

IN THE MATTER OF

Complaint under s 74 of the Private Security Personnel and Private Investigators Act 2010 (the Act) against **STEPHEN SIGNAL**

DECISION

[1] In June 2022 Craig Webb filed a complaint with police and the Private Security Personnel Licensing Authority (PSPLA) against Stephen Signal. He says that Mr Signal used company vehicles and fuel for non-work-related activities without authorisation and submitted false patrol reports and timesheets for payment.

[2] I referred the complaint filed with the PSPLA to the Complaints Investigation and Prosecution Unit (CIPU) for investigation and report. CIPU concluded that Mr Signal misled his employer by using a company vehicle for non-work-related activities and submitted false time sheets from 4 August 2021 to 5 April 2022. Their investigation also established that Mr Signal worked from July 2021 to 4 April 2022 in a security role without having the required certificate of approval (COA).

[3] When Mr Signal did finally obtain a COA it was in the classes of private investigator, security technician and security consultant and did not include the class of property guard. Mr Signal's explanation of the work he did for Mr Webb was mainly in the class of property guard. CIPU also expressed concerns about whether Mr Signal has sufficient relevant experience to be a certificate holder in the classes for which he applied. They noted Mr Signal's admission that he did not know or understand his obligations under the Act.

[4] Police also investigated the complaint filed with them and concluded Mr Signal had committed an offence under s 240(1)(c) of the Crimes Act but proposed a resolution of a formal warning and reparation of \$568.75. Mr Signal accepted this resolution offer.

[5] Mr Webb considers Mr Signal should also be accountable from a licencing perspective. He says Mr Signal is guilty of misconduct and is no longer suitable to be a certificate holder.

[6] Mr Signal denies he is guilty of misconduct and says any contravention of the Act was more the responsibility of Mr Webb as his employer. He says he was not told he needed a COA or given any guidance in the classes for which he should apply. He says he did not include property guard in his COA application as most of the work he did was in the classes for which he did apply.

[7] Mr Signal also says any misuse of vehicles and incorrect information on time sheets was the fault of his employer and the lack of training and guidelines provided to him following his appointment. While Mr Signal accepted the police offer of a warning and paid the amount directed he now questions whether he should have done so. He considers he submitted reports and documents with an honest belief that they were correct and has done nothing wrong.

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

- Did Mr Signal mislead his employer by using a company vehicle and submitting false time sheets for non-work-related activities?

- Did Mr Signal contravene the Act by working in restricted security roles without holding a COA? If so what classes did he require for his certificate?
- Is Mr Signal guilty of misconduct?
- What is the appropriate disciplinary action?

Did Mr Signal mislead his employer by using a company vehicle and submitting false time sheets for non-work-related activities?

[9] CIPU reviewed all the documentary evidence provided and concluded that Mr Signal misled his employer by using a company vehicle and fuel for personal use without the appropriate authority and that he submitted false times sheets for activities not related to work. Police also considered there was sufficient evidence to support a charge of obtaining by deception against Mr Signal for his conduct while working for Mr Webb's company.

[10] I have also examined the documents presented and all interview notes and agree with CIPU's conclusion. I do not accept Mr Signal's claim that this was an honest mistake caused by his employer's lack of policies and information on expectations.

[11] Prior to commencing employment Mr Signal was provided with a 48-page employee handbook detailing his employer's rules regulations and policies. Mr Signal signed the form acknowledging he had received and read this handbook on 12 July 2021.

[12] The handbook contained sufficient detail about time recording requirements, and the need to return to work following authorised breaks punctually. It also stated that use of employer's vehicles without approval or private use of the commercial vehicles without authorisation would make an employee liable for disciplinary action.

[13] The Handbook contained a further detailed section on employees' responsibilities relating to motor vehicles which among other things stated:

- Unless contrary arrangements exist in writing, we will only reimburse you for fuel and oil used on Employer business. Claims must be submitted on a report sheet signed by you and accompanied by receipts. All receipts should be itemised, and a deduction shown for that part of the fuel attributable to private use.
- Fuel cards to be used for business related travel only.
- Employer vehicles may only be used for authorised business unless previous arrangements for private domestic or social use have been agreed in advance.

[14] Mr Signal claims to be an experienced investigator and advises that much of his police experience was in the areas of counter terrorism, surveillance, and technical monitoring. With this experience he should have been readily able to understand the information he was given and what was required of him. His insistence that he was not aware of his obligations in relation to vehicle use and time recording is not credible.

[15] Even if Mr Webb had not read or understood the Handbook, in a team meeting in January 2022 Mr Web clarified the expectations of vehicle use by staff. Mr Webb's incorrect reports continued after this meeting.

[16] I accordingly conclude that Mr Signal knowingly deceived his employer by submitting false time sheets and by using his company vehicle and fuel for non-work related activities without the required approval.

Did Mr Signal contravene the Act by working in restricted security roles without holding a COA?

[17] Mr Signal agrees that he worked in a role that required him to hold a COA from July 2021 to 4 April 2022 when he was granted a COA in the classes of private investigator, security technician and security consultant. Mr Signal says he did not apply for a COA earlier as he did not know he was required to do so. He said he knew nothing about the security industry requirements at the time nor the process to get a COA and was not given any advice about this until several months after he started working. He says that once he was advised that he needed a COA he took steps to get the necessary documentation from the United Kingdom to establish his training and experience.

