

Liquor Commission of Western Australia
(Liquor Control Act 1988)

Complainant: Commissioner of Police
(represented by Mr Daniel Harrop of State Solicitor's Office)

First respondent: Ms Claire Louise Parker

Commission: Mr Seamus Rafferty (Chairperson)
Dr Eric Isaachsen (Member)
Mr Alex Zilkens (Member)

Matter: Complaint for disciplinary action pursuant to section 95 of the *Liquor Control Act 1988*

Premises: Cowaramup Brewing Company
233 Treeton Road North, Cowaramup

Date of Hearing: 25 July 2017 and 26 September 2017

Date of Determination: 26 September 2017

Reasons for determination: 29 January 2018

Determination: Pursuant to section 96(1)(n) of the *Liquor Control Act 1988*, conditions as set out in paragraph 22 of these reasons are to be imposed on the licence.

Background

- 1 By way of a complaint dated 3 March 2017, the Commissioner of Police (“the Police”) commenced disciplinary proceedings pursuant to section 95 of the *Liquor Control Act 1988* (“the Act”) against Ms Claire Louise Parker (“the Respondent”).
- 2 The Respondent is a co-director of Stonebay Holdings Pty Ltd (“the Licensee”), the licensee of Cowaramup Brewing Company (licence number 6090104951) situated at 233 Treeton Road North, Cowaramup WA 6284 (“the premises”).
- 3 The Licensee has held a special facility licence for the premises since 30 November 2006.
- 4 The office bearers of the Licensee since 27 March 2003 are Jeremy Mark Good as the Director, and the Respondent as the Director and Company Secretary.
- 5 The licensee is a proprietary company limited by four shares. Mr Good and the Respondent each hold two shares.
- 6 The Police relied on the information detailed in the complaint to submit that the Respondent is no longer a fit and proper person to hold a position of authority in a body corporate that holds the licence, pursuant to section 95(4)(h) of the Act.
- 7 The Police submitted that the Respondent has for the past seven years demonstrated a pattern of offending resulting from excessive and uncontrolled consumption of liquor, both on and off the premises, leading to violent behaviour either with or in close proximity to family members, work colleagues and police officers.
- 8 The Respondent has been convicted of 23 offences within the past seven years. The seriousness of the Respondent’s offending is underscored by the fact that 19 of those offences were directly linked to the Respondent being in a drunken state.
- 9 The Respondent has received five infringement notices under the Act in the past five years, four of which were a direct result of the Respondent being in a drunken state on the premises.
- 10 Police officers have had to attend the premises on a number of occasions and have encountered the Respondent in a drunken state.
- 11 The Respondent has been frequently intoxicated at the premises and has demonstrated propensity to act abusively and aggressively towards family members, the approved manager, employees and police officers.
- 12 Despite attending overseas rehabilitation clinics, the Respondent has not managed to control her excessive alcohol consumption.
- 13 Members of the public and employees at licensed premises would expect the Respondent to demonstrate a level of moral integrity and honesty of character commensurate with her duties. Consequently, allowing the Respondent to retain her

position of authority when she falls short of the standards of behaviour set out or contemplated in the Act could seriously tarnish the credibility of the liquor industry and the integrity of other people engaged in positions of authority.

- 14 The Police submitted that the Respondent's actions resulting in the issue of five liquor infringements, her substantial previous conviction history and her continued behaviour despite repeated attempts at rehabilitation demonstrate a continued and serious disregard for her duties under the Act, and that she is therefore no longer a fit and proper person to hold a position of authority in the body corporate that holds the licence.
- 15 A proper cause for disciplinary action against the Respondent having been established, the Police submitted that the Commission should take the following disciplinary action:
 - a. Permanently disqualify the Respondent from being:
 - i. The holder of a position of authority in Stone Bay Holdings Pty Ltd that holds special facility licence number 6090104951, pursuant to section 96(1)(g)(i) of the Act; and
 - ii. Interested in, or in the profits or proceeds of, the business of Stone Bay Holdings Pty Ltd that holds special facility licence number 6090104951, pursuant to section 96(1)(g)(ii) of the Act; or
 - b. Disqualify the Respondent for a period of no less than five years from being:
 - i. The holder of a position of authority in Stone Bay Holdings Pty Ltd that holds special facility licence number 6090104951, pursuant to section 96(1)(g)(i) of the Act; and
 - ii. Interested in, or in the profits or proceeds of, the business of Stone Bay Holdings Pty Ltd that holds special facility licence number 6090104951, pursuant to section 96(1)(g)(ii) of the Act.

