

Northern Territory Licensing Commission

Reasons for Decision

Respondent:	Mr Patrick James Georgeson
Licence Number:	Security Officer Number 7426
Proceedings:	Complaint Pursuant to Section 53A <i>Private Security Act</i>
Heard Before:	Mr Philip Timney (Presiding Member) Mr John Brears Mr Wally Grimshaw
Date of Hearing:	17 May 2011
Appearances:	Licensing Inspector Mark Wood for the Director of Licensing No appearance on behalf of Mr Georgeson

Background

- 1) On 6 January 2010 a complaint was lodged with the Director of Licensing by Inspector Bernard Kulda in relation to Mr Patrick Georgeson alleging that he had breached Section 19(2)(c) of the *Private Security Act* ("the Act"), with reference to NT Private Security Code of Conduct for Crowd Controllers, whilst carrying out his duties as a Crowd Controller at licensed premises known as Monsoons on 21 November 2010.
- 2) By decision dated 25 February 2011, the Licensing Commission determined to conduct an investigation pursuant to Section 53C(3)(a) of the *Act* by way of a Hearing into the complaint. By letter dated 7 March 2011, The Chairman of the Licensing Commission notified Mr Georgeson of the Hearing date, being 12 May 2011, and the matters that would be considered by the Commission at the Hearing.

Preliminary Issue

- 3) At the commencement of the Hearing, Mr Wood informed the Commission that Mr Georgeson was not in attendance. Inspector Wood tendered into evidence a Statutory Declaration sworn by Licensing Inspector Bernard Kulda on 17 May 2011. Inspector Kulda's declaration set out the details of unsuccessful efforts on the part of Inspectors to contact Mr Georgeson. Mr Kulda attested also that he had contacted Mr Georgeson's employer, Mr Adrian Franklin of Proactive Security, who advised that Mr Georgeson had resigned from his employment three months earlier to join the Navy and was now residing in Sydney. Mr Franklin also confirmed that the contact number he had for Mr Georgeson was the same one the Inspectors had been using unsuccessfully in their attempts to contact him.
- 4) The Commission notes Regulation 10(2) of the *Private Security (Crowd Controller) Regulations* which provides that it is an offence for a Crowd Controller to fail to notify the licensing authority of a change of address within thirty days.
- 5) The Commission also notes that on 6 January 2011 the Director forwarded a letter to Mr Georgeson, as his registered address, informing him of the particulars of the complaint and inviting him to provide a response. Mr Georgeson did not respond to that letter.
- 6) The Commission is satisfied that Mr Georgeson has failed to comply with Regulation 10(2) and that this was most likely the prime cause of the Inspectors being unable to confirm with him receipt of the letter from the Chairman and his attendance at the Hearing.

- 7) The Commission determines that the Inspectors have done all they could be expected to do in respect of contacting Mr Georgeson prior to the Hearing in attempting to serve the letter from the Chairman at his last nominated address and in following up with telephone calls to the contact number nominated by Mr Georgeson. The Inspectors also made contract with Mr Georgeson's last known employer to ascertain updated contact details. Those efforts were also unsuccessful. As a result the Commission determined that significant efforts had been made to contact Mr Georgeson and that the Hearing would proceed in his absence.

The Hearing

- 8) With respect to the background leading to the lodging of the complaint, Inspector Wood informed the Commission that on 21 November 2010, at approximately 2.09 am, Mr Georgeson was working in conjunction with fellow Crowd Controller, Andrew Staib, at the entrance to Monsoons screening patrons.
- 9) Around that time a group of approximately five males attended at the entrance to the venue and appeared to be engaged in a verbal dispute with Mr Georgeson, following his refusal to permit them to enter the premises. It is alleged that Mr Georgeson subsequently struck one of the males to the side of the face causing him to retaliate, following which Mr Georgeson and Mr Staib were engaged in "a melee" with the males. At one stage Mr Georgeson appeared to try and retreat from the melee whilst Mr Staib continued to try and strike a number of the males.
- 10) The Commission then viewed the CCTV footage of the incident obtained by Inspectors form the Licensee of Monsoons. The footage confirmed the substance of the complaint as described by Inspector Wood and as included in the report from the Director the Commission.

