

**IN THE MATTER OF**

A complaint under s 74 of The Private Security Personnel and Private Investigators Act 2010

**BETWEEN**

**THE POLICE**

Complainant

**AND**

**SAVELIO PO'E-TOFAEONO**

Certificate Holder

**HEARING** 21 October 2020 by telephone

**APPEARANCES**

Constable H Stringer & Sergeant Gallagher for NZ Police  
S Po'e-Tofaeono - Certificate Holder

**DECISION**

[1] Savelio Po'e-Tofaeono has recently been convicted of assault and assault with intent to injure and sentenced to 12 months supervision. These convictions are grounds for disqualification under s 62 of the Act. The Police advise that both offences occurred while Mr Po'e-Tofaeono was working as a crowd controller and accordingly raise questions about whether Mr Po'e-Tofaeono is suitable to resume work in the security industry.

[2] Mr Po'e-Tofaeono accepts he has disqualifying convictions but wants to keep his COA. He says the offending occurred when he was working very long hours and resulted from him reacting very badly to confrontational situations. He accepts that he has made some bad mistakes, but that he has learnt a lot in the last two years and has had time to reflect on who he is and what he wants to achieve with his life.

[3] Section 82 of the Act provides that when a certificate holder such as Mr Po'e-Tofaeono is convicted of a disqualifying conviction I must cancel his certificate if I am satisfied that because of this, he is no longer suitable to hold a certificate. Section 64 of the Act however enables me to waive the grounds for disqualification if I am satisfied that Mr Po'e-Tofaeono is suitable to be a certificate holder despite his recent convictions.

[4] Both the assaults for which Mr Po'e-Tofaeono has been convicted occurred over two years ago. He has two previous offences, but both are relatively minor and historic. Mr Po'e-Tofaeono advises he started working in security when he was 16 and continued working in security until his COA was suspended in 2018 after he was charged for the second assault. It is the only work for which he has training and experience. He is a father of four children and having his COA suspended has meant he has been unable to financially support his family.

[5] Mr Po'e-Tofaeono referees all refer to him as being loyal, trustworthy, honest and kind. Since his COA was suspended he was being doing voluntary work within his community and taking more responsibility for the care of his children. His probation officer assesses him as being at low risk of reoffending.

[6] As both assaults occurred while Mr Po'e-Tofaeono was working in security they are sufficiently serious to warrant cancellation of his COA. However, I accept Mr Po'e-Tofaeono actions were out of character and this is confirmed by his probation officer. Mr Po'e-Tofaeono presented as being genuine in his remorse for what happened and although the last two years

have been hard he expressed gratitude for what it has taught him and the personal growth that has resulted.

[7] I accept that Mr Po'e-Tofaeono has learnt a lot since his COA was suspended and that he is unlikely to react in the same way if confronted by similar situations. He has already paid a big price financially and personally for his offending. Cancelling Mr Po'e-Tofaeono's COA would mean that he would be unable to work in the only field in which he is trained and significantly reduce his employment prospects in the medium term.

[8] I am therefore satisfied that Mr Po'e-Tofaeono is, despite his disqualifying convictions, suitable to be a certificate holder. I grant a waiver from disqualification under s 64 of the Act and conclude that the appropriate penalty is the suspension of his COA for the two years and two months, which he has already served, together with placing some conditions on his COA.

[9] I therefore make the following orders:

- a) I uphold the Police complaint that Mr Po'e-Tofaeono has been convicted of two disqualifying offences.
- b) Waiver of the grounds for disqualification is granted under s 64 of the Act.
- c) The suspension of Mr Po'e-Tofaeono's Certificate of Approval is lifted from the date of this order. This means he can resume work as a security guard but subject to conditions set out below.
- d) I impose the following conditions on Mr Po'e-Tofaeono's COA:
  - Mr Po'e-Tofaeono cannot work as a crowd controller at a pub or a club for period of 12 months from the date of this order.
  - Mr Po'e-Tofaeono must work for a licenced security operator or a government department for a period of 12 months from when he resumes work in the security industry.

**DATED** at Wellington this 22<sup>nd</sup> day of October 2020



The seal of the Private Security Personnel Licensing Authority is circular, featuring a central crest with a crown and two figures. The text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY' is written around the perimeter of the seal.

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