

NZPSPLA 002047 / 2019 &  
NZPSPLA 009496 / 2020

**IN THE MATTER OF**

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

**AGAINST**

**HAYDEN JAMES**

License and Certificate holder

**DECISION**

[1] Hayden James has been the holder of an individual license, and a Certificate of Approval (COA) in the classes of property guard, crowd controller and personal guard since 2019 and 2021 respectively. Both were suspended on 10 February 2021.

*Background*

[2] Two complaints have been filed against Mr James. The first, an anonymous complaint, was filed on 14 January 2021. That complainant submitted that Mr James was no longer suitable to be a certificate holder and alleged that:

- Mr James was facing criminal charges for violent offending in the Lower Hutt District Court, the subject matter of which raise questions as to his suitability to be a certificate holder
- Mr James had recently been dismissed or asked to leave various security roles as his employers had been concerned about his behaviour.
- Mr James had set up a business and website under the name of K9 Security Services Wellington <https://www.k9securitywellington.net/> which lists various employees. Some of the team do not hold COAs and may be fictitious.

[3] The second complaint was filed by the Police on 5 February 2021 and alleged that Mr James was guilty of misconduct on the basis that he was facing three active charges and multiple investigations and had left the country for Australia.

[4] The complaints were referred to the Complaints, Investigations and Prosecutions Unit (CIPU) who prepared a report in July 2021. CIPU made the following findings:

- (a) Mr James has breached the Act by carrying on business under a trading name that had not been approved by the Authority.
- (b) Mr James has been the subject of complaints of inappropriate behaviour in multiple previous security positions.

- (c) Mr James has engaged in behaviour that could be categorised as misconduct under the Act and at the higher end of misconduct.
  - (d) Mr James is not a suitable person to hold a license or certificate under the Act.
- [5] Upon Mr James' return to New Zealand, he was discharged without conviction on the charges of intentional damage, assault and disorderly behaviour on 22 October 2022.
- [6] Following a case conference during which Mr James confirmed he would be defending the complaints, a hearing was set down for 29 June 2023. Subsequently however Mr James has advised that he has changed his position and does not want to defend the complaints, being aware that his lack of engagement in the process would most likely lead to his COA and license being cancelled. He did indicate that he would consider applying again in the future for a COA.
- [7] The Police have advised that Mr James is now facing further charges, including one for fraud.
- [8] Given Mr James is no longer defending the complaints against him, I vacate the hearing that had been set down and make this decision based on the evidence available to me at this time. The parties have been appraised of this.

#### *Decision*

- [9] The questions for the Authority are as follows:
- (a) Does Mr James now have disqualifying grounds pursuant to s62 of the Act which would preclude him from holding a COA or licence?
  - (b) Has Mr James been guilty of misconduct or gross negligence in the course of his security work pursuant to s80(1)(e) of the Act?
  - (c) Is Mr James no longer suitable to carry on security work because of his character, circumstances or background pursuant to s80(1)(aa) of the Act?
  - (d) If the answer to any of the above is in the affirmative, should Mr James' license and/or COA be cancelled, or should any other penalty be imposed?

#### *Disqualifying grounds*

- [10] Mr James has had his license and his COA suspended which is a disqualifying ground pursuant to s62(g). Further, Mr James has a conviction for fraud and a number of convictions for improper use of emergency call services from Australia on 27 January 2023. These are not offences of dishonesty as referred to in s62(f)(vi) of the Act as they were not the specific offences referred to in section 4 of the Act. However, had they been convictions from a New Zealand court, they may well have been.

### *Misconduct*

[11] Misconduct is defined in section 4 of the Act as conduct that a reasonable person would consider to be disgraceful, willful, or reckless.

[12] Having considered all the evidence and submissions available to me, I find that Mr James is guilty of misconduct and/or gross negligence, some of which was in the course of his security work. I have made this finding as I am satisfied that a reasonable person would consider Mr James' behaviour, when considered in totality, to be willful or reckless on the basis of the following:

- (i) The CIPU finding that Mr James has breached the Act by carrying on business under a trading name that had not been approved by the Authority. I do not accept Mr James' explanation that this was a misunderstanding.
- (ii) The CIPU finding that Mr James is guilty of inappropriate behaviour across multiple roles in multiple security organisations.
- (iii) The CIPU conclusion that Mr James' behaviour has reached the threshold for misconduct, in particular:
  - a. Threats of violence or aggression.
  - b. Inappropriate behaviour towards managers.
  - c. The approach he employed ostensibly directed towards de-escalation which in fact led to actions that had the potential to cause harm.
  - d. His use of alias names.
  - e. His use of blackmail.
- (iv) The charges that have been laid against Mr James which include offences of violence and dishonesty and relate to his actions whilst working as a security worker.

### *Suitability*

[13] Based on the above, but also the following, I find that Mr James is no longer of suitable character to work in security:

- a. That Mr James left New Zealand while facing active criminal charges.
- b. Mr James has been convicted of offences of dishonesty in Australia within the last six months.
- c. That Mr James is not and has not involved himself fully in the Authority's investigation into the matter.
- d. That Mr James appears to be applying for security work whilst his COA and license are suspended.

[14] Accordingly, I have found the answers to the three questions posed at clause 9 above to have been answered in the affirmative.

### *Conclusion*

- [15] In considering the appropriate response to the above findings, I note that a finding of misconduct is a discretionary ground for the cancellation of a COA or license.<sup>1</sup> Further, as it has been established that Mr James now has disqualifying grounds to holding a COA or license, unless Mr James could establish that he is suitable to hold a COA or license, I must cancel his COA and license pursuant to ss79(1)(a) and 82(a) of the Act. Mr James has not established that he is suitable to continue to work in security.
- [16] On the basis of the above, I find that Mr James is no longer suitable to hold a COA or individual license. Accordingly, I direct that his COA and individual license are cancelled<sup>2</sup>, effective immediately. Mr James must immediately return his COA identification badge to the Authority, he has already returned his individual license.
- [17] Mr James should be aware that if he was to apply in the future for a COA or license, he would need to prove to the Authority that he is suitable to work in security despite my findings and the disqualifying factors that apply to him<sup>3</sup>.
- [18] A copy of the decision will be sent to all parties and will be published on the Licensing Authority's website. Mr James has requested that this decision not be published, however the Authority must publish such decisions unless it can be established that it would be contrary to the interests of justice to do so. I do not consider it established that it would be as Mr James has not provided any medical or other evidence that would support his position. I am also satisfied, given the nature of Mr James' acts, that it is in the public interest to publish this decision unredacted.

**DATED** at Wellington this 22nd day of May 2023



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

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<sup>1</sup> Ss80(1)(e) and 83(e) of the Act

<sup>2</sup> Pursuant to ss80(1)(aa) and 83(e) of the Act

<sup>3</sup> S62(h) of the Act

