

Santa Claus (NZ) vs Director of Civil Aviation

In this edition of *The Legal Lounge* I expose the trials and tribulations endured by Santa Claus Junior in his battle to retain the right to deliver Christmas presents to children all over New Zealand in 2013. This is as true and accurate account of events as I always deliver at this time of year.

Re-cap: How Santa Claus Jnr established air operations in NZ

Last Christmas I revealed in *NZ Aviation News*, how Santa Claus Jnr endured endless red tape and bureaucracy in his bid to take over from his great grand-father, the honourable task of delivering Christmas presents throughout New Zealand from 2007 onwards. Happily for New Zealand, Santa Claus Jnr emerged triumphant with a NZ commercial pilot licence, NZ medical and NZ AOC with limited conditions, and special dispensations to recognise the peculiar nature of his aircraft, registration NP-XMAS, and all presents were duly delivered on Christmas Eve 2007. You might recall my contemporaneous opportunistic photo snap of Santa as he departed the dreary halls of bureaucracy to get down to business...



Alas, and despite my concluding remark last year that the current Director considered Mr Clause had been operating satisfactorily every Christmas since, and exhibiting HSE standards “second to none”, it seems that all has not gone so well in the last twelve months. And here’s how it all began...

Alleged out of control Elves parties

Thanks to the purely altruistic intentions of the Chief Pilot of Satan’s Alternative Christmas Airways Service, who happened upon a private function at Santa’s HQ to which he was not invited, Santa was most embarrassed to be confronted by a senior CAA official in March of 2013, bandying about photos of dishevelled looking elves from a party some-time in January 2013, who looked like they’d seen better, and more sober, days. With a wink and a nod and a dash of red cheeks, Santa assured the official that it was simply a case of the young Elves letting off a bit of youthful steam after the mad Christmas rush, and “why not, they deserve it”.

Santa thought nothing more until that fateful day when the CAA Principal Medical Officer called, citing grave concerns that Mr Clause was promoting a culture of alcohol abuse and himself exhibiting signs of “an unsafe relationship with alcohol” for having allowed such fun to occur, and for having been known to encourage such indulgences by saying “why not, they deserve it”. Indignantly tucking in his rotund waist, Mr Claus rebuffed such claims for the utter nonsense they were and assured the PMO that his air operations continued to be conducted in a safe way, and that the Elves were merely celebrating a special occasion, as all youths are inclined to do. But it was not enough, and soon the floodgates opened, and out came the big guns – the 15A panel.

15A / FPP investigation

After the Director had been suitably briefed by the PMO and 15A investigation panel as to the reckless apparent disarray of Santa's private life, and despite no known safety incidents occurring in Santa Claus Junior's NZ operations for the six years he had now been operating, the decision was made to prohibit Santa from flying on medical grounds, and to conduct a lengthy s15A investigation.

And so the fun began, with every past Elf ever to have a grievance against Santa Claus everywhere on the planet, apparently joining in the bash. Any Elf who dared to speak out to suggest that Santa was but a harmless big bear who liked an occasional tippie of whiskey, was dismissed as naïve or biased, or simply unaware of the true extent of Santa's alcohol dependence, despite many attesting to having socialised with him over many years, and seeing him drink no more than a couple of beers or a smidgeon of whiskey on any given occasion.

And then there were those most impartial of by-standers (AKA industry competitors), some of whom claimed Santa was engaging in adventure operations taking fare paying passengers on his sleigh for hire or reward, outside the conditions of his limited AOC and without a 115! Despite no hard evidence to substantiate such allegations, the mud began to stick, and even those Elves who supported him, began to doubt him. They certainly did not want to be tarnished by his brush, and began to desert in their droves. This was ceased upon by investigators in CAA as further evidence of Santa's unruly behaviour and reputation. With matters having snow balled, this left only one answer for officials to give to the head honcho – Santa must not be allowed to operate – Christmas or not!

Director's final determination

Ultimately, this matter ended up before the Director for final consideration, around September of 2013. Legal wrangling and threats of litigation ensued. But when the dust settled, I am relieved to say, the Director was overcome by a good dose of common sense and... well, a desire to ensure that chaos did not ensue over Christmas with the inevitable fall out of some 2million plus children not receiving their just deserts on Christmas morning.

And so he concluded, "Mr Claus is, I understand, an experienced pilot with over 23,000 flying hours, including considerable night VFR flight experience. Despite numerous allegations raised, Mr Claus has never been convicted or charged with any alcohol related offence, or for that matter, charged with any offence at all. I am satisfied that Mr Claus is, like most of us, quite capable of enjoying an evening with a quiet drink or two, and provided that continues to be the case, that I have no business prying in his private life. I am equally satisfied that he continues to conduct his air operations in compliance with all applicable civil aviation safety standards, and that whatever minor digressions have occurred under his watch, they are not so grave as to end a man's flying career – or the Christmas dreams of the millions of children who depend on him".

And so it followed, that Santa's expert aviation lawyer was told to put away her carefully prepared judicial review application and instead raise a toast to everyone, for a very merry Christmas.

On a serious note, enjoy your Christmas tipples but be safe, don't drink and fly, and if you are responsible for other pilots or participants, set the right example in the workplace around a safe drinking culture. There can be far reaching consequences if you are not seen to be doing so. See you next year!

Angela Beazer is a lawyer and Director of AMC Legal Services Ltd, a law firm specialising in aviation and public law matters. Previous articles from *The Legal Lounge* series may be viewed at www.amclegal.co.nz Disclaimer: The information and views expressed in this column are necessarily general and do not address any specific individual or entity's circumstances. This column may not be relied on or construed by any person as the provision of advice within a lawyer and client relationship. Legal or other professional advice should be sought in particular matters.