

IN THE MATTER OF

A complaint under s 74 of The Private Security Personnel and Private Investigators Act 2010 (the Act) against **JOHN WOOD** and application by **CUSTOM AUTO SERVICES LIMITED** for a company licence

DECISION

Background

[1] In August 2023 I found that John Wood contravened ss 23, 66 and 67 of the Act by running a property guarding business (car clamping) without a licence, failing to wear his ID badge in a visible place, failing to produce his COA on request, and not providing details of who he was working for when requested. I therefore concluded that Mr Wood was guilty of misconduct.

[2] I put off deciding what penalty to impose for Mr Wood's misconduct as he advised he would be remedying the s 23 breach by filing an application for a company licence.

[3] Mr Wood filed an application for a company licence in the name of Custom Auto Services Limited on 31 August 2023. Evidence provided during the complaint process showed that Mr Wood was unaware of his obligations under the Act and at times displayed a cavalier attitude towards people with whom he came in contact. This raised questions about whether Mr Wood was suitable to be the sole company officer of a licence holder.

[4] I therefore referred the application to the Complaints Investigation and Prosecution Unit (CIPU) for investigation and report. Police also filed a complaint against Custom Auto Services' application on character and behaviour grounds largely based on the misconduct findings referred to above.

CIPU Investigation & further evidence

[5] CIPU conclude that there is no evidence that Mr Wood has continued to clamp cars since the hearing into the complaint. In addition, police have received no further complaints about Mr Wood's conduct. While no other significant concerns were raised some of the businesses in the area where Mr Wood had clamped cars commented on his overzealous approach to the clamping of vehicles.

[6] CIPU also note that Mr Wood keeps no records of the cars he clamps and there is no record of invoices or receipts being issued. CIPU consider Mr Wood needs to maintain better accounting processes including a log of dates and times where vehicles are clamped if his company is to be granted a security licence.

[7] Mr Wood denied accepting cash payments when speaking to the CIPU investigator. However, he did not challenge the complainant's evidence that he demanded cash payments until after my previous decision was released. Police also recalled a 2019 incident to which they were called where Mr Wood was demanding \$100 in cash to remove a clamp but subsequently settled for \$70.

[8] This incident is consistent with the modus operandi that Mr McLuskie outlined in his complaint and