

[2020] NZPSPLA 011

NZPSPLA 003457 / 2018

NZPSPLA 005775 / 2018

NZPSPLA 005774 / 2018

IN THE MATTER OF

Complaints under ss 73 & 74 of The
Private Security Personnel and Private
Investigators Act 2010

AND

**JACOB WILLIAMS & BRODIE
WILLIAMS & LGBTQ LIMITED** now
known as **SUMMER 2020 LIMITED**
Respondent

HEARD

At Christchurch on 30 May 2019

By Telephone on 10 June 2020

APPEARANCES

Brodie Williams supported by his mother M Williams (both hearings)

Jacob Williams (30 May 19 hearing only)

CIPU – M Greentree (30 May 19 hearing) L Ulrich (10 June 20 hearing)

DECISION

[1] There are four separate complaints against Brodie Williams, Jacob Williams and Jacob Williams' former company now known as Summer 2020 Limited. The complaints are:

- Jacob Williams forged a document to establish training and competency for Summer 2020 Limited (then known as Tech House Investigations & Collections Ltd, but originally filed as JJ Williams Holdings Limited) in its application for a company licence and for Jacob Williams certificate of approval.
- Jacob and Brodie Williams used and relied on false information when applying for their certificates of approvals (COA).
- Brodie and Jacob Williams held themselves out as being private investigators in a Tenancy Tribunal hearing at a time when they did not hold a COA in that class.
- Jacob and Brodie Williams established companies, incurred debts and then used intimidation and their position as security workers to threaten creditors.

[2] The Complaints Investigation and Prosecution Unit (CIPU) have investigated the complaints and issued two reports. CIPU are prosecuting Jacob for using a forged document under s 257(1)(a) of the Crimes Act. In addition, Jacob is facing unrelated criminal charges of causing loss by deception. Brodie is facing a Police charge of criminal harassment which relates to the complaint in fourth bullet point above.

[3] Since setting the complaints down for a final hearing Brodie has surrendered his COA and Summer has surrendered its licence. Jacob's COA is currently suspended.

[4] The issues I need to decide are:

- Did Jacob use a forged document to establish training and competency for his COA and Summer's licence?
- Were Jacob or Brodie certificates issued by mistake or by reason of fraud?

- Did Brodie or Jacob hold themselves out as being private investigators or purport to be working as private investigators when their COAs in that class had been suspended or declined?
- Did Jacob and Brodie establish companies, incur debts and then use intimidation and their position as security workers to threaten creditors?
- Are Jacob or Brodie guilty of misconduct?
- If any of the above are established, what is the appropriate penalty?

Did Jacob Williams use a forged document to establish training and competency for his COA and Summer's licence?

[5] On 30 October 2018 Jacob filed a letter that purported to be from Jason Green of Wesfarmers which stated that Jacob had held a wide variety of security roles with Wesfarmers in Australia including fraud investigations and CCT system design and installation. The same letter was filed on 5 November 2018 in support of Summer's application for a licence. This letter was the only evidence that Jacob had the necessary experience and training in the classes of private investigator, security technician and security consultant to be granted a certificate in those classes and for the company to be granted a licence.

[6] When I raised the authenticity of that letter in an initial telephone conference both Brodie and Jacob stated it was true and that the writer, Jason Green, worked for Bunnings at its head office in Christchurch. However, CIPU's investigation established that there was no Jason Green working for Wesfarmers or Bunnings and that Jacob had not worked in a security role for Wesfarmers in Australia.

[7] After being confronted with CIPU's initial report Jacob accepted at the 30 May 2019 hearing that the letter had been forged. He said he had written the letter but that its contents were true. He said because of personal family circumstances in Australia he could not get a letter from Bunnings or Wesfarmers in Australia.

[8] That hearing was adjourned to allow Jacob to provide further documentary evidence he said he had confirming that he worked for Bunnings in Australia. Jacob provided two additional documents, but they did not establish that he had worked for Wesfarmers either for the length of time or in the capacity he said. CIPU's further investigations establish Jacob has never worked for Bunnings in Australia or New Zealand as part of the loss prevention team or in an investigation or surveillance role.

[9] I am therefore satisfied that the Wesfarmers letter was a forgery and that its contents were false.

Were Jacob or Brodie certificates issued by mistake or by reason of fraud?

[10] Jacob used the forged letter to establish that he had the required training in the classes of private investigator, security technician and security consultant in his application for a COA. He used the same document to establish he had the required experience in security work for Summer to qualify for a company licence. Not only was the document a fake but the contents were false. The Licensing Authority relied on that letter when issuing Jacob's COA and Summer's licence.

