

# NORTHERN TERRITORY LICENSING COMMISSION

## REASONS FOR DECISION

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<b>Licensee:</b>	<b>Mr Jason Bouchier</b>
<b>Licence Number:</b>	Crowd Controller Number 5289
<b>Proceedings:</b>	Complaint Pursuant to Section 53A of the <i>Private Security Act</i>
<b>Members:</b>	Mr Richard O'Sullivan (Chairman) Mr Philip Timney Mr John Brears
<b>Date of Inquiry: (On Papers)</b>	17 April 2014

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## BACKGROUND

- 1) Licensing Inspector Shane McCorkell on 4 March 2014 lodged a complaint pursuant to Section 53A of the *Private Security Act* ("the Act") against Mr Jason Bouchier alleging contravention of Section 19(2)(c) and 19(3) of the Act which states:

### **19 Conditions of licence**

(2) *A licence is subject to:*

(c) *where a code of practice has been approved under section 48 in relation to such a licence, the condition that the code shall be complied with and not contravened.*

(3) *The licensee shall comply with the conditions of the licence.*

- 2) The Code of Practice ("the Code") for Crowd Controllers Clause 3.14 states that a licence holder shall "*not participate or encourage others to participate in assault*".
- 3) The complaint alleges that "*Mr Bouchier acted in a manner that caused harm to another person without permission and through the use of unreasonable force, caused violence at a licensed premises, namely Monsoons*". The complaint details that on 30 January 2014 at approximately 3.28am, when Mr Bouchier was not at the time engaged as a Crowd Controller, assaulted a male who was talking to an on duty Crowd Controller at the front of Monsoons licensed premises, through hitting him in the right side of the head with a closed fist.
- 4) The complaint outlines that the assault occurred without warning and there appeared to be no engagement with the victim prior to the sudden and unprovoked attack. The victim was knocked unconscious by the punch thrown by Mr Bouchier.
- 5) The Northern Territory Licensing Commission ("the Commission") determined to conduct an Inquiry on the papers. The Commission was provided with:

- A copy of the complaint laid pursuant to Section 53A of the Act sent to Mr Bouchier on 6 March 2014 by Mr Malcolm Richardson, Deputy Director of Licensing;
- CCTV footage of the incident, together with a written synopsis of events captured on the CCTV imagery;
- Undated response to the complaint provided by Mr Bouchier; and
- Report to the Commission of 16 April 2014 from the Deputy Director of Licensing.

## CONSIDERATION OF THE ISSUES

- 6) The CCTV footage of the incident viewed by Commission Members clearly establishes that Mr Bouchier on exiting Monsoons licensed premises engages in an unprovoked assault on an unknown victim who is knocked unconscious. The image shows the victim occupied with a discussion with an on duty Crowd Controller and suddenly, without warning, being hit on the right side of the head with such force that the victim was immediately felled and unconscious for a short period of time. It appears that the violent assault is unprovoked and without cause.
- 7) The victim is seen to fall and is apparently instantly unconscious and is unable to protect his head or the rest of his body from the impact of the fall on the hard pathway in front of Monsoons.
- 8) The Commission views this action as a *“coward’s punch”* and is similar to other assaults which have occurred around Australia, including those resulting in death of the victim. In this instance the victim had no prior warning and was afforded no opportunity to defend himself or protect himself from the punch and subsequent fall.
- 9) Clause 3.14 of the Code simply states that a licence holder is *“not to participate or encourage others to participate in assault”*.
- 10) Clause 3.14 of the Code does not identify that the breach only occurs when the licensed holder is on duty or on the licensed premises. That it applies to any action of the licence holder regardless of whether they are on duty or not is strengthened as in other Clauses such as 3.13 *“not use undue force in the course of their duties”* and 3.15 *“in the course of their duties take action to prevent violence occurring”*. Similar wording relating to *“in the course of their duties”* is applied to other Clauses in the Code. Clause 3.14 clearly establishes that a licensed Crowd Controller breaches the Code if he/she engages in assault, whether or not he/she is on duty at the time.
- 11) In view of the general application of this Clause, there is little or no mitigation provided to Mr Bouchier due to not being on duty at the time.
- 12) The Commission has been advised that the unknown victim has not lodged a complaint and that Police have not laid charges over the incident. The Commission is somewhat surprised at the lack of action in this regard given the nationwide publicity to *“coward’s punch”* incidents and the raising of penalties in a number of interstate jurisdictions for such attacks.

- 13) In relation to the response to the complaint provided by Mr Bouchier, the Commission notes that he outlines circumstances in his personal life describing them as “a spiralling chain of negative events” when the assault occurred. The response also outlines that on the night of the incident that he was drinking heavily prior to arriving at Monsoons and the effect of alcohol was a significant contributor to his actions.
- 14) There is no expression of regret or expression of sympathy for the victim in the response provided by Mr Bouchier.
- 15) In these circumstances the Commission imposes a suspension of the licence for three months, pursuant to Section 53D(1)(f) of the Act, commencing immediately on the service of the Notice of Suspension of Licence.
- 16) Before any renewal of the Crowd Controller Licence after the three month suspension Mr Bouchier would need to convince the Commission that he has turned his life around and is a fit and proper person for the purpose of reissue of a Crowd Controller Licence.

## DECISION

- 17) The Crowd Controller Licence Number 5289 held by Mr Jason Bouchier is suspended for a period of three months and is not to be reissued or reinstated until Mr Bouchier is able to convince the Commission that he is a fit and proper person to be granted a licence and in particular that the circumstances that led to the aggressive assault are no longer likely to result in a reoccurrence. A Notice of Suspension of Licence is attached to this Decision
- 18) Mr Bouchier is advised that, pursuant to Section 53E of the *Private Security Act*, he may, within twenty-eight days of being notified in respect of this decision, seek a review of the Decision under Part 4 of the *Northern Territory Licensing Commission Act*. In accordance with Section 28 of that Act, an application for review of the Commission's decision is required to be lodged in writing, accompanied by the prescribed fee and to set out the grounds on which the request for review is made and the facts relied on to establish the grounds.



Richard O'Sullivan  
CHAIRMAN

7 May 2014