

# Northern Territory Licensing Commission

## Reasons for Decision

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<b>Respondent:</b>	Mr Douglas Trezise
<b>Licence Number:</b>	7868
<b>Proceedings:</b>	Complaint Pursuant under Section 53A of the <i>Private Security Act</i>
<b>Members:</b>	Mr Richard O'Sullivan (Chairman) Mrs Jane Large Mr Walter Grimshaw
<b>Date of Hearing:</b>	5 September 2012
<b>Appearances:</b>	Inspector Mark Wood for the Director of Licensing Mr Ian Rowbottam, Counsel for Mr Trezise

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## Background

- 1) A complaint was lodged with the Director of Licensing alleging that Crowd Controller Douglas Trezise, licence holder 7868, breached provisions of the *Private Security Act* ("the Act") through contravention of the Northern Territory Code of Practice for Crowd Controllers. In particular, the complaint alleges that Mr Trezise breached Clauses 3.8, 3.13, 3.14 and 3.16 of the Code of Practice as follows:

3.8 *Except where he or she is subjected to physical force and violence and have to respond in his or her own defence, not threaten any member of the public with physical force or violence.*

3.13 *No use undue force in the course of his or her duties.*

3.14 *Not participate or encourage others to participate in assault.*

3.16 *In the course of his or her duties use mediation, negotiation, communication and conciliation skills as the primary methods of dealing with members of the public and not resort to physical contact where such can be avoided.*

- 2) The Act provides:

*19(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.*

Through regulation, the Code of Practice is in place and provides for the conduct of Crowd Controllers.

- 3) The complaint is in relation to Mr Trezise's conduct at around 00.30 hours on 26 January 2012 when he removed disorderly patrons from the Monsoons premises and following this he tackled a patron to the ground on Mitchell Street outside the premises and forcefully kned him to the head.
- 4) The matter came to the attention of Licensing Inspectors following advice from Northern Territory Police that an incident had occurred in the early hours of 26 January 2012 involving Crowd Controller using excessive force against patrons who had been evicted from Monsoons. Following this Police provided CCTV images of the incident. Licensing

Inspectors then gained CCTV footage from Monsoons covering the same incident, with footage from inside the premises and the immediate Mitchell Street boundary.

- 5) Mr Trezise was advised of the complaint and afforded the opportunity to respond and although an extension of time was provided to afford him the opportunity to contact his solicitor, no response was in fact provided prior to the Hearing.

## Hearing

- 6) Inspector Wood outlined that the case against Mr Trezise was narrowed to an alleged contravention of Clauses 3.13 and 3.14 of the Code of Practice. Mr Rowbottam advised his client would enter a plea and did not contest that his client's conduct had breached Clauses 3.13 and 3.14 of the Code of Practice.
- 7) Inspector Wood then outlined the facts of the matter which were that Crowd Controller Trezise had inflicted physical violence against a patron following that patron's removal from the premises, along with the removal of a number of other patrons involved in a fracas on the dance floor area.
- 8) Mr Trezise, following the removal of disorderly patrons, then chases a patron onto Mitchell Street and tackles him to the ground. Both the patron and Mr Trezise are in the middle of Mitchell Street when a second Crowd Controller approaches and commences to punch the patron.
- 9) Mr Trezise is seen to lift a hand and ward the second Crowd Controller away from the patron. Following this Mr Trezise lifts the patron's head off the road and knees the patron to the head with his right leg.
- 10) Inspector Wood's presentation of the Statement of Facts concludes that the licence holder, Mr Trezise, had acted in an intimidating and physical violent manner and failed to use any mediation or conciliation skills when dealing with the matter.
- 11) Mr Rowbottam advised the Commission that his client agreed with the Statement of Facts as presented.
- 12) The Commission then viewed CCTV footage of the incident provided by the Northern Territory Police and Monsoons. The viewing supports the Statement of Facts and clearly shows a group of male patrons within the dance floor area engaging in a fracas, following which several patrons are removed by around five or six Crowd Controllers.
- 13) The patrons appear to be agitated and resistant to being removed from the premises. As patrons and Crowd Controllers enter the street area, the footage clearly shows several patrons resisting and striking the Crowd Controllers. A patron is seen to move onto the road following which Mr Trezise runs after him and tackles him to the ground. A second Crowd Controller is seen to enter the fray and land three punches on the patron. The second Crowd Controller is pushed away by Mr Trezise who appears to be defending the patron who remains on the roadway. The footage then shows Mr Trezise lifting the patron from the road and then to extend a right knee in the direction of the patron's head.
- 14) Following this Mr Trezise departs the scene and the patron is then seen to regain his footing and a short time later is seen to approach Monsoons and attempts to throw punches in the direction of other Crowd Controllers in the area.

## Submissions on Penalty

- 15) Inspector Wood submitted that the action of Mr Trezise follows his being punched to the head when removing patrons and as a result of this assault, he could have shown a duty of care and detained the patron, as from the incident it is apparent that the patron is capable of causing harm. Inspector Wood conceded that the action on the roadway by Mr Trezise,

in holding back the second Crowd Controller from further assaulting the patron, he “*was doing the right thing*”. However he then kneed the patron in the head.

