

# Northern Territory Licensing Commission

## Reasons for Decision

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<b>Respondent:</b>	<b>Mr Corey Winston Holz</b>
<b>Licence Number:</b>	Security Provider Number 5434
<b>Proceedings:</b>	Complaint Pursuant to Section 53(A) <i>Private Security Act</i>
<b>Members:</b>	Mr Philip Timney (Presiding Member) Mr John Brears Ms Cindy Bravos
<b>Date of Hearing:</b>	9 November 2011
<b>Appearances:</b>	Mr Tim Barrett Counsel for the Director of Licensing Mr Matthew Hubber, Counsel for Mr Holz

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## Background

- 1) Mr Corey Holz holds a dual Security Provider Licence (Security Officer and Crowd Controller) and is the sole director of Nocturnal Security Services Pty Ltd (NSS), the holder of Security Firm Licence Number 211. On 3 March 2011 a complaint was lodged with the Director of Licensing against Mr Holz. That complaint was subsequently withdrawn and a fresh complaint, concerning the same issues, was lodged with the Director on 29 July 2011.
- 2) The complaint alleges that Mr Holz had engaged in conduct contrary to the following Sections of the Act:
  - Section 19(3) with reference to clause 3.22(f) of the Code of Practice for Security Officers: breach of condition of licence;
  - Section 15(6)(a)(i): shown dishonesty or lack of integrity;
  - Section 15(6)(a)(ii): used harassing tactics;
  - Section 15(6)(d): suffering from an illness that makes them unfit to work in the security industry;
  - Section 15(6)(e): the person has been found guilty of an offence; and
  - Section 15(8): the person is likely to be of bad character.
- 3) The complaint alleges that, as a consequence of the alleged conduct Mr Holz is no longer an appropriate person to hold a Security Provider Licence, as assessed against the criteria set out in Section 15 of the Act, or to be an officer of a corporation holding a Security Firm Licence, as assessed against Section 17 of the Act.
- 4) The particulars of the complaint may be summarised as follows. On Friday 29 October 2010 Mr Holz attended licensed premises known as the Honey Pot Club where he purchased and received a private dance with one of the Club's hostesses. During the private dance the Licensee was called to the front of the premises where he became involved in an argument with a business associate, Mr Ian Spooner. Police were in attendance and were asked to remove Mr Holz from the premises due his behaviour. Police asked Mr Holz to leave the premises. Mr Holz refused to comply and his behaviour escalated which resulted in him being arrested and charged with the offences of Disorderly Behaviour and Resist Arrest.

- 5) Mr Holz appeared before the Darwin Magistrates Court on 18 January 2011 and was found guilty of the charges and fined \$600.00 with a victim's levy fee of \$80.00, without the recording of a conviction. During the course of the criminal proceedings Mr Holz submitted to the Court a Psychiatric Assessment prepared by Dr Tricia Nagel, Consultant Psychiatrist, Top End Mental Health Services and Associate Professor, James Cook University. That medical report identified concerns about the Mr Holz's state of mind and mental stability.
- 6) During investigations into the complaint concerning Mr Holz behaviour at the Honey Pot Club on 13 October 2010, Licensing Inspectors interviewed an employee of the premises known as "Brandy" (real name withheld), a female engaged by the Club as a dancer and the person who performed the private dance for Mr Holz on 29 October 2010. Brandy executed a Statutory Declaration dated 17 December 2010 in which she attested to matters concerning her involvement with Mr Holz during the course of her employment at the Honey Pot Club.

