

**IN THE MATTER OF**

Complaint by **AB** against **CD** made under s 74 Of the Private Security Personnel and Private Investigators Act 2010 (the Act)

**DECISION**

[1] Brendan AB has made a complaint against CD. Ms CD was engaged by NZ Company to undertake an investigation into AB Limited, and their performance regarding the management of fulltime salaried staff.

[2] Section 74(2) of the Act states that a member of the public, such as Mr AB, may only file a complaint with the leave of the Authority. Section 74(3) provides that I should only grant leave if I am satisfied that Mr AB has an interest, greater than that of the public generally, in the subject matter of the complaint, and that the complaint is made in good faith and is not frivolous or vexatious. Section 74(4) of the Act sets out the grounds upon which a complaint against a certificate holder can be made.

[3] I am satisfied that Mr AB has an interest greater than the public generally in the subject matter of his complaint. It is however necessary to look at each of the allegations made by Mr AB to determine whether there are grounds under the Act upon which the complaint can be made, and if so whether I should grant leave to file the complaint.

[4] In the complaint form, Mr AB alleges that Ms CD:

- Failed to abide by the code of conduct.
- Contravened a provision of the Act.
- Breached a condition of her certificate of approval.

**Failure to abide by the Code of Conduct**

[5] Mr AB says that Ms CD failed to comply with the code of conduct for private investigators but provides no details of how Ms CD has breached the code. The code of conduct is set out in the Private Security Personnel and Private Investigators (Code of Conduct – Surveillance of Individuals) Regulations 2011.

[6] The code only deals with covert recording and surveillance. There is no evidence or even allegation that Ms CD undertook any surveillance or covert recording. There is accordingly no basis for this part of the complaint.

**Contravening the provisions of the Act**

[7] Mr AB also says that Ms CD has breached the provisions of the Act but does not stipulate what sections of the Act she breached. Mr AB makes two specific complaints about Ms CD's investigation. The first is that it was a conflict of interest for Ms CD to accept the appointment as she has previously worked for NZ Company. The second is that she did not fully understand company law and that the report furnished was suitable for a dispute between employees, and not that between two contracted parties.

Mr AB provides no evidence to support either allegation. Even if he had, and they were established, they would not amount to a contravention of any section of the Act. There is accordingly no factual basis to this part of the complaint.

### **Breached a condition of her certificate**

[8] Mr AB has provided no details of either the conditions of Ms CD's certificate or how she breached any conditions attached to her certificate. The two allegations outlined in [7] above are not breaches of her certificate. Therefore, there is no basis upon which this ground of the complaint can proceed.

### **Conclusion**

[9] I accept Mr AB disagrees with some of Ms CD's findings as set out in her report. However, the fact she has previously worked for NZ Company in itself is not a conflict of interest. In addition, I do not consider the difference in employment contracts and other commercial contracts is sufficient to disqualify Ms CD from carrying out the investigation and does not amount to unsatisfactory conduct.

[10] For this Authority to investigate the matters further and determine whether Ms CD's conclusions and opinions are right or wrong would require a reinvestigation of the complaints that form the basis of Ms CD's investigation. This is not something that it is appropriate for me to do. In addition, it is not within my jurisdiction to decide an appeal against Ms CD's report as requested by Mr AB.

[11] For the reasons outlined above I conclude that Mr AB has not provided any legal or factual grounds for his complaint against Ms CD that are within the jurisdiction of this Authority. Leave is accordingly refused for Mr AB to file his complaint and the complaint is dismissed.

**DATED** at Wellington this 12<sup>th</sup> day of December 2023

The image shows a handwritten signature in blue ink, which appears to read 'P A McConnell'. To the right of the signature is the official seal of the Private Security Personnel Licensing Authority. The seal is circular with a blue border containing the text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY'. Inside the seal is the coat of arms of New Zealand, featuring a crown at the top, a shield with a cross and four quarters, and two figures holding a shield.

P A McConnell  
**Private Security Personnel Licensing Authority**