

IN THE MATTER OF

A complaint, and an application for a Certificate of Approval filed by **TYRIN HAMUERA TUTAKI** objected to by the **POLICE** pursuant to the Private Security Personnel and Private Investigators Act 2010

HEARD virtually on 27 July 2023

APPEARANCES

Artie McClelland and John Hennebry
for The Complaints, Investigation and Prosecution Unit
Tyrin Tutaki

DECISION

1. Mr Tutaki is formally reprimanded for breaching s44(1) of the Act.
2. Mr Tutaki is granted a temporary COA on the condition that he not come to the negative attention of Police.

REASONING

- [1] Tyrin Hamuera Tutaki has applied for a certificate of approval (COA), and temporary COA in the classes of crowd controller, property guard and personal guard. He has not as yet been issued with a temporary COA as he has a disqualifying conviction.
- [2] The Police object to Mr Tutaki's application as in 2018 he was convicted of having unlawful sexual connection with a minor and is listed on the Child (Sex Offender) Protection Register (CSOR) until July 2026.
- [3] Further, a complaint was filed in 2021 by a member of the public against Mr Tutaki alleging that he was working whilst not holding a COA and given his previous conviction should not be working near vulnerable people. The complaint was referred to the Complaints, Investigation and Prosecution Unit (CIPU) for investigation and possible prosecution. CIPU have now completed their report and found as follows¹:
 - [a] Mr Tutaki carried out the role of property guard for a number of years without a COA which is in breach of section 44(1)(e) of the Act.
 - [b] There is sufficient evidence to prosecute Mr Tutaki for his breach of the Act, however it is recommended that the Chief Investigator formally warn him.

¹ June 2023

- [4] Given the seriousness of his conviction, the matter was heard by way of audio-visual hearing. The Police did not attend the hearing however representatives of CIPU did, as did Mr Tutaki.
- [5] Given Mr Tutaki's disqualifying conviction², he is not eligible for a COA unless the Authority can be satisfied that despite his conviction, he is still appropriate to work in security, i.e., he is of suitable character.
- [6] Mr Tutaki confirms that he has completed appropriate rehabilitation treatment since he was convicted in 2018 following an offence committed when he was a teenager. He is confident that he is no threat to the community and has been working very hard since that time to be an asset to the community. He has obtained a number of qualifications and has passionately worked in the security industry for a number of years. He is very self-aware and in particular he is aware of risk factors and how to mitigate them.
- [7] In support of Mr Tutaki's submission that he is of suitable character, his employer, Ms Stewart made the following comments:
- [i] The shops where Mr Tutaki works are all aware of his background and yet not only do they allow him to work on their premises, but they actively support him.
 - [ii] He is professional and reliable and is committed to his work.
 - [iii] His knowledge and dedication to the industry is outstanding.
- [8] Further references have been provided from the stores where Mr Tutaki has provided security services which are wholly complementary. They say he has a strong work ethic and considerable skill in the area. They also say he shows accountability for his actions and great maturity.
- [9] With regard to his working without a COA, Mr Tutaki says he relied on the advice his employer gave him that he did not require one given the nature of the work they undertake. As soon as he was made aware of the situation he has applied for a COA and has been cooperative with CIPU and the Authority in regularising his situation.
- [10] It is of concern to me that Mr Tutaki has had significant interaction with the Police over the years and yet they have never raised the question of their regulatory compliance. He has attended family group conferences and court hearings and corresponded with Police extensively and yet they have never questioned his ability to conduct the work he undertakes. There is also no evidence they have any concerns about his actual security work, they only object, as they are required to do, on the basis he does have a disqualifying conviction.

² S62(d) of the Act

- [11] Having considered all of the evidence and submissions available to me, I am satisfied, that despite Mr Tutaki's conviction, he is currently suitable work in security. Mr Tutaki has clearly worked very hard since his conviction which he received due to behaviour when he was fairly young. He presents extremely well and is clearly well educated and an intelligent, competent young man. I agree with his employer that he is an asset to the security industry.
- [12] In coming to this decision, I have had the benefit of reading a submission by Detective Ant King, a Detective on the CSOR who manages Mr Tutaki. Detective King advises that Mr Tutaki has been assessed as being of the lowest risk of reoffending and the fact that he has had steady employment for four years is considered a protective factor against future risky behaviour. Detective King says there have been no complaints from the public, relevant to his conviction, about his behaviour while he has been in a work capacity which is significant as he has been working in the loss prevention role for a number of years, has exposure to many people in his role, and works in an environment which is well covered by CCTV cameras.
- [13] Accordingly, I grant Mr Tutaki's temporary COA on the condition that he not come to the negative attention of Police whilst performing his role. Should he breach this condition, the Police may apply to immediately suspend his COA.
- [14] Mr Tutaki will then be eligible for his full COA with the same condition when he has completed his required training and filed a copy of his record of achievement.
- [15] Mr Tutaki is formally reprimanded for his breach of the Act, but no further disciplinary action is considered proportionate given the circumstances. I accept that he relied on his employer's advice however given his industry knowledge and level of intelligence, I also consider he wilfully ignored the situation.
- [16] This decision is to be published with no redaction. Mr Tutaki's community clearly knows him and the majority support him, which is a credit to him and his work.

DATED at Wellington this 1st day of September 2023



K A Lash

Deputy Private Security Personnel Licensing Authority