## The Hearing

- 7) At the commencement of the Hearing, Mr Barrett informed the Commission that the complaint would proceed by way of admission and avoidance on the part of Mr Holz. He provided the Commission with a précis of the complaint, as referred to in the background set out above. Mr Barrett noted that the Director did not intend to call Brandy to give evidence at the Hearing as the evidence contained in her Statutory Declaration was not denied by Mr Holz, who has no recollection of the incidents leading to his arrest on 29 October 2010.
- 8) Mr Barrett submitted that there were materials in the Hearing Brief that confirmed that Mr Holz had been charged with and found guilty, with no conviction recorded, for offences of behaving in a disorderly manner in a public place and resisting a member of the police force in the execution of their duty. Similarly, the Statutory Declaration executed by Brandy is contained in the brief and, as that evidence was not challenged by Mr Holz, Mr Barrett submitted that the Commission could be satisfied that the incidents as alleged actually occurred. The Hearing Brief was then tendered into evidence, with no objection from Mr Hubber, and marked as Exhibit 1.
- 9) Mr Hubber tendered three medical reports in relation to Mr Holz being:
  - "Brief Psychiatric Report" prepared by Dr Tricia Nagel MBBS, FRANZCP, PhD and dated 27 May 2011;
  - "Brief Psychiatric Report" prepared by Dr Tricia Nagel MBBS, FRANZCP, PhD dated 28 October 2011; and
  - A letter from Dr Phil Brownscombe dated 3 November 2011.
- 10) Mr Holz then entered the witness box. He informed the Commission that he recalled visiting the Honey Pot Club on 29 October 2010. He stated that he arrived at approximately 9.10 pm and he was very intoxicated at the time. After entering the Club he continued drinking and recalls having a dance at some stage. He recalls having a few more drinks but has no recollection of anything that occurred after that.
- 11) Mr Holz stated that he had undergone an operation for weight loss issues some weeks prior to 29 October 2010 and had been advised by his doctor, Dr Brownscombe, that he did not handle the anaesthetic well and this may have been the cause of the incidents that occurred at the Honey Pot Club. Mr Holz stated that following the operation he had issues with heavy, fast breathing and physical shaking. He stated that he observed some behavioural changes around that time including being more irritable than normal, not eating well and experiencing feelings of depression. Mr Holz stated that his method of coping was to work longer hours, use more caffeine and, when he was out socialising, drinking to excess.

- 12) Mr Holz stated that he recalled being intoxicated once at Lost Arc but otherwise could not recall any trouble he had been involved in on licensed premises. He could not recall any prior incidents involving the Police. He stated that he was extremely embarrassed about being locked up by Police and could not explain his behaviour on the night he was arrested at the Honey Pot Club. He added that he went to see his doctor shortly after the incident and had seen a psychiatrist four times since his arrest.
- 13) Mr Holz stated that he had cut back on the number of hours he was working and was feeling better now and enjoying his work more than previously. He has not visited the Honey Pot Club since the incident and, whilst he still enjoys a drink, he is drinking far less alcohol than before. Mr Holz added that he had a difficult childhood and was effectively rejected by his birth mother. He believes he has overcome the issues that rejection caused and that Dr Nagel has recommended several coping strategies.
- 14) Mr Holz conceded that his behaviour on 29 October 2010 was out of character and not appropriate for a security licence holder. Mr Hubber tendered character references prepared by Mr Christopher Castle and Mr Neville Richards.
- 15) Under cross examination Mr Holz agreed that if an employee of his acted in a similar manner as he had done at the Honey Pot Club he would most likely sack the employee. He confirmed that he underwent a medical procedure on 6 October 2010 that was performed as day surgery under general anaesthetic and that he was irritable and depressed when he was discharged from hospital. He could not recall when he returned to work after the operation but thought it may have been after the incident at the Honey Pot club.
- 16) When questioned about his association with Brandy, Mr Holz said he could vaguely remember that person but he could not recall any conversation with her on the night of 29 October 2010. Whilst he recalls being a Gold Card Member of the Honey Pot club he cannot now recall any of the incidents leading up to his arrest by Police. He stated that he vaguely remembers a lap dance but cannot now recall what he may have said to Brandy. Mr Holz stated that he has had Brandy's Statutory Declaration read to him and the references to him saying he had killed a guy and the like were just "rubbish talk" and that he had never done the things he is alleged to have told Brandy about.
- 17) Mr Holz stated that he recalled returning to the Honey Pot Club on the next evening, 30 October 2010, and being called into the Manager's office. He was advised that he would not be permitted to have any more private sessions with Brandy after scaring her the night before. He stated that he advised the Manager that he had no recollection of the incidents the night before but that he apologised anyway. Mr Holz stated further that he had met with Brandy several times at the Club prior to 29 October 2010.
- 18) In response to a question from Mr Barrett, Mr Holz confirmed that he had first visited Dr Nagel in early December 2010. He denied that the purpose of the visit was to prepare for his Court appearance in January 2011. He agreed however that he did not see Dr Nagel again until March 2011. Mr Holz denied that the purpose of that visit was to prepare for the original Hearing set down before the Commission.
- 19) Mr Barrett noted that in her report of 27 May 2011 Dr Nagel had recommended that Mr Holz "attend regular psychological counselling". Mr Holz informed the Commission that he had not undergone that counselling as he could not afford the costs. In response to questions from the Commission Mr Holz confirmed that at the time of his arrest in October 2010 he was a Honey Pot Gold Member and that annual membership cost \$1,000.00. He also confirmed that he had spent \$450.00 on lap dances on 29 October 2010 prior to his arrest.
- 20) In response to further questioning by Mr Barrett, Mr Holz confirmed that Mr Spooner had made the appointment for him to visit Dr Brownscombe in November 2011 and Mr Spooner had provided Dr Brownscombe with the background to Mr Holz medical condition. He confirmed that Mr Spooner had suggested to Dr Brownscombe that his behaviour at the Honey Pot Club was out of character and that the Doctor has believed that to be the case.

