

IN THE MATTER OF

A complaint laid by the Police under s 74 of the Private Security Personnel and Private Investigators Act 2010 (The Act) against **SHANE CASBOLT**

HEARD virtually on 15 December 2022

APPEARANCES

Sgt M Arnold NZ Police
L Ulrich CIPU Investigator
S Casbolt – no appearance

DECISION

[1] In 2021 we received several complaints that Mr Casbolt was operating a business offering private investigation services under the name of Canterbury Investigation Services without the appropriate licence. Police were one of the complainants and they also advised that Mr Casbolt had been charged with possession of an offensive weapon and impersonating a police officer.

[2] The complaints were referred to CIPU for investigation. CIPU concluded:

- Shane Casbolt offered services that fall within the definition of private investigator.
- Shane Casbolt runs Canterbury Investigation Services (CIS) although he does not hold a security licence or a certificate of approval in the class of private investigator.
- Shane Casbolt wore a vest and identification that stated he was an investigator and created a business card and a website for Canterbury Investigation Services which offered investigation services.
- Shane Casbolt's actions arguably amount to unsatisfactory conduct or misconduct.

[3] Mr Casbolt's criminal charge arose after he entered the Christchurch District Court wearing a stab proof vest with an extendable baton and a spray cannister, resembling pepper spray carried by the police, attached to it. Mr Casbolt's vest has also displayed the New Zealand Coat of Arms.

[4] Mr Casbolt was subsequently acquitted on the charge of impersonating a police officer but found guilty on the charge of possession of an offensive weapon. He was however discharged without conviction on that charge on 2 December 2022. The Judge directed that a copy of his sentencing decision was to be made available to the Authority. He considered that the Authority was better placed to determine whether Mr Casbolt's conduct meant he was no longer suitable to be a security worker.

[5] Mr Casbolt did not attend the Authority hearing. In emails to the Authority, he accepted he introduced and presented himself as an investigator or investigation officer but denied he worked as a private investigator.

[6] The issues I therefore need to decide are:

- Was Mr Casbolt carrying on business as a private investigator?
- If so, had he contravened the Act and been guilty of misconduct, and
- What is the appropriate disciplinary action?

Was Mr Casbolt carrying on business as a private investigator?

[7] Section 5 of the Act defines private investigator as including all those who for valuable consideration carry on a business seeking or obtaining information relating to a person's personal character, actions, behaviour, business, or financial position which includes information that is not contained in the public record. The word private when referring to private investigators does not mean covert or secret. It is used to distinguish private investigators from public or state appointed investigators such as police or others employed as investigators by government agencies.

[8] In an email to the Authority explaining the circumstances which led to his criminal charges Mr Casbolt advised that he was visiting the court to get an affidavit signed and introduced himself to Court security as an investigation officer for CIS. He was wearing a stab proof vest with the word "investigator" printed on it, displayed a crown crest, and wore a photo ID card similar in look to a Security ID with his photograph, the job description "Investigation Officer" and the CIS Logo.

[9] Mr Casbolt accepts he was working or attempting to work as an investigator but denies he was a private investigator. He however has not explained the difference between an investigator and a private investigator other than saying investigators employed by crown agencies do not need to be licenced. Although Mr Casbolt was wrongly displaying a crown crest, he was not working for any government or crown agency. Therefore, if he was an investigator, he could only have been a private investigator.

[10] More recently Mr Casbolt has claimed he was only working in a voluntary capacity and therefore was not carrying on a business. However, CSI's website intimated it was a commercial business and stated, "payment for contractual work must be negotiated by Canterbury Investigation Services...". Mr Casbolt also approached at least one other security company offering to carry out investigation services for them in the Canterbury region.

[11] CSI's website offered services which fit within the definition of private investigation work as defined in s 5 of the Act. Mr Casbolt's business card purports to offer tracing services, photography and scene examinations, credit, and fraud checks. This together with his attire shows that Mr Casbolt was holding himself out to be a private investigator. Even if Mr Casbolt is correct in his assertion that he has never undertaken investigation work for hire or reward he was clearly holding himself out to the public as being ready to carry on an investigation business and was wanting to be paid to do so.