Determination

- 16 Ms Parker has had the opportunity to consider the basis upon which the complaint is made and which is set out in a document received by the Commission on 20 March 2017 from the Police. Ms Parker takes no issue with any of the materials submitted, so therefore the basis for the complaint is made out, having regard to the matters set out in section 95(4) of the Act.
- 17 Effectively it is contended and it is not disputed, that Ms Parker is no longer a fit and proper person to be involved in those licensed premises. The issue then becomes one of what is the disciplinary action that the Commission should take in the context of these proceedings.
- 18 These are unusual proceedings, in the context that Ms Parker, by her own admission is an alcoholic. She is a person who has had problems with alcohol for a number of years now, by her own admission it seems that has been the last six or seven years, since the ending of a relationship with her co-director Mr Jeremy Good. The Respondent's issues

with alcohol have led to a number of incidents which are outlined in the papers before the Commission, which establish that it is appropriate for disciplinary action to be taken.

- 19 The Police submission as to the disciplinary action that should be imposed is fairly made. It is well made in the context that Ms Parker's problems with alcohol have been causing issues with the running of the licensed premises for a considerable period of time. However, having regard to the matters outlined in section 5(1)(b) of the Act, that being the primary objects of the Act, the issues of health also relate to the Respondent to this complaint and it is clear that there is a real vulnerability as far as Ms Parker is concerned. If the Commission were to take the ultimate step that is contended on behalf of the Police, there is a significant possibility of catastrophic consequences to her both financially and more significantly, personally. As far as the disciplinary proceedings are concerned, it is a balancing exercise. The Commission has to take in to account all relevant matters. Significant weight has been given to matters personal to Ms Parker, however that of itself does not set a precedent as to how the Commission will deal with matters of this nature and each application will be determined on its merits.
- 20 Helpfully, the Police have set out six decisions of this Commission at paragraph 20 of the supplementary submissions to provide guidance as to the penalty that should be imposed. It does need to be noted that the 10-year disqualification imposed on Mr Anastasio was in the context where he was defrauding people who attended his restaurant, in taking money from their bank accounts on top of that which was owed. Mr Luckman was a person who was in possession of a significant quantity of cannabis with intent to sell or supply it to another; Mr Mann is a person who is well known to this Commission and who engaged in significant dishonest conduct; Mr Neave is a person who is involved in significant criminal behaviour which has been suppressed; Ms Lane was trading out of hours which is a flagrant breach of the Act; and Mr Van Styn was involved in witnessing the consumption of alcohol outside of hours in the licensed premises in Geraldton to the extent that the person who consumed the alcohol subsequently died.
- 21 The Commission is of the view that the cases referred to are very different cases to this one, where the Commission is dealing with a lady who is effectively an alcoholic, yet has an interest in the licensed premises.
- 22 Being satisfied that there are grounds for disciplinary action, the Commission makes the following orders, pursuant to section 96(1)(n) of the Act:
 - a) Ms Parker is not to consume liquor on the licensed premises, they being Cowaramup Brewing Company situated at 233 Treeton Road North, Cowaramup at any time, including out of hours.
 - b) Ms Parker is not to be involved in the sale, supply or service of liquor at a licensed premises, which includes but is not limited to, being behind the bar, or the clearing of glassware from which liquor has been consumed.
 - c) An approved manager to be on the licensed premises at all times at which Ms Parker is present on those premises, during business hours.

- d) Ms Parker is to have a blood alcohol level of zero at all times whilst present on the licensed premises.
- e) Ms Parker must submit, upon request to a member of the West Australia Police, to random breath analysis whilst on the licensed premises and if she gives a blood alcohol reading in excess of zero, then that is to be considered to be a breach of the conditions of the licence.

23 These conditions are to remain in force for a period of three years from 26 September 2017. Any transgression of these conditions will be viewed gravely by the Commission and without preempting matters, there would be a strong likelihood that the Commission, if satisfied that there were further grounds for disciplinary action, would impose the penalties advocated by the Police in this matter.



SEAMUS RAFFERTY
CHAIRPERSON