Consideration of the Issues

- 11) The Commission found in accordance with Section 53C(1)(a), and noting the absence of Mr Georgeson to refute the allegations against him, that the complaint was not of a frivolous, irrelevant or malicious nature and that the background to the complaint, as lodged with the Commission, sets out facts and circumstances that are sufficient grounds on which to base a complaint. Accordingly, Mr Georgeson has a case to answer and must appear before the Commission in response to the allegations levelled against him.
- 12) Section 19 of the Act provides that a security officer licence is issued subject to the condition that, where a Code of Practice has been approved under Section 48 of the Act, the Code will be complied with by the licence holder. A Code of Practice was been approved for Crowd Controllers. The following conditions of the Code of Practice are relevant in respect of this complaint:

Professional Standards and Conduct:

Crowd controllers shall:

- 3.13 *Not use undue force in the course of their duties*
- 3.14 *Not participate or encourage others to participate in assault.*
- 3.15 *In the course of their duties take action to prevent violence occurring.*
- 3.16 *In the course of their duties use mediation, negotiation, communication and conciliation as the primary methods of dealing with clients.*

- 13) Section 26 of the Act provides that a contravention of a condition of licence is a ground for the suspension or cancellation of a security provider's licence. The Commission's viewing of the CCTV footage of the incident provides cogent and persuasive evidence that Mr

Georgeson has breached Clauses 3.13, 3.15 and 3.16 of the Code, albeit the Commission has not heard evidence from Mr Georgeson.

- 14) Mr Georgeson has been provided with the opportunity to respond to the allegations against him on 2 occasions. Firstly, in the letter from the Director dated 6 January 2011. He failed to respond to that letter. Secondly, Mr Georgeson was advised of the Hearing via the letter from the Chairman dated 7 March 2011. Mr Georgeson failed to attend the Hearing and has not provided the Director or the Commission with any reasons for his failure to appear.
- 15) The Commission has been informed by the Inspectors that, to the best of their knowledge, Mr Georgeson has left the Northern Territory and is currently residing interstate and intending to join the Navy. The Commission also notes that Mr Georgeson's dual Crowd Controller and Security Officer Licence expires on 30 July 2011 following which, in the normal course, he would be required to lodge an application for renewal.
- 16) In all the circumstances of this complaint, the Commission is not prepared to hold this matter in abeyance on the possibility that Mr Georgeson may possibly disclose his whereabouts and respond to the complaint at some time in the future. The complaint, as evidenced from the CCTV footage, is of an extremely serious nature and involves a Crowd Controller instigating a physical fight involving a number of people with potentially dangerous consequences.

Decision

- 17) For the reasons set out above, the Commission finds that Mr Georgeson has a case to answer in respect of the complaint against him and that he has failed to afford himself the opportunity to do so.
- 18) In the circumstances the Commission is left with few options and has determined to cancel Mr Georgeson's licence until such time as he advises the Commission that he is available to appear at a Hearing to respond to the allegations that form the substance of the within complaint. The Commission has determined to cancel the licence rather than suspend it on the basis of the evidence provided at the hearing that Mr Georgeson has left the NT jurisdiction and now resides in Sydney.
- 19) In the event that Mr Georgeson lodges an application for the renewal of his licence prior to its expiry date on 30 July 2011, or at any time afterwards for that matter, the Commission directs that he is to be advised that his licence will not be renewed until such time as he appears before the Commission and the complaint the subject of this decision is finally determined.
- 20) The Commission also directs that a copy of this decision be placed on Mr Georgeson's private security file for future reference.

Philip Timney
Presiding Member

1 July 2011