- 16) Inspector Wood also conceded there was no complaint from the patron after the incident and that following viewing CCTV footage of the incident, Police determined not to lay any charges over the matter. Inspector Wood also submitted that any injury to the patron from the tackle and the kneeling to the head would appear minimal as the patron was soon on his feet and came back to continue the fight with other Crowd Controllers.
- 17) In making submissions on penalty Inspector Wood advised that Crowd Controller Trezise had not been before the Commission before over any complaint matter. In mitigation he advised that although there was some confusion over responding to the letter from the Director of Licensing, it appeared that Mr Trezise admitted to the breach of the Act at the first opportunity.
- 18) Inspector Wood concluded that in the circumstances of this matter the Director had considered the appropriate penalty to be a reprimand or a small monetary penalty. Following the tabling of a medical report, referred to below, Inspector Wood advised that a reprimand would be an appropriate penalty.
- 19) Mr Rowbottam submitted a medical report which indicated that Mr Trezise had presented himself to the Emergency Department of the Royal Darwin Hospital at around 11.40 hours on 26 January 2012, the morning of the incident. This report indicates that Mr Trezise had sustained an injury to his left elbow following a fall when tackling or making contact with the patron.
- 20) The elbow had sustained a laceration requiring suturing. Also revealed during the medical examination was the bruising of the left eye which the Commission was informed was as a result of a patron punching Mr Trezise, when he was carrying out the duties of a Crowd Controller, a few days prior to the incident on 26 January 2012.
- 21) Mr Rowbottam submitted that the contact of Mr Trezise with the patron on Mitchell Street was an attempt to hold the patron and hand him over to Police. When a second Crowd Controller (*now known as Mr Americo Cardoso whose actions were determined to have breached Clauses 3.13 and 3.14 of the Code of Practice for Crowd Controllers and which resulted in the imposition of a fine of \$300.00 in a decision handed down by Presiding Member Mr Philip Timney on 12 September 2012*) attempted to exact retribution through landing punches on the patron, who had previously assaulted that Crowd Controller, Mr Trezise stood over the patron and raised a hand to protect him from further menace.
- 22) Mr Rowbottam then says Mr Trezise then “*loses it*” when, after lifting the patron from the ground, he knees him to the head. It was submitted that this action was due to verbal abuse from the patron to the effect that he would get him later, even though Mr Trezise had saved him from harm. Mr Rowbottam, in seeking that there be no penalty beyond a reprimand, stated that Mr Trezise had held responsible positions, having been in the army for five years and was now a commercial pilot. Normally Mr Trezise was well disciplined in his behaviour and was an intelligent member of the community. “*The brain snap*” experienced by Mr Trezise was under extreme provocation and had followed an assault from a patron a few days before. His work as a Crowd Controller was only part time

## Consideration of the Issues

- 23) The Commission, on viewing the evidence and considering the submissions of both parties, has determined that the act of kneeling the patron to the head is that of gratuitous violence, warranting in itself, or in isolation to other mitigating factors, a penalty of fine or licence suspension. However, immediately prior the incident there had been a fracas both inside and outside Monsoons where Mr Trezise and other Crowd Controllers sustained punches to and around the head. This was followed by Mr Trezise fending off another Crowd Controller causing injury to the patron.

- 24) It has been submitted to the Commission that following the good samaritan act of Mr Trezise, the patron verbally abuses him at which times Mr Trezise cracks and inflicts a single knee to the head. It is apparent the Commission that the force used in this action was not so severe as to cause injury as the patron then got to his feet and attempted to continue the fight with Crowd Controllers.
- 25) Mr Rowbottam has submitted that the action of his client chasing the patron onto Mitchell Street and tackling him was in an attempt to apprehend or detain him and hold him until Police arrived. The Commission is not persuaded that this was the motivation of Mr Trezise in chasing the patron onto the street, but it also not inclined to discount the possibility entirely.
- 26) Following an adjournment to consider the matter the Commission resumed the Hearing and handed down its decision ex-tempore, with this decision to be confirmed in writing and published. Noting shielding of the patron from blows from a fellow Crowd Controller and other mitigating factors outlined during the Hearing, the Commission is persuaded to agree with the Director that although there has been a breach of the Act through the contravention of the Code of Practice, the appropriate penalty is that of a reprimand.
- 27) In a wider reference to the apparent escalation of complaints referred to the Commission concerning the alleged use of undue force by Crowd Controllers, this Hearing Commission expresses concern over the reliance on physical action to defuse confrontational situations.

## **Decision**

- 28) The Commission confirms the Decision handed down ex-tempore and issues a reprimand for the conduct of Crowd Controller Trezise in using undue force and being involved in violence on a patron. Mr Trezise should be in no doubt that should he again appear before the Commission on a similar matter where the complaint is made out, this finding of a breach of the Act will be taken into account in determining penalty.

Richard O'Sullivan  
Chairman

11 October 2012