[11] Brodie indirectly relied on the forged letter in his application for a COA. On 20 December 2018 he filed a letter from Tech House Investigations and Collections (one of the former names of the company now known as Summer 2020 Ltd) and signed by Jacob. That letter said that Brodie was "currently in training within our company for these classes and can confirm he is working alongside myself closely in ensuring he knows the laws and how to carry out the work safely and competently."

[12] I am satisfied that at the time he filed that letter Brodie knew that Jacob was not qualified and experienced in the classes of private investigator, security consultant and security technician. I am also satisfied that he knew that Tech House had obtained its licence based on a forged document. I do not accept Brodie's belated explanation that he was played by Jacob and was unaware that he was not a private investigator until after CIPU had completed his investigation.

[13] Brodie says that he did not meet Jacob until 23 June 2018 which was after Jacob had obtained his licence and that Jacob told him he was a PI and would help him get his certificate. However, at that time Jacob only had a temporary COA and his full COA was not granted until 1 November 2018.

[14] Summer was not incorporated until 12 September 2018 and its application for a company licence was filed on the same day as Brodie's application for a COA. Both Summer and Brodie provided the same postal address in their applications. Brodie and Jacob were at the very least friends and close associates when Summer was established and when the forged letter was written and filed with the Licensing Authority.

[15] In all telephone and in person hearings convened up until the last hearing it was primarily Brodie who spoke on behalf of the Summer. Although at the time Jacob was the sole director and shareholder in Summer, Brodie appeared to be making most of the decisions and running the company. In the last year it has mainly been Brodie who has communicated with the Licensing Authority in relation to the complaint and other matter on behalf of Summer.

[16] Brodie has also filed most of the more recent documents with the Companies Office for Summer and the new owner of Summer is a relation or close associate of Brodie. In recent documents filed with the Licensing Authority the new director / shareholder of Summer and Brodie stated they had the same residential address.

[17] I am satisfied that Brodie knew that the letter relied on for Summer's licence and Jacob's COA was a forgery. I am also satisfied that the contents of the letter Brodie provided in support of his COA was false. He knew that Jacob did not have the experience or qualifications to train him in the restricted classes. In addition, there is no evidence that Summer or Jacob ever had any private investigation or security technician work in which Brodie was being trained.

[18] I further note that even if Brodie had been naively duped by Jacob his COA would still have been issued by mistake. I am therefore satisfied that Brodie and Jacob's COAs, and Summer's licence were issued by mistake or by reason of fraud on their part. This is a mandatory ground for cancellation of a licence under s 79(1)(b) and a certificate under s 82(b) of the Act.

Did Brodie or Jacob Williams hold themselves out to be private investigators or purport to be working as private investigators when their COAs in that class had been suspended or declined?

[19] At a tenancy hearing on 14 June 2019 Jacob and Brodie said they were private investigators and produced a copy of an invoice issued by Brodie for work which purported to be for taking samples for asbestos testing from the walls of a flat previously occupied by Jacob. The invoice was dated 10 April 2019 and was for work done on 4 and 9 April 2019.

[20] Brodie has only ever held a temporary COA in the class of private investigator. It was granted on 8 January 2019 but suspended on 7 March 2019 and subsequently lapsed. Jacob

was granted a COA in the class of Private Investigator on 1 November 2018. It was suspended on 7 March 2019 and has not been reinstated in that class.

[21] Brodie said that when giving evidence at the Tenancy Tribunal he was talking in the past tense and did not hold himself out as being a private investigator either at the time he did the testing or at the time of the Tenancy Tribunal hearing. I have listened to the recording of the hearing and reject this submission.

[22] At the hearing Brodie said he was a "PI". The adjudicator then directly asked 'You are a private investigator?' to which Brodie answered "yes". During the Tenancy Tribunal hearing Jacob also stated that he owned and ran a PI firm. At the time of the hearing, the date of the invoice and the time the samples were taken neither Brodie nor Jacob had a valid certificate or licence in the class of private investigator.

[23] I therefore conclude that Brodie continued to work as a private investigator after his certificate was suspended and that both Brodie and Jacob held themselves out to be private investigators even though they did not have a valid COA in that class. Both have accordingly breached s 44(2) of the Act by holding themselves out as being private investigators when they did not hold a COA as a private investigator.

Did Jacob and Brodie Williams establish companies, incur debts and then use intimidation and their position as security workers to threaten creditors?

