; or
  - (ii) interest in, or in the profits or proceeds of, a business carried on under a licence, subject to subsection (3).
- 58 The Complaint was brought against the Respondent as co-licensee of the licence. Since lodging the Complaint, the licence has been transferred to the Landlord of the Hotel such that at the time of this determination, the Respondent is neither an Authorised Manager nor a licensee.
- 59 The Commission has examined the evidence and considered the submissions from both parties and agrees with the submissions of the Police that the Respondent, who plead guilty to possession of a prohibited drug with intent to sell or supply, implicitly is an unsuitable person to hold a licence. The Commission does not accept the Respondent's case that the drugs were for personal use only and had no bearing or impact on the carrying on of the Hotel or the licence. Even on her own case, the drugs were to be used in connection with (or flowing from) her work as a licensee, and that is contrary to the objects of the Act.
- 60 The Commission agrees with the Police submission that the Respondent is unsuitable to hold a licence because:
- (a) on a fitness and proprietary assessment that considers the public interest and the notorious fact that pubs and drugs should not mix and are known to mix, the risk in allowing a convicted illicit drug supplier to hold a licence is not acceptable; and
  - (b) the Respondent's criminal convictions are serious, with the seriousness compounded by the Respondent's failure, initially, to comply with the Police.
- 61 The Commission does not accept the Respondent's submission that the drugs were for personal use; there was no intention to use, sell or supply the drugs in or around the Hotel; or that the convictions should be considered somehow less serious as they were admitted to on advisement. An analysis of certain inconsistencies in the Respondent's submissions draws the Commission to such a conclusion and specifically:
- (a) after the busy Christmas period, on 12 January 2020, when the Respondent was stopped by the Police, she was in fact returning to the Hotel from Perth yet says "she

was very tired from working” and the drugs were “to give her a boost after the busy Christmas 2019”;

- (b) the Respondent had a set of scales in her vehicle;
- (c) the Respondent had 2 empty clip seal bags and 2 clip seal bags containing drugs;
- (d) the Respondent had on her phone, electronic data pertaining to drugs; and
- (e) The Respondent’s counselling and drug rehabilitation is court ordered, not voluntary.

62 The Respondent submits she did not think she needed to report her own convictions to the Department of Local Government, Sport and Cultural Industries, yet the relevant form prescribed by Regulation 13 of the *Liquor Control Regulations 1989* requires disclosure of the number and nature of any convictions of that person for offences in any jurisdiction whether applying as an individual, a partnership or a company which disclosure obligation is ongoing (s37A of the Act). The Respondent’s failure to disclose her prior convictions was deceptive as appears to be her reasoning why it was not disclosed.

63 Insofar as the Respondent relies on the reference from the Chief Executive Officer of the Shire of Westonia as to her character and good reputation, the Commission is of the opinion that little weight can be given to that reference, since it is not known whether the referee was aware of:

- (a) the Respondent’s prior convictions; or
- (b) the purpose of the character reference.

Furthermore, the reference lacks detail as to how or why the Respondent is said to be of “outstanding character”, with the referee’s knowledge of the Respondent appearing to be vis-à-vis his relationship with her parents.

64 Conversely, other than referring to the Convictions, the Police do not provide evidence of the Respondent’s character or her employment history in the liquor industry and it is open to the Commission to conclude that there were no complaints.

65 However, the Commission finds that the Respondent’s convictions; the inconsistencies in the Respondent’s submission that the possession of the drugs was for personal use and her plea of guilty to the offence which includes an intention to sell or supply; and the Respondent’s failure to disclose her convictions, other than the latest incident convictions, to the department when she applied for the licence, leads one to conclude on the balance of probabilities, that the ground of being an unsuitable person (and therefore not a fit and proper person) to hold a licence is made out.

66 Although the Respondent shows remorse for her “poor judgement” in committing the offences, the Commission must have regard to the objects of the Act and the public interest in determining the appropriate disciplinary action. The Commission cannot allow persons who are or have been engaged in the supply of illicit drugs to hold a position of authority of a body corporate that holds a licence; or be interested in, or in the profits or proceeds of, a business carried on under a licence.

67 Despite then that:

- (a) there is no evidence to suggest that there was a direct association with the supply and sale of the illicit drugs and the operation of the Hotel;
- (b) the Respondent was not shown to supply the illicit drugs to any particular person or organisation associated with the operation of the Hotel;
- (c) there was no evidence to show the Respondent had failed to maintain responsible practices in the sale, supply and service of liquor,

it is nevertheless necessary to consider those objective activities that pertain to honesty, knowledge and ability so as to protect the public by maintaining standards of behaviour of persons permitted to work or carry on business in this particular industry (***That’s Entertainment*** supra at 67 as per Pritchard J). Indeed, it is the maintenance of those standards of behaviour which are set out, or contemplated, in the Act that is of fundamental importance in achieving the objects of the Act, particularly the object of minimising harm or ill-health to people as a result of the use of liquor.

68 A person’s conduct will be relevant to his or her fitness and propriety to carry on an occupation if, although the conduct did not occur in the ordinary course of carrying on that occupation, the conduct manifests the presence or absence of qualities which are incompatible with, or essential for the carrying on of that occupation (*Mavaddat v Real Estate and Business Agents Supervisory Board [2009] WASCA 179 [73]* as cited in *Luckman and Commissioner of Police [59]*).

69 The Commission therefore finds that the Respondent:

- (a) was dishonest in:
  - (i) giving a false name to the Police;
  - (ii) stating the drugs were for her personal use only when she had scales in her car and pleaded guilty to the charge of sell or supply and therefore explicitly accepted the element of the offence that she possessed the drugs with the intention to sell or supply them;

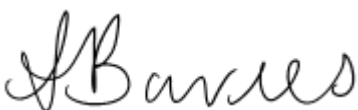
- (iii) stating she did not know she was obliged to disclose her convictions to the Commission;
- (b) lacked sufficient knowledge regarding her responsibilities as a licensee under the Act in failing to disclose her convictions even though she had, in the past, been an Approved Manager, and had worked in the industry since she was 24;
- (a) is not, on the balance of probability, a fit and proper person or suitable person to be involved in or benefit from carry out the sale, supply and service of liquor.

70 Based on the evidence before the Commission, the Commission is of the view that, on the balance of probabilities, Ms Stevens has fallen well short of the standards expected of a licensee, is unsuitable to hold a licence as she is not presently a fit and proper person, and that disciplinary sanction is therefore warranted. With respect to the relevant sanction, the Commission notes the Police has withdrawn the request for permanent disqualification and financial penalty. The Commission considers a permanent disqualification would be disproportionate in this case. The Commission also considers that a financial penalty is not warranted, particularly having regard to the fact that this determination is likely to significantly affect the Respondent's ability to hold and maintain employment in the areas in which she is experienced.

71 Accordingly, and considering the interests of the public, the protection of the public and the objects of the Act in maintaining an acceptable standard of behaviour for licensees and other persons involved in the sale of liquor:

1. Ms Stevens is disqualified for a period of five (5) years from the date of this determination from being:
  - (a) the holder of a position of authority in a body corporate that holds a liquor licence;
  - (b) Interested in, or in the profits or proceeds of, a business carried on under a liquor licence whether as a natural person or as a partner in an unincorporated body or otherwise;
  - (c) an approved manager in any licensed premises.

72 No monetary penalty is applied.



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**ALYA BARNES**  
**PRESIDING MEMBER**