



'HIRE' STANDARDS

HIRING PEOPLE WITH CRIMINAL RECORDS IS POSSIBLE

BY DOUGLAS SHERMAN

Last month, the owners of Satin Dolls in Lodi (made famous in the HBO series *The Sopranos* as the Bada Bing!) was ordered to sell its liquor license because of various liquor regulation violations. Prominent among the cited violations was that an individual who was criminally disqualified from having an interest in a liquor license was involved in the club's operations.

Although losing a liquor license is not always the end result of employing a criminally disqualified individual, it is a serious violation that could result in penalties, suspension operations and/or fines. A licensee can avoid this pitfall with some planning and by following regulations designed to possibly allow such an individual to work at the licensed premises.

If a person has been convicted of a crime involving moral turpitude, that person may work at a licensed premises if a Rehabilitation Employment Permit has been issued by the Director of the NJABC or if the Director removes the disqualification. In order to obtain a "Rehab Permit," an application must be filed with NJABC. If the Director is satisfied that allowing the applicant to work for a licensee does not offend the best interests of the public, the "Rehab Permit" will be issued. During the time when the "Rehab Permit" application is pending, the applicant may apply for a temporary work letter.

You should include a specific question on your employment applications asking whether or not the applicant has been convicted of a crime.

If five years have passed since either the date of conviction or the date of release from incarceration, a person may apply to the Director for a removal of the disqualification. The Director will make the determination based on (a) whether the applicant has behaved in a law-abiding manner since conviction or release from incarceration and (b) if the applicant's involvement in the alcoholic beverage industry will not be contrary to the public interest.

In order to protect yourself from unknowingly employing a disqualified person, you should include a specific question on your employment applications asking whether or not the applicant has been convicted of a crime. If the applicant responds "yes," further inquiry into the nature of the conviction needs to be made to determine whether any statutory disqualification has been removed pursuant to the NJABC regulations. If a disqualification has been removed, you should obtain a copy of the "Rehab Permit" or disqualification removal documentation.

Finally, be sure to keep your E-141A form up to date and accurate. The E-141A form contains a box to check (either "yes" or "no") whether the employee has been convicted of a crime. If the box is checked off "yes," it is presumed that the employee is disqualified unless the form also contains that person's "Rehab Permit" number or eligibility determination number which must be listed on the form. Failure to follow this basic task could also result in a serious violation.

From our family at Post Polak to yours, we wish you a happy and successful 2018! ■

Douglas Sherman is an experienced attorney advising clients in the complex field of New Jersey liquor law and regulations at the firm Post, Polak, Goodsell & Strauchler, P.A. Post, Polak, Goodsell & Strauchler, P.A. (973-228-9900; postpolak.com) is a New Jersey law firm practicing all areas of the law, including counselling national and locally-based liquor distributors, retailers and others in the hospitality, alcoholic beverage and cannabis industries on a wide range of issues. This article is not intended to give specific legal advice. Before taking any action, the reader should consult with an attorney familiar with the relevant facts and circumstances.