



Notice to Show Cause - Decision
pursuant to Division 4 of the *Combat Sports Act 2013*

Date of meeting:	3 June 2015
CSA Members present:	Mr Denis Fitzgerald (Chair), Mr Chris Gardiner, Mr Adam Casselden, Dr Justin Paoloni (phone)
Person required to Show Cause:	Nicholas Stone Registration Id: 201463 M00024
Support person present:	Robert Murdoch (not registered)
Determination required:	Did the sparring event, promoted by Nicholas Stone, and held on 11 April 2015 at Bulldog Gym, Balgowlah contravene the <i>Combat Sports Act 2013</i> ? A determination was required as to whether this contest met the definition of a combat sport contest within the Act and whether a permit under Section 39 was required.
Determination:	The contest was arranged and held for profit and a permit was required. Nicholas Stone contravened Section 39 of the Combat Sports Act.

Issues for Decision

Coverage of contests under the Combat Sports Act 2013 is determined based on key definitions within the Act.

The two main decisions the CSA was required to determine were:

1. Did the sparring day fall within the definition of combat sport?
2. Did the sparring day meet the definition of combat sport contest?

1. Did the sparring day fall within the definition of combat sport?

combat sport means any sport, martial art or activity in which the primary objective of each contestant in a contest, display or exhibition of that sport, art or activity is to strike, kick, hit, grapple with, throw or punch one or more other contestants, but does not include a sport, martial art or activity that is prescribed by the regulations.

The public were admitted to the Bulldog gym to view the advertised sparring session on 11 April 2015. As the public were able to view the sparring session it became a display or exhibition. The sparring session involved strikes, kicks, hits and punches between contestants.

Mr Stone claimed that the contest was excluded due to it falling into the provisions offered under Section 5 of the Combat Sports Regulation 2014 as only light contact activity occurred.

light contact means contact where persons engaged in the sport, martial art or activity do not strike their opponents with full force and where strikes are pulled.

The video footage viewed showed heavy contact being made between contestants. Heavy contact was also reported by the Combat Sport Inspectors who attended the sparring session. The Authority agreed that some footage showed light contact sparring.

FINDING:

The activities being conducted at the sparring day met the definition of a combat sport under the Act as members of the public were able to view kickboxing that involved heavy contact being made by strikes, kicks, hits and punches between contestants.

2. Did the sparring day meet the definition of combat sport contest?

combat sport contest means a contest, display or exhibition of combat sport:

(a) to which the public are admitted on payment of a fee, or

Mr Stone planned to charge an entry fee to the sparring day and this was advised in promotional material. Mr Stone removed the fee upon advice by the Authority and placed signs at the entry points advising no fee would be charged.

(b) arranged or held on a for profit basis, or

Promotional material distributed in the lead up to the event advised \$10 fee for all. Mr Stone made an announcement at the sparring day that he had arranged over 50 similar contests previously always on a for profit basis. Mr Stone conceded that the day had been arranged for profit.

There were three sources of fund raising occurring at the sparring day being a donation bucket, a raffle and a fee for participants.

Mr Stone advised in written material provided prior to the hearing that he had raised funds for a charity "Punchin Parkos" from the sparring day.

The Authority has a policy that clarifies what is meant by for-profit. It states:

- a financial gain is made or expected to be made between the amount earned and the amount spent in arranging or holding the contest and/or,
- if any person or organisation obtains a financial benefit or advantage from the contest being held, including but not limited to, a promoter, manager, combatant, sponsor, venue, Approved Amateur Body, company, incorporated organisation or charitable institution.

FINDING:

The sparring day had been arranged and held for profit. In video footage Mr Stone advised that the day was arranged like previous sparring days for profit. He also advised that following the sparring day a donation was made to a charity from the proceeds.

DECISION:

As the sparring day met the definitions of both a combat sport and a combat sport contest, Mr Stone had contravened Section 39 of the *Combat Sports Act 2013* by failing to obtain the requisite permit. The CSA found that he had not shown sufficient cause as to why disciplinary action should not be taken.

MITIGATING FACTORS:

The CSA in determining disciplinary action considered the following mitigating factors:

- The Act is relatively new and the industry is adjusting.

- Mr Stone had made some attempt to avoid breaching the Act by not charging the public a fee to attend the sparring day (after being notified that Combat Sport Inspectors were to be in attendance).
- Mr Stone appeared to believe that such sparring days were not covered by the legislation and was seeking some assistance in interpreting the legislation and clarification of the coverage of sparring days.

PENALTY:

The CSA determined:

- to impose a 5 week suspension, which included time already served through the Show Cause Notice period
- that a condition be imposed on Mr Stone's registration that states:
 - Should any further contravention of the Act, Regulation or Rules be confirmed by the Authority his registration may be immediately suspended.
- the leniency afforded on this occasion to Mr Stone may be taken into consideration in the event that Mr Stone comes before the CSA for any other disciplinary action.
- a full judgement with detailed reasoning should be published on the CSA website and industry participants should be alerted to the post and encouraged to read the judgement.
- that it be communicated to the industry that the disciplinary actions and penalty provisions available in the legislation would be utilised fully for any subsequent breach of the Act in similar circumstances to the Bulldog Gym sparring day.

Penalties for an individual breaching Section 39 of the Act include Penalty Notice of \$3960 or if matter is taken to court a fine of up to \$39,600 and/or imprisonment of 12 months.

Disciplinary Action may include cancellation, suspension or conditions placed on a person's registration.