[24] The complaints against Brodie and Jacob started with a complaint filed by the liquidator of Zone Media Limited, another company owned by Jacob. The liquidator complained that Jacob and his partner Brodie regularly established companies incurring large debts and used intimidation tactics, together with their position as private investigators, to intimidate and threaten their creditors and detractors.

[25] Jacob has established three companies in which he has been the sole director and shareholder. Two are now in liquidation and the third is Summer which is no longer owned by Jacob. All three companies have been created since Jacob and Brodie met and Brodie has been closely associated with them all.

[26] There is no evidence that any of these companies have had any assets or generated any significant income and at least two have incurred enough debt for liquidators to be involved. However, any complaint about establishing companies and incurring large debts while earning no income is more appropriately an issue for the Companies Office. As I understand a similar complaint has been made to the Companies Office I will not be dealing with this part of the complaint.

[27] There is tenable evidence that Brodie has used unethical practices and his position as a private investigator to intimidate or threaten creditors. Rather than addressing the specific allegations made against him Brodie attacked the character of the liquidator and alleged that he was being vindictive because they are trying to shut him down. Brodie also says I should reject other evidence provided to support this part of the complaint as it was a breach of his privacy for this information to be given to the liquidator, the CIPU investigator and the Licensing Authority.

[28] It is unlikely any legal right to privacy has been breached. The information provided is pertinent and relevant to the complaints before the Authority. I accept enough evidence was provided to the CIPU investigator to conclude that Brodie has used his position as a private investigator and used unethical practices to intimidate others, particularly creditors and the liquidator.

Are Jacob or Brodie Williams guilty of misconduct?

[29] I have already concluded that Brodie and Jacob have breached the Act by relying on false evidence to obtain their COAs and Summer's licence and by holding themselves out to be private investigators after their COAs in that class had been suspended.

[30] Misconduct is defined in s 4 of the Act as:

Conduct by a licensee or certificate holder that a reasonable person would consider to be disgraceful, wilful or reckless or conduct that contravenes this Act or any Regulations made under the Act.

[31] Jacob and Brodie's conduct contravenes the Act. I am also satisfied a reasonable person would consider Brodie's conduct in attempting to mislead and intimidate creditors while holding himself out to be a security worker to be disgraceful, wilful or reckless. Brodie and Jacob are therefore guilty of misconduct.

What is the appropriate penalty?

[32] Section 82(b) of the Act provides that it is a mandatory ground for cancellation of a certificate of approval if that certificate was issued by mistake, or by reason of fraud on the part of the applicant. I have already concluded that Brodie and Jacob's certificates were issued by reason of fraud or mistake on their part.

[33] In addition, I have concluded that Brodie and Jacob have breached the Act in other ways and are guilty of misconduct. This is a discretionary ground for cancellation of a COA.

[34] Section 81 of the Act provides that I must cancel a certificate if s 82 applies and I may cancel the certificate if discretionary grounds for cancellation apply. In addition to cancellation I can also make other orders including barring a certificate holder from applying for a licence or certificate, fining the certificate holder or reprimanding the certificate holder.

[35] Brodie and Jacob have lied to, or attempted to mislead, the Licensing Authority in the documentation they have filed to support their applications, the conferences and hearings convened and in their communication with Authority staff. They have also misled the Tenancy Tribunal by holding themselves out to be private investigators when their COAs in that class had been suspended or declined. Rather than acknowledging any wrong doing they have either attempted to justify their actions or attacked those making a complaint or giving evidence against them.

[36] I therefore conclude that not only are Brodie and Jacob unsuitable to be responsible security workers, but they are unlikely to be suitable to hold a certificate in the foreseeable future. Were it not for the fact that Brodie has already surrendered his certificate I would have ordered its cancellation. A similar situation applies to Summer's licence. Neither Brodie nor Jacob are in a financial position to pay a monetary penalty.

[37] I therefore conclude that the appropriate penalty is a reprimand together with an order barring them from applying for a COA or licence. In setting the length of time for which they are barred I have considered the fact that having had a licence or certificate cancelled within the last seven years is grounds for disqualification under s 62(h) of the Act.

Conclusion & Orders

[38] I impose the following penalties and order:

- a) Jacob Williams' certificate of approval is cancelled from the date of this order.
- b) Brodie Williams and Jacob Williams are barred from applying for a licence or certificate either in their own names or on behalf of a company in which they are a director or shareholder for a period of five years from the date of this order.
- c) Jacob Williams and Brodie Williams are reprimanded.

DATED at Wellington this 19th day of June 2020



P A McConnell

Private Security Personnel Licensing Authority