[12] s 5(3) of the Act states:

For the purposes of this section but without limiting the meaning of the terms **carries on any business**, a person is carrying on a business if he or she holds himself or herself out to the public as being ready to carry on that business.

[13] The evidence clearly establishes that Mr Casbolt was holding himself out to be a person who for valuable consideration was ready to carry on a business as a private investigator. To do so he was required to have an individual licence in the class of private investigator and the Authority's approval to trade as Canterbury Investigation Services.

Has Mr Casbolt contravened the Act and been guilty of misconduct?

[14] Section 23 of the Act states that a private investigator must hold a licence under the Act and that failure to do so is both a breach of the Act and an offence. In addition to carry on business under a trading name such as CIS, requires the approval of the Authority under s 39 of the Act. Failure to do so is also a contravention of the Act.

[15] Therefore, I conclude that Mr Casbolt has contravened the Act by holding himself out as offering investigation services through CIS. Misconduct is defined in s 4 of the Act as conduct that "a reasonable person would consider to be disgraceful, wilful or reckless or conduct that contravenes the Act".

[16] As Mr Casbolt has contravened the Act, he is guilty of misconduct. I also conclude a reasonable person would consider Mr Casbolt's behaviour, when considered in totality, to be wilful or reckless.

What is the appropriate disciplinary action or penalty?

[17] Misconduct is a discretionary ground for cancellation of a certificate. Section 81(1)(c) of the Act says that instead of, or in addition to, 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.

[18] 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 Casbolt's competency, experience, and character.

[19] What makes Mr Casbolt's conduct more serious is that he was attempting to set up an investigation business even though the Authority had declined his application for a certificate in the class of private investigator. This was because Mr Casbolt had not provided evidence to show he was receiving on the job training to supplement the study he had completed. In addition, in a previous complaint, Mr Casbolt was warned that he could not carry on a security business without the appropriate licence and the Authority's approval for any trading name.

[20] The Judge, when discharging Mr Casbolt on the offensive weapon charge noted that Mr Casbolt's behaviour resulted from an inflated sense of ego and poor decision making. The Judge considered that Mr Casbolt's conduct was relevant when

considering whether he was suitable to be a security certificate holder and noted that better decision making was required when working in the security industry. I agree.

[21] I accept that Mr Casbolt's misconduct was not specifically in relation to the classes in which he currently holds a certificate of approval. However, it is not unrelated. The notoriety that has arisen following the complaints and police prosecution was sufficient for him to lose his previous work as a security guard. In addition, in his most recent communication with the Authority, Mr Casbolt has advised he wants his certificate to be cancelled.

[22] Mr Casbolt's actions were not a result of naivety or ignorance as he was aware of the Authorities licensing requirements but chose not to follow them. Mr Casbolt intentionally inflated his own importance in the way he presented himself and in doing so flouted the rules and requirements that apply to all security workers. I consider his conduct was wilful and bordered on the fraudulent.

[23] I therefore conclude that the appropriate penalty is the cancellation of Mr Casbolt's certificate of approval, a fine and a reprimand. In setting the level of the fine I have considered the negative financial consequences Mr Casbolt has already suffered because of his behaviour.

Summary & Orders

[24] Mr Casbolt was carrying on business as a private investigator under the name Canterbury Investigations Services without the required licence, certificate, or approval. This is a contravention of the Act and amounts to misconduct.

[25] The penalty for Mr Casbolt's misconduct is the cancellation of his certificate of approval, a reprimand and a fine. I therefore order:

- a) Mr Casbolt's certificate of approval is cancelled effective from the date of this order.
- b) Mr Casbolt is to return his COA ID Badge to the Authority within seven days of the date of receiving this decision.
- c) Mr Casbolt is formally reprimanded.
- d) Mr Casbolt is fined \$500.00

DATED at Wellington this 19th day of December 2022



P A McConnell
Private Security Personnel Licensing Authority