

Northern Territory Licensing Commission

Reasons for Decision

Respondent:	Mr Vaclav Kessner
Licence Number:	6886
Proceedings:	Application for Cancellation of Dual Licence under Section 27 of the <i>Private Security Act</i>
Heard Before (on papers):	Mr Philip Timney (Presiding Member) Mr John Brears Mr Wally Grimshaw
Date of Hearing:	12 January 2011

Background

- 1) Mr Kessner holds a dual Crowd Controller and Security Officer licences, licence number 6889. Those licences expire on 13 July 2013.
- 2) On 26 July 2011 Mr Kessner submitted a Statutory Declaration attesting that as of 14 July 2011 he had been declared bankrupt. An inspection of bankruptcy records confirmed that Mr Kessner was declared bankrupt on 13 July 2011.
- 3) The report presented to the Commission on behalf of the Director of Licensing indicates that Mr Kessner does not rely on his Security Provider Licences for employment, however he wishes to retain the dual licence to broaden his employability. For reasons not known to the Commission, on 22 June 2011 Mr Kessner resigned from the position he held as a kitchen hand for the past five years.
- 4) On 29 September 2011 the Director sent Mr Kessner a Notice inviting him to show cause as to why his dual licence should not be cancelled on the grounds he was no longer an appropriate person to hold the dual licence due to his bankruptcy. Mr Kessner failed to respond to that letter.

Consideration of the Issues

- 5) Section 26(1)(d) of the Private Security Act provides:

26 Grounds for suspension, cancellation or refusal to renew

(1) Each of the following is a ground for the suspension or cancellation of a licence or the refusal to renew a licence:

(d) the licensee, or another person required to be an appropriate person for the grant of the licence, is not, or is no longer, an appropriate person.

(2) The question whether a person is, or continues to be, an appropriate person is decided in the same way as the question whether the person would be an appropriate person for the grant of the licence.

- 6) Section 15 of the Act sets out the matter to be taken into account in determining whether an individual is an appropriate person to hold a Security Provider Licence, including:

15 Entitlement to licences – natural persons

(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)

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

- 7) Mr Kessner has, on his own admission, been declared a bankrupt. Mr Kessner disclosed in a Statutory Declaration that he had entered into voluntary bankruptcy as he had accumulated a debt of \$25,666.00 on credit cards. He also advised that he had no repayment plan other than the fact he had been directed to pay a tax return of \$500.00 towards the debt.
- 8) The starting point so far as the Commission's deliberations are concerned is that he is no longer an appropriate person to hold a Security Provider Licence on the basis of Section 15(6)(c) of the Act. Mr Kessner was provided with an opportunity to inform the Director as to why his dual licence should not be cancelled as a result of the voluntary declaration of bankruptcy. As noted above, Mr Kessner declined to take that opportunity or to make any submission at all in response to the Director's Show Cause Notice.
- 9) Mr Kessler, despite being afforded an opportunity to do so, presented no evidence to the Commission indicating that despite him being a bankrupt he remains an appropriate person to hold a Security Provider Licence. The Commission is also of the view Mr Kessner has demonstrated a somewhat cavalier approach to his financial situation by quitting his permanent job and in his failure to respond to the Show Cause Notice issued by the Director of Licensing. As a result the Commission determines, pursuant to Section 26(1)(d) of the Act, that Mr Kessner is no longer an appropriate person to hold a Security Provider Licence.

Decision

- 10) Pursuant to Section 26(1)(d) of the Act, the Commission determines to cancel Dual Crowd Controller and Security Officer Licence number 6886 issued to Mr Vaclav Kessner on the grounds that he was declared bankrupt on 13 July 2010 and, as a consequence, is no longer an appropriate person to hold that dual licence. The cancellation is effective from the date of service of this decision on Mr Kessner.
- 11) Mr Kessner is advised that Section 27(4)(d) of the Act provides that he may, within twenty-eight days of being notified in respect of this decision, appeal against this decision to the Local Court.

Philip Timney
Presiding Member

24 January 2011