

IN THE MATTER OF

A complaint made under s 73 of the Private Security Personnel and Private Investigators Act 2010 (the Act)

AGAINST

C SECURITY LIMITED

HEARD virtually on 4 September 2023

DECISION

[1] The Complaints Investigation and Prosecution Unit (CIPU) investigated C Security and its sole director Mr AB as part of a wider complaint into related entities. CIPU concluded C Security and Mr AB breached the Private Security Personnel and Private Investigators Act 2010 (the Act) by:

- Permitting Mr FR to act as a company officer without the consent of the Authority – s 40(6) of the Act.
- Allowing Mr DM to carry out security work although he does not hold a licence or certificate.

[2] Mr AB accepts that he or his company have contravened the Act by not obtaining the appropriate approvals when a new company officer was appointed and by paying Mr DM to carry out security work although neither he nor the entity he was purporting to trade through had a security licence. Mr AB however advises that as far as possible he has remedied any breaches and fully cooperated with the investigation. He accordingly asks that a penalty short of a cancellation of his licence be imposed.

[3] Contravening the Act amounts to misconduct as defined in s 4 of the Act and misconduct is a discretionary ground for cancelling a licence or certificate. As Mr AB accepts his company contravened the Act and is therefore guilty of misconduct the only issue I need to decide is what penalty should be imposed.

[4] In deciding the appropriate penalty, I need to consider the gravity and context of the misconduct and how it impacts on C Security and Mr AB's suitability to be a licence or certificate holder. I also need to consider the impact of any penalty and any other relevant factors relating to Mr AB's competency, experience, and character.

[5] Mr AB has held a certificate of approval in various classes since 2012 and has worked for and run other security companies. He started operating his security business through C Security to distance himself from his previous security company. Around that time Mr DM moved some contracts to C Security. Although neither Mr DM nor the entity he purported to contract through held a security licence, C Security continued to pay him to manage security contracts and provide guards to several venues.

[6] During most of this period Mr AB was not the director of C Security. He explains that he agreed to sell C Security to Mr FR who was appointed as director of the company in March 2021. No application for approval for Mr FR to act as a company officer was filed under s40 of the Act.

[7] When the sale did not progress, Mr AB took back control of the company and Mr FR was subsequently removed as a company officer. Mr AB also extricated C Security from the contracts organised by Mr DM and stopped all association with him.

[8] Mr AB advises that since then all security workers engaged or employed by C Security hold the appropriate certificates or licences. It files the required annual reports and complies with all other requirements under the Act. C Security is now only involved in providing security for other businesses associated with Mr AB.

[9] Mr AB outlined the background as to how the breaches of the Act arose and the barriers he has faced in sorting out the difficulties in which he found himself. I am satisfied that Mr AB has learnt from the mistakes made and taken all reasonable steps to ensure similar breaches will not happen again. I also accept that C Security is now complying with its obligations under the Act and that as far as possible the past breaches have been rectified.

[10] I therefore accept Mr AB's submission that a fine is a more appropriate penalty than either suspension or cancellation of C Security's licence.

Summary & Orders

[11] C Security and Mr AB are guilty of misconduct as they contravened the Act by appointing Mr FR as a company director without the approval of the Licensing Authority. They are also guilty of misconduct by paying Mr DM to carry out security contracts for them although he did not have a licence or certificate.

[12] In the circumstances I conclude the appropriate penalty is a fine and a formal reprimand: I therefore order:

- C Security is fined \$600.00.
- Mr AB and C Security are formally reprimanded.
- This decision is only to be published in an anonymised form. Final suppression orders are made in relation to the CIPU report, and the names of the parties involved.

DATED at Wellington this 8th day September 2023



P A McConnell
Private Security Personnel Licensing Authority