

**IN THE MATTER OF**

Complaint Under s 74 of the Private Security Personnel and Private Investigators Act 2010 against **STEVEN BUCKLAND**

**PENALTY DECISION**

[1] In an earlier decision I concluded that Mr Buckland was guilty of misconduct in the course of the business to which his certificate relates. A timetable was set to deal with the issue of penalty. Mr Buckland and Ms F agree that a decision on the appropriate penalty can be decided on the papers and both have made written submissions as to penalty.

[2] Ms F says that Mr Buckland has not adhered to the standards required of a private investigator and that his actions caused her and her family emotional stress and loss. She therefore submits that I should impose significant sanctions.

[3] Mr Buckland apologises to Ms F. He says that at the time it was not his intention to provide investigative services but to help a friend and colleague. In these circumstances Mr Buckland says his misconduct was at a lower level and therefore cancellation of his certificate would not be appropriate. He considers an appropriate penalty would be a fine or a reprimand.

[4] Misconduct is a discretionary ground for cancellation of a certificate. Section 81(1)(c) of the Act says that instead of cancellation I can make other orders including suspending a certificate, ordering the certificate holder to undertake further training, impose conditions on the certificate holder, reprimand the certificate holder or impose a fine of up to \$2,000.

[5] In determining the appropriate penalty, I need to consider both the gravity of the misconduct, the impact of any penalty and any other relevant factors in relation to Mr Buckland's competency, experience and character.

[6] I accept that Mr Buckland considered he was helping a friend rather than providing investigative services to Ms F. Consequently, he did not have a formal agreement as to the extent of his investigation and did not follow his usual professional standards. However, the fact he was assisting a friend and colleague for no fee is not in itself a good reason for his misconduct. In addition, it was clear at the time that Ms F believed he was providing her with investigative services. Rather than putting her right he encouraged this belief.

[7] Mr Buckland also says that this is the first complaint that has been made against him since he obtained a certificate of approval in 2015. This submission is incorrect as Ms F's complaint is the fourth complaint made against Mr Buckland since 2015. While none of the other complaints were ultimately established this was primarily because the conduct complained about was not during Mr Buckland's work as a private security employee.

[8] All three previous complaints had enough substance for them to be accepted and referred to the Complaints Investigation and Prosecution Unit for investigation. An investigation into the first and second complaints established that since Mr Buckland had obtained a certificate he had been convicted of making false representations and obtaining money by deception under the Education Act. However, neither conviction was grounds for disqualification under s 62 of the Act.

[9] The Licensing Authority also concluded on those complaints that there was evidence to suggest that Mr Buckland may no longer be a fit and proper person to be a certificate holder. At that time this was not the basis on which a complaint could be made, nor was it a ground for suspending or cancelling a certificate or licence.

[10] There is no evidence that Mr Buckland has not provided an appropriate level of service to his private investigation clients or that he does not maintain an appropriate level of professionalism in his work as a private investigator other than in relation to the work he did for Ms F.

[11] Mr Buckland says that providing investigation services is his primary source of income and that cancelling or suspending his certificate would have a significant impact on his ability to earn an income for himself and his family. His recent health issues have both impacted on his earnings and his ability to retrain for other work. The covid 19 pandemic would also have negatively affected Mr Buckland's income.

[12] Had Ms F been a regular paying client, the appropriate penalty would have been the cancellation of Mr Buckland's certificate. However, I accept that given the circumstances of the work Mr Buckland did for Ms F and Mr Buckland's personal circumstances, cancellation would be out of proportion to the gravity of Mr Buckland's misconduct.

[13] I conclude that the appropriate penalty is a fine and a reprimand. In setting the amount of the fine I have considered the negative financial impact of both Mr Buckland's health issues and the covid 19 lock down. Mr Buckland is also advised that his COA is unlikely to be renewed when it expires in October 2020 unless he has paid the fine imposed.

### **Summary & Orders**

[14] The penalty for Mr Buckland's misconduct is a reprimand and a fine. I therefore order:

- a) Mr Buckland is formerly reprimanded
- b) Mr Buckland is fined \$500.00

**DATED** at Wellington this 15<sup>th</sup> day of June 2020



P A McConnell  
**Private Security Personnel Licensing Authority**