[18] Mr Webb disputes Mr Signal's account as he says the issue of holding a COA was included in the advertisement and in the initial interview. He says he asked Mr Signal on several occasions what was happening with his COA application and Mr Signal blamed delays on the PSPLA processes.

[19] Following the hearing Mr Webb provided a copy of the advertisement to which Mr Signal replied which contains a reference to holding a COA. He also provided interview notes that show the question of a COA was raised with Mr Signal at the interview. In response to this Mr Signal says he does not recall any references to a COA in the advertisement and interview as they occurred months before he accepted the reoffered position. He considers Mr Webb's company is the one at fault as they employed him without holding a COA.

[20] The fact that Mr Signal's employer also contravened the Act by continuing to employ him although he did not have a COA does not justify Mr Signal's delay in applying for a COA. Given the information in both the advertisement and interview sheet it is highly unlikely that Mr Webb did not follow up on the necessity for Mr Signal to obtain a COA at the beginning of his employment. I accept Mr Webb's evidence that he did so.

[21] I therefore do not accept Mr Signal's defence that he was not aware of the licencing requirements until months after he commenced working for Mr Webb's company. I also do not accept his evidence that he knew nothing about private security licencing requirements in the UK prior to returning to New Zealand.

[22] In the supporting information to his COA application Mr Signal advised he completed courses with the Professional Bodyguard Association UK and completed numerous assignments as an executive personal protection officer from 1996 until 2004 when he became a sworn police officer with the Metropolitan Police. Even in the unlikely event he had no contact with the private security industry while working for the police, as he claims, Mr Signal must have been aware of the Security Industry Authority in the UK while working as a personal protection officer. The Security Industry Authority is the United Kingdom equivalent of the PSPLA and was established in 2001.

[23] I therefore conclude that Mr Signal knowingly contravened s 44 of the Act by working in security without a COA. In addition, when Mr Signal finally applied for a COA he did not include the class of property guard in his application although most of his work was in this class. Mr Signal therefore continued to contravene s 44 of the Act by working as a property guard without having a COA in the class of property guard.

[24] Mr Signal advised CIPU that his work involved checking gates, checking permits and general security patrolling in rural areas. This is the work of a property guard employee as defined in s 17 of the Act. At the hearing Mr Signal said he did not include property guard as

by the time he applied for a COA most of his work was as a security technician and investigator. This claim however is inconsistent with both what he told CIPU and his time sheets for the latter part of his employment.

[25] Mr Signal also states that he was given no guidance on the classes for which he should apply, and he needed to undertake his own research. There are clear explanations of the classes on the PSPLA website which Mr Webb should have been able to understand given his training and background. It is inexplicable therefore that Mr Webb did not include property guard in his application.

Is Mr Signal Guilty of Misconduct?

[26] Section 74(4) of the Act states that it is a ground for a complaint if a certificate holder, such as Mr Signal, has been guilty of misconduct or gross negligence. Misconduct is defined in s 4 of the Act as being.

Conduct by a licensee or certificate holder that a reasonable person would consider to be disgraceful, wilful, or reckless or conduct that contravenes this Act or any Regulations made under this Act

[27] I have already concluded Mr Signal contravened s 44 of the Act by working in security without a COA and by continuing to work as a property guard without a COA in that class. He is therefore guilty of misconduct.

[28] In addition, a reasonable person would consider Mr Signal's actions of submitting false time sheets and the misuse of his company vehicle to be disgraceful or wilful. However, the majority, if not all, of this conduct occurred before Mr Signal obtained a COA.

What is the appropriate penalty

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

[30] In determining the appropriate penalty, I need to consider the gravity of the misconduct, the impact of any penalty and any other relevant factors in relation to Mr Signal's competency, experience, and character.

[31] I accept the majority of Mr Signal's misconduct occurred before he held a COA. It is however of concern that Mr Signal continued to breach the Act by working as a property guard both throughout the application process and after he received a COA although he had not applied for a COA in that class.

[32] The amounts obtained by Mr Signal in submitting false time sheets and patrol reports were not large and the majority was repaid as part of the agreed resolution with police. However, Mr Signal's deceit was sustained, kept occurring even after a reminder of the guidelines, and involved a significant breach of trust.

[33] A conviction on the charge for which Mr Signal received a formal warning would be grounds for disqualification under s 62 of the Act. This would be the case even if the offending had not occurred in the course of his employment or he was not a COA holder.

[34] If Mr Signal had learnt from his mistakes, acknowledged his wrong doing, and showed that he understood his responsibilities under the Act and as a security employee he could have kept his COA. However, he has not done so. He continues to say he has done nothing wrong, or if he has it his not his responsibility but that of his employer. I have no confidence he would not reoffend in a similar way with another security employer.

[35] In addition, Mr Signal has shown that he has little understanding of the Act and that he does not understand the requirements and expectations of a COA holder. He has also demonstrated a reluctance to undertake further training or take other appropriate steps to be better informed.

[36] After considering all the evidence before me I conclude that Mr Signal is no longer suitable to be a responsible security employee. I accordingly make the following orders:

- a) Mr Signal's certificate of approval is cancelled effective from Monday 10 July 2023.
- b) Mr Signal is to return his Security ID to the Licensing Authority within seven working days of receipt of this order. Failure to do so is an offence under the Act.

DATED at Wellington this 4th day of July 2023


P A McConnell

Private Security Personnel Licensing Authority