- 21) Mr Hubber submitted that the Commission should take particular note of the medical reports and in particular those prepared by Dr Nagel. Whilst the early reports were not particularly complimentary the later reports indicate an improvement in Mr Holz's mental and physical health. He submitted that the incidents at the Honey Pot club on 29 October 2010 occurred during a "period of aberration" in Mr Holz's life and his arrest that night had provided a serious wake up call.
- 22) Mr Hubber submitted that since the incident Mr Holz has made serious changes to his lifestyle as a result of the wakeup call. He concluded by submitting there was nothing in Mr Holz history to indicate he was a person of bad character and, despite the incidents at the Honey Pot Club and Mr Holz being found guilty of the criminal offences, he was otherwise a fit and proper person to hold a security provider licence.

## Consideration of the Issues

- 23) The Commission in considering this complaint is tasked with determining whether Mr Holz is a fit and proper person to hold a Security Officer licence taking account of the incidents in which he was involved in October 2010. Section 15 of the Act sets out the matters that the Commission must take into account in determining whether a person is entitled to the grant of a Security Provider Licence. Section 15(6) is particularly relevant in the context of this complaint and provides:

*(6) In deciding whether a person is an appropriate person to hold a licence, the licensing authority may consider the following matters as indicating that the person may not be an appropriate person:*

*(a) that in dealings in which the person has been involved, the person has:*

*(i) shown dishonesty or lack of integrity; or*

*(ii) used harassing tactics;*

*(b) that the person habitually consorts with reputed criminals;*

*(c) that the person has taken advantage, as a debtor, of the laws of bankruptcy;*

*(d) that the person is suffering from an illness that makes them unfit to work in the security industry;*

*(e) that the person has been found guilty of an offence;*

*(f) information provided by a person or body responsible for the issue of licences under an Act of the Territory, the Commonwealth or a State or another Territory of the Commonwealth;*

*(g) evidence given in a court of the Territory, the Commonwealth or a State or another Territory of the Commonwealth or a commission of inquiry.*

- 24) The Commission was not presented with evidence supporting the allegation that Mr Holz had shown dishonesty or lack of integrity as set out in Section 15(6)(a)(i) of the Act. However, on the basis of the evidence presented during the Hearing subsections (a)(ii), (d), (e) and (g) are relevant considerations for the Commission in determining whether Mr Holz is an appropriate person to hold a Security Provider licence.
- 25) In respect of subsection 15(6)(a)(ii) the Commission takes note of the Statutory Declaration dated 17 December 2010 tendered into evidence on behalf of the dancer from the Honey Pot Club known as Brandy. Her evidence was not challenged by Mr Holz who stated that he could not recall any details of his involvement with Brandy on the night in question. Following is a summary of Brandy's Statutory Declaration.

