

**IN THE MATTER OF**

A complaint by PS against **LS & LAS LTD** made under ss 73(2) & 74(2) of the Private Security Personnel and Private Investigators Act 2010

**DECISION**

- [1] PS has filed a complaint against LS and her company LAS Ltd. In October 2020 LS was engaged by PS's employer to investigate a bullying complaint she made against members of her team.
- [2] PS says that LS and her company are providing private investigation services without the necessary certificate or licence. PS also has concerns about LS's competency and whether she is qualified to carry out an employment investigation.
- [3] On 15 July 2021 the Authority referred the complaint to the Complaints, Investigation and Prosecution Unit (CIPU) for investigation. The specifications of the investigation CIPU was requested to investigate were:
- Did the investigation carried out by LS fit within the definition of work that requires LAS Ltd to hold a licence and LS to hold a certificate?
  - If so, are either LAS Ltd or LS exempted from holding a licence or certificate under s 22(d) of the Act?
  - What qualifications and experience does LS have to work as an employment investigator?
- [4] In March 2022 CIPU provided the Authority with their report. Their conclusions were as follows (summarised):
- The investigation LS conducted did fit within the definition of private investigative services in accordance with the Act however LS did not hold a certificate of approval and LAS Ltd did hold a company license as required by the Act.
  - There is no information to suggest that LAS Ltd and LS are exempt from holding a license or certificate.
  - LS does have sufficient qualifications and experience to work as an employment investigator.
- [5] CIPU reported that LS had turned her mind to the issue of certification/licensing and on her own research had, incorrectly, concluded that she did not require same. She therefore accepts that she does not hold, and has not ever held, a licence or certificate in the class private investigator. Now that she is aware of the legal situation LS undertakes not to conduct employment investigations without sufficient licensing or certification and advises that she has no intention of conducting such investigations again.

*The Law & Findings*

- [6] In June 2020 the Licensing Authority issued a decision concluding that employment investigators were carrying on a business of seeking or obtaining for their clients, or supplying to their clients, information as defined in s 5(1)(a) of the Act. They therefore fitted within the definition of private investigators and should hold a licence or certificate unless exempted under s 22 of the Act. This decision was distributed throughout the employment investigators network later in 2020 although the Authority

understands that there is still not widespread understanding of its implications among smaller companies or sole practitioners.

- [7] In considering the evidence I am satisfied that LS and her company LAS Ltd were in breach of ss23, 44 & 45 of the Act in providing employment investigative services to PS's employer.
- [8] I do note however that regardless of my decision in this respect, the Authority has no jurisdiction to deal with PS's complaint about the way LS carried out her work and the outcome of her investigation. Sections 73 and 74 of the Act specifically provides that the Authority only has the jurisdiction to deal with complaints against licence or certificate holders. LS does not hold, and never has held, a certificate and LAS Ltd does not hold a license.
- [9] Whilst I have found that LS and LAS Ltd have been acting in breach of the Act, I do not consider any further action against them is necessary. I accept the evidence that the breach was inadvertent. LS's own research and discussions with others within the employment investigation industry had led her to the conclusion that she was not acting as a private investigator. Whilst this was incorrect, I accept that if she had considered she was, she would have sought certification/licensing. Further, the evidence does not indicate that PS intends to undertake such work again without appropriate certification now that she is aware of the legal position.
- [10] Therefore, I do not recommend prosecution action against LS and LAS Ltd. Should such work be undertaken by LS or her company again however she will need to be certified/licensed and if this situation was to arise again, prosecution would be likely.
- [11] PS's complaint is accordingly upheld to the extent of concluding that LS and LAS Ltd the Act by working as private investigators without the necessary licences of certificates. For the reasons outlined in paragraph [8] above I have no jurisdiction to deal with any other parts of PS's complaint.
- [12] The balance of the complaint is therefore dismissed, and the complaint is closed.
- [13] This decision is to be distributed to the parties and an anonymised version published on the Authority's website.

**DATED** at Wellington this 4th day of April 2022



K A Lash  
**Deputy Private Security Personnel Licensing Authority**