

IN THE MATTER OF

The Private Security Personnel and
Private Investigators Act 2010

AND

IN THE MATTER OF

Complaint by the **POLICE** under s 74 of
the Act against **FILISIKA KAVEINGA**

HEARD by telephone on 3 May 2021

ATTENDANCES

Sergeant David Gallagher for NZ Police
Filisika Kaveinga, certificate holder together with Claudius Ah Loe

DECISION

[1] The Police have applied to cancel Filisika Kaveinga's certificate of approval (COA). They say Mr Kaveinga is unsuitable to be a security guard because he is a patched member of the Head Hunters which is an outlaw motor cycle club. In addition, over the last three years Mr Kaveinga has been involved in the several incidents that raise concerns. The two most recent of these incidents have involved Mr Kaveinga being confrontational or hostile towards police officers while working as a security guard.

[2] Mr Kaveinga does not dispute any of the incidents which the Police have outlined. He however says that in some incidents he was picked on by Police and responded appropriately. Mr Kaveinga also accepts that he became a patched member of the Head Hunters after being granted his COA. However, he says that he is a motor cycle enthusiast and that joining the Head Hunters is his private life and should not interfere with his work life. He does not accept that being a patched member of the Head Hunters means he is unsuitable to have a COA.

[3] Section 83(ab) of the Act provides that it is discretionary grounds for the cancellation of a COA if the certificate holder is no longer suitable to carry on the class of business to which the COA relates because of the person's character, circumstances of background. The issue I therefore need to decide is whether Mr Kaveinga becoming a patched member of the Head Hunters, combined with the other incidents referred to, establishes that he is no longer suitable to be a security worker. If so, I need to decide whether Mr Kaveinga's COA should be cancelled or some other disciplinary action taken.

[4] Sergeant Gallagher says that the first rule of the Head Hunters is that a member is not to give statements to or interact or give assistance to the Police in any inquiry or investigation against either friend or foe. He says this directly conflicts with Mr Kaveinga's responsibilities as a certificate holder. People working in security are required to work closely with the Police in keeping the peace and by assisting them in their investigations. Sergeant Gallagher says that rather than working cooperatively with the Police Mr Kaveinga has recently demonstrated hostility towards individual police officers even while working in security.

[5] Sergeant Gallagher also says that having patched gang members working in security can compromise the safety of their employers as well as the public. He advised that there is an ongoing war between the gangs in the city, including the Head Hunters. He considered it raises significant concerns for the safety of the public if patched members were working in security, particularly at pubs and clubs. Not only could they allow fellow gang members into clubs while armed but they could provide information to gang bosses about other gang members on the premises or pass on other confidential information obtained while working.

[6] Mr Kaveinga did not deny Sergeant Gallagher's evidence as to the first rule of the Head Hunters but declined to advise whether he knew about this rule. I am however satisfied that Mr Kaveinga knows the key Head Hunters rules as these would have been part of the process of becoming patched.

[7] Mr Kaveinga however says that this Head Hunters' membership is separate to his work life and should have no impact of him being a certificate holder. He says in the almost three years he has held a COA there have been no issues of concerns or complaints about his work. In addition, he has no criminal convictions.

[8] Mr Ah Loe confirmed that he has had no concerns in relation to Mr Kaveinga or his honesty or his trustworthiness in relation to the work Mr Kaveinga has done for his company. He however acknowledged that until the hearing he did not know that Mr Kaveinga was a gang member, or the other incidents outlined in the Police complaint. He accepted the information the Police provided raise questions as to Mr Kaveinga's suitability to be a security worker.

[9] Mr Kaveinga also said that some of the Police concerns were not relevant to him as at he did not work as a bouncer but mainly worked events. However, Mr Ah Loe confirmed that Mr Kaveinga worked in crowd control for some of the restaurants and clubs for which Mr Ah-Loe's company provided security. In addition, some of the Police concerns were applicable to other security work Mr Kaveinga does at supermarkets.

[10] Given the first rule of the Head Hunters I do not accept Mr Kaveinga's submission that being a patched gang member is separate from his work life. As a security worker he is required to work cooperatively with the Police and to assist them in keeping the peace and when carrying out investigations. This is applicable whether working at events, pubs and clubs or guarding at supermarkets. I also note that the Head Hunters first rule of lack of cooperation with the Police is reflected in Kaveinga's conduct in the four most recent incidents the Police outlined and two of those were when Mr Kaveinga was working in security.

[11] None of the incidents outlined in the Police complaint would in themselves be enough to establish that Mr Kaveinga is no longer suitable to be a COA holder. However, becoming a patched member of a gang such as the Head Hunters establishes that Mr Kaveinga is no longer suitable to carry on the classes of security business to which his certificate relates, particularly when considered in the context of the other incidents outlined in the complaint.

[12] I therefore need to decide whether Mr Kaveinga's COA should be cancelled or whether I should, instead of or in addition to cancellation, exercise any other of the other disciplinary powers set out in s 81 of the Act.

[13] Security work has been the main source of Mr Kaveinga's income for the almost three years. I accept that Mr Kaveinga has a young family he supports and cancelling his COA could cause both him and his family financial hardship. However, Mr Kaveinga's unwillingness to give up his membership of the Head Hunters to retain his certificate of approval tends to show that he has greater loyalty to the Head Hunters than to his employer or his responsibilities as a security holder.

[14] This means that if Mr Kaveinga continues to work in security, he is unlikely to cooperate with the Police when required. In addition, there is a risk that the security of the companies that engage him and the public safety could be compromised. I therefore conclude that Mr Kaveinga's COA should be cancelled. I will however defer the cancellation for two weeks so

that Mr Kaveinga's employers can rearrange schedules and for Mr Kaveinga to try and obtain alternative employment.

[15] Cancelling Mr Kaveinga COA does not preclude him from applying for a new COA in the future. However, to be successful with any future application he will need to provide evidence that he is no longer a patched member of the Head Hunters.

Conclusion and Orders

[16] The Police have established that Mr Kaveinga is no longer suitable to be a certificate holder because he has become a patched member of the Head Hunters. I therefore make the following orders:

- a) Mr Kaveinga's certificate of approval is cancelled effective from Friday 21 May 2021.
- b) Mr Kaveinga is to return his official ID to the Licensing Authority within seven days of his certificate of approval being cancelled. Failure to do so is an offence under the Act.

DATED at Wellington this 4th day of May 2021



P A McConnell

Private Security Personnel Licensing Authority