26) On Wednesday 13 October 2010 Brandy was working as a dancer at the Honey Pot Club. Mr Holz, who had been a regular customer of hers since August, engaged Brandy for a private dance as he had done on previous occasions. Mr Holz said he “didn’t want her to dance because he said that he had been in the Gold Coast the week before or similar and told her he had been ‘stabbed in his balls’ by one of his own guards”. Instead of watching her dance he just wanted to talk. During the course of that conversation Mr Holz informed Brandy:

- that seven years ago he had killed a girl at one of the clubs he was working security at;
- that he has only one favourite stripper and that was her and that he wanted to get her name tattooed on his arm. If he wanted to find out her real name he could do so quite easily by asking around other places she had worked;
- that he had been driving past the Honey Pot House, where Brandy was staying at the time, to check on security and was surprised that there was not a security person there full time and if wanted to get into the house there would be nothing to stop him;
- that he did not like Natasha, the employee at the Honey Pot Club working behind the desk;
- if he was to give Brandy a flogging Natasha would try and stop him and he would flog her as well. He then went on to say that whatever security was on that night he would flog them as well;
- Following a second private dance for Mr Holz that evening Brandy informed Natasha of her conversation with Mr Holz and advised her that she never wanted to dance for him again;
- Mr Holz was observed waiting on the opposite road to the Club after it had closed.

27) Brandy stated that the conversation with Mr Holz caused her to be “very scared and intimidated”. The Commission has no reason to doubt the veracity of that statement. None of the evidence contained in Brandy’s Statutory Declaration was challenged during the course of the Hearing. The Commission is of the view that Mr Holz behaviour in his dealings with Brandy on 13 October 2010 falls within the ambit of Section 15(6)(a)(ii) of the Act and that his intention at the time was to harass or intimidate Brandy for reasons or purposes unknown to the Commission.

28) Section 15(6)(d) provides that a person is not eligible to hold a Security Officer licence where that the person is suffering from an illness that makes them unfit to work in the security industry. The Commission was referred to a number of psychiatric reports in respect of Mr Holz prepared Dr Tricia Nagel MBBS, FRANZCP, PhD, Consultant Psychiatrist with the Top End Mental Health Services and Associate Professor, James Cook University.

29) Dr Nagel’s first report in respect of Mr Holz is dated 13 December 2010, just over one month prior to his appearance in the Court of Summary Jurisdiction in response to the charges of disorderly conduct and resisting arrest. Dr Nagel made the following observations in respect of Mr Holz:

- On the other hand he has struggled to develop successful relationships with women. He has found that his focus on work may be one reason for that (the hours preclude ordinary socialising). Another reason may be that he has found it difficult to forgive one of his first girlfriends and has been resentful and angry toward women much of the time since.

- Corey described depressed and sad mood at times with occasional suicidal ideation. He has no current plan or intent.
- Corey has some features of 'impulse control disorder'. This disorder results in outbursts of aggression, out of keeping with usual behaviour and followed by remorse. An alternative diagnosis would be that rather than the behaviour being secondary to a 'disorder' that it is simply a learned and inherited coping style. Corey tends to attack for fear of being attacked, and to rebel against authority rather than submit to the control of others."

30) In her report of 25 March 2011 Dr Nagel notes, in respect of the complaint by the Director of Licensing the subject of this decision, that "*both Corey and Ian (Spooner) feel this is a personal vendetta rather than a reasonable process. This has prompted the further assessment today*". The Commission notes that when questioned directly on the point Mr Holz emphatically denied that the purpose of attending on Dr Nagel in March was to prepare for the initial Hearing before the Commission that was ultimately adjourned.

31) In addition, the Commission takes exception to the inference that the complaint before the Commission is motivated by a personal vendetta. It was Mr Holz who brought himself to the attention of the Inspectors and ultimately the Commission as a result of his behaviour at the Honey Pot Club and his subsequent arrest for disorderly behaviour. The psychiatric reports obtained by Mr Holz, apparently in support of his defence of the criminal charges, raise further issues as to whether he is suffering from a mental disability that would make him unfit to hold a licence in the security industry either as an individually licensed person or as the principal of a licensed security firm.

32) The allegation of a vendetta is of serious concern and, on the assumption that Mr Holz did in fact inform his treating psychiatrist in those terms, provides a clear indication that Mr Holz has not accepted personal responsibility for the incidents that have resulted in the requirement for him to appear before the Commission to answer the complaints laid against him.

33) Dr Nagel's report of 25 March 2011 includes the following assessments in respect of Mr Holz mental health at that time:

- Corey's mood has improved and he no longer has thoughts of suicide;
- When socialising he has reduced his intake from twenty to ten beers;
- He avoids some stressful interactions at work by allowing the supervisors he employs to deal with troublesome clients;
- He has obtained his driver's licence, evidence that he has overcome one of the challenges related to his dyslexia;
- He has stopped a marijuana addiction;
- Corey has symptoms suggestive of depression which are continuing to resolve;
- He has evidence of dependence on alcohol and in particular a binge drinking pattern;
- He has symptoms characteristic of impulse control disorder and background personality traits characterised by suspiciousness and distrust of others;
- If Corey's behaviour should worsen neurological review and consideration of and ECG and CT scan to exclude an underlying biological cause for episodic aggression (such as epilepsy).

34) Dr Nagel recommended a number of strategies that may assist in an improvement of Mr Holz's condition, including reduction of caffeine intake, reduction of alcohol intake from

more than ten to less than ten cans of beer on a night of drinking and expanding his social life away from the nightclub scene and towards events at this local church. Dr Nagel also noted that the issues Mr Holz is experiencing, including frequent irritability and tendency to anger and aggression, may be improved through psychological counselling. In respect of the excessive use of caffeine and alcohol, Dr Nagel noted that Mr Holz "has agreed to consider attending a psychologist regularly to address these issues".

- 35) Mr Holz conceded during the Hearing that he has not undertaken the psychological counselling recommended by Dr Nagel as he could not afford the cost. This does not reconcile with the evidence before the Commission that prior to his arrest at the Honey Pot on 29 October 2010 Mr Holz had spent \$450.00 on private dances with Brandy and prior to that had paid \$1,000.00 for a Gold Membership of the Club.
- 36) Dr Nagel provided a further report dated 27 May 2011. In respect of the disorderly conduct charge, Dr Nagel notes that *"Ian (Spoooner) was certain that this was a specific and notable change in behaviour which began immediately after the anaesthetic, lasted five weeks or so, and which ended two weeks prior to the first assessment"*. Dr Nagel diagnosed Mr Holz as having symptoms suggestive of depression, which are continuing to resolve, and evidence of dependence on alcohol, and in particular a binge drinking pattern. She also diagnosed him as having symptoms characteristic of impulse control disorder and background personality traits characterised by suspiciousness and distrust of others.
- 37) Dr Nagel recommended that Mr Holz attend regular psychological counselling to address his frequent irritability and tendency to anger. Significant to the issue before the Commission, Dr Nagel opined:

*"In terms of mental capacity to hold a security licence there is not a clear reason to discontinue the licence. I would be confident that the above recommendations, coupled with regular GP and psychologist review, will support continued resolution of the acute stressors leading up to the events of concern"*.

- 38) As noted above, Mr Holz admitted during the course of the Hearing that he had not undergone the treatment recommended by Dr Nagel and, in particular, he had not made any arrangements to receive the recommended psychological counselling.
- 39) Mr Holz obtained a further report from Dr Nagel dated 28 October 2011, some ten days prior to the Hearing before the Commission. In this report Dr Nagel notes that Mr Holz has made extraordinary progress since the last assessment six months ago and had no residual features of depressed mood. In Dr Nagel's opinion Mr Holz "is psychologically fit to continue his work in the security industry". Dr Nagel makes no mention of Mr Holz having undergone any of the treatments recommended in her earlier report.
- 40) In addition, a medical report prepared by Dr Phil Brownscombe dated 3 November 2011 and addressed to the Chairman of the Licensing Commission was tendered into evidence on behalf of Mr Holz. Dr Brownscombe noted that Mr Holz had been admitted to hospital on 6 October 2010 for a procedure under general anaesthetic during which he received a steroid drug, large doses of which can cause behavioural and personality changes. Dr Brownscombe states in his report:

*"I believe this affected Mr Holz behaviour in the weeks following its administration. Corey was exhibiting such marked change in behaviour during those weeks that I referred him to a psychiatrist. Corey's behaviour then resolved in a matter of weeks without any medication or psychiatric intervention."*

- 41) In terms of Mr Holz mental health, the Commission is inclined to place significantly more emphasis on the diagnosis of Dr Nagel than that of Dr Brownscombe. With respect, it is doubtful that Dr Brownscombe is qualified to provide a psychiatric assessment of Mr Holz as opposed to Dr Nagel, a specialist psychiatrist. In addition, Dr Brownscombe makes no mention of the treatment regime recommended by Dr Nagel and not undertaken by Mr Holz.

- 42) The Commission also takes a somewhat sceptical view of the timing of Mr Holz obtaining the various medical reports. Mr Holz first attended on Dr Nagel in December 2010 following a referral by Dr Brownscombe. Mr Holz was due to appear in Court to face the criminal charges 16 January 2010. Reports prepared by Dr Nagel and Dr Brownscombe were tendered during the course of that proceeding. His Honour Mr Cavanagh SM noted that “there appears to be matters in his background which explain in a mitigating way some of his behaviour”. Mr Cavanagh did not go so far as to find that Mr Holz medical condition, or the fact that he may have been suffering some post-operative episode, of sufficient weight so as exonerate him from the criminal offending. In fact Mr Holz was found guilty of the charges and fined \$600.00 without the recording of a conviction.
- 43) On 3 March 2011 a formal complaint, which ultimately resulted in this Hearing, was lodged with the Director of Licensing. Mr Holz then attended on Dr Nagel on 25 March 2011. The complaint was originally set down for Hearing June 2011. Mr Holz attended on Dr Nagel again on 27 May 2011 when psychological counselling was recommended. The Hearing date in June was vacated and the matter was eventually listed for Hearing before the Commission on 9 November 2011. Mr Holz obtained a further report from Dr Nagel dated 28 October 2011, ten days prior to the Hearing, and from Dr Brownscombe dated 3 November 2011, five days prior to the Hearing date.
- 44) The Commission views the timing of Mr Holz medical appointments with some significant concern in that the timing appears to be related to impending appearances before the Court and the Commission rather than to a genuine desire on the part of Mr Holz to resolve his psychological problems. The Commission’s view in that regard is supported by the fact that Mr Holz does not appear to have obtained any medical or psychiatric treatment or advice between 25 March 2011 and 28 October 2011, just prior to this Hearing. Nor did he undergo any of the treatments recommended by Dr Nagel in her earlier reports.
- 45) On balance the Commission is of the view that Mr Holz is suffering from an illness, as diagnosed by Dr Nagel, that currently renders him unfit to work in the security industry and the resolution of that illness is contingent on Mr Holz undergoing the psychological treatment recommended by Dr Nagel. The Commission rejects Mr Holz’s submission that he could not afford to undertake the treatment recommended by his treating psychiatrist. As a result of that finding the Commission is satisfied that Mr Holz is presently suffering from an illness that makes him unfit to work in the security industry as set out in Section 15(6)(d) of the Act.
- 46) The Commission notes also that Mr Holz has been found guilty of the offences of behaving in a disorderly manner in a place and resisting a member of the Police force in the execution of their duty. An aggravating factor, in the Commission’s view, is that the offences took place on licensed premises and involved a licensed Security Officer challenging the authority of Police Officers trying to remove him from those premises. The findings of guilt in respect of those offences brings into consideration Section 15(6)(e) of the Act.
- 47) The evidence of “Brandy” was that during her dealings with Mr Holz on the night of 29 October 2010 caused her to be “very scared and intimidated”. Mr Holz was unable to deny the allegations made by Brandy as he cannot recall the night in question or the details of his involvement with Brandy. In the Commission’s view Mr Holz behaviour on 29 October 2010 involved the use of harassing tactics so as to enliven consideration of Section 15(6)(a)(ii) of the Act.
- 48) Taking account of the matters set out in the immediately preceding paragraphs, the Commission is tasked with determining whether Mr Holz continues to be an appropriate person to hold a security provider licence despite the fact he:
- is suffering from a medical condition that renders him unfit to work in the security industry on the basis he has not undertaken the treatment recommended by his treating psychiatrist;



- has been found guilty of offences involving disorderly conduct on licensed premises person and resisting lawful arrest; and
- has engaged in harassing tactics in his dealings with “Brandy”.

49) Taking those three matters into consideration, the Commission is of the view that Mr Holz is not presently an appropriate person within the meaning of Section 15 to hold a security provider licence. The Commission notes, in terms of Mr Holz criminal offences and his harassment of “Brandy”, that these incidents may well be something of an aberration and unlikely to be repeated given the significant repercussions suffered by Mr Holz.

50) However the Commission has serious concerns regarding Dr Nagel’s psychiatric diagnosis of Mr Holz, and particularly her opinions in regard to anger management and personal and professional relationship issues. The Commission is not satisfied that Mr Holz’s medical condition has resolved to the extent that he should continue to hold a security licence that will no doubt place him in volatile and stressful situations on a regular basis.

51) The Commission is of the view that Mr Holz will remain unfit to work in the security industry until such time that he successfully undergoes the treatment recommended by Dr Nagel. Mr Holz’s medical condition may well resolve in time. That is more likely to occur if and when he undergoes the recommended treatment. The Commission is not prepared to allow Mr Holz to continue to operate in the security industry, and potentially pose a risk to persons he may come into contact with in that capacity, until such time as he has undergone the recommended treatment and his psychological condition is completely resolved.

52) Section 15(8) of the Act provides:

*(8) The licensing authority may, in its absolute discretion, refuse to grant a licence to an applicant if the licensing authority has grounds for believing that the applicant is likely to be of bad character, having regard to the public interest in ensuring that persons of bad character are not employed as security providers, and the licensing authority shall give reasons for its decision.*

53) The Act requires the Commission to take the same considerations into account in determining, following the grant of a licence, whether Mr Holz continues to be an appropriate person to hold a Security Provider licence. For the reasons set out above, the Commission is of the view that Mr Holz is presently a person likely to be of bad character and, as a consequence, not an appropriate person to be employed as a licensed person engaged in the security industry.

54) In this instance the Commission has determined to suspend Mr Holz’s Crowd Controller and Security Officer Licences for a period of six months from the date of this decision. Prior to Mr Holz’s licence being reinstated at the end of the suspension period the Commission requires Mr Holz to provide documentation to the Director of Licensing evidencing that he has successfully completed the psychological treatments recommended by Dr Nagel.

55) The Commission has not reached this determination lightly and is aware that this decision is likely to have a significantly detrimental impact on Mr Holz’s activities and employment, both as a licensed security provider and also in his capacity as the Director of NSS, the holder of Security Firm Licence. The Commission needs to weigh that detriment against the potential public impact of allowing a person who has been diagnosed as suffering from mental conditions, who has been found guilty of criminal offences and who has been found to have used harassing tactics, to engage in the security industry as a licensed person.

56) The Commissions’ finding that Mr Holz is not presently an appropriate person to hold an individual security provider licence also renders him inappropriate to be an office holder of a firm holding a Security Firm Licence.

57) In respect of the firm licence, in the course of the Hearing the Commission heard evidence indicating that Mr Holz, in his capacity as sole Director of the company, may not be in full

and effective control of the licence issued to NSS. Mr Holz acknowledged that he suffers from dyslexia which impacts on his capacity to read and write. He stated that he relies on assistance from Mr Spooner in that regard and also relies on Mr Spooner for general guidance and assistance in the operation of the security business. Mr Holz conceded that it was Mr Spooner who drafted the letters to the Director of Licensing and that he signed the letters after Mr Spooner read them to him

- 58) The Commission is aware that Mr Spooner was, at least for a period of time, not entitled to be the director of a company following the liquidation of a security firm in which he was a director as a result of a dispute between Mr Spooner and another person involved in that company. The Commission is concerned that Mr Spooner, despite not being an officer of NSS, would appear to have a significantly influential role as Mr Holz advisor in respect of the security business conducted under the NSS Security Firm Licence.
- 59) Nocturnal Security Services Pty Ltd (ACN 125 111 971) was incorporated on 30 April 2007. Mr Holz is listed as the sole Director. In the application for a Security Firm Licence, prepared by Mr Holz, Mr Spooner is not listed as a person concerned in the management of the corporation. From the evidence given by Mr Holz during the Hearing Mr Spooner is clearly a person who can, and does, influence the manner in which the business under the licence is conducted. The Commission has sound reasons to suspect that Mr Spooner, and not Mr Holz, is the mind behind the business and the person in actual control of NSS and the business conducted under the licence.
- 60) The Commission, having determined that Mr Holz is not presently an appropriate person to hold a Security Provider Licence, is required to turn its mind to the same issues in assessing, pursuant to the criteria set out in Section 17 of the Act, whether Mr Holz is an appropriate person to be an officer of a corporation that holds a Security Firm Licence. The Commission is not satisfied, for the reasons set out above, that Mr Holz is not presently an appropriate person to hold a position as an officer of a corporation holding a Security Firm Licence.
- 61) The Commission is conscious of the fact that this component of the decision will have a detrimental effect on the permanent employees of the company and the clients who engage NSS to provide security services. The Commission is prepared to allow a period of twenty eight days from the date of this decision for Mr Holz to make arrangements for an appropriate person to be appointed to manage the affairs of the business conducted under the Security Firm Licence for the period of suspension of Mr Holz's individual licenses. Any person nominated by Mr Holz will need to satisfy the eligibility criteria set out in Section 17 of the Act.
- 62) In the event that satisfactory arrangements are not in place at the expiry of twenty eight days from the date of this decision, the Firm Security Licence issued to Nocturnal Security Services Pty Ltd will be suspended until such time as the suspension of Mr Holz's individual security licences expires and his Security Provider Licences are reinstated.
- 63) Prior to the reactivation of the Security Firm Licence at the end of the suspension period the Commission requires Mr Holz to provide full and frank disclosure of all persons involved with the business who are able to influence the conduct of the business under the licence, including full disclosure of Mr Spooner's actual role in the operation and management of the security business.

## Decision

- 64) For the reasons set out above, the Commission finds that Mr Holz is currently not an appropriate person to hold a security provider licence, assessed against the criteria set out in Sections 15(6)(a)(ii), 15(6)(d), 15(6)(e) of the Act and taking account of the finding that he has breached a condition of his licence contrary to Section 19(3) of the Act. Pursuant to Section 53D(1)(f) of the Act the Commission suspends Mr Holz Crowd Controller and Security Officer licences for a period of six months from the date of this decision.

- 65) Prior to the reinstatement of his security provider licences Mr Holz is to provide documentation to the Director of Licensing evidencing that he has undertaken the psychological counselling recommended by his treating psychiatrist and that the medical conditions identified by Dr Nagel have been resolved.
- 66) Mr Holz is also the sole Director of Nocturnal Security Services Pty Ltd, the holder of Security Firm Licence number 211. As a consequence of the Commission finding that Mr Holz is not an appropriate person to hold a Security Provider licence the Commission also finds that he is not an appropriate person to manage the business of a corporation holding a Security Firm Licence. The Commission is prepared to allow twenty eight days for Mr Holz to make the necessary arrangements for the continued operation of the security business by nominating a suitable person to conduct the business under the Security Firm Licence during the term of suspension of his individual Security Provider Licences.
- 67) In the event that a suitable person is not nominated and approved to operate the business within twenty eight days of the date of this decision, Security Firm Licence number 211 issued to Nocturnal Security Services Pty Ltd will be suspended until such time as the suspension of Mr Holz's individual Security Provider Licences is lifted.
- 68) Mr Holz is advised that Section 53E of the Act provides that 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 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.

Philip Timney  
Presiding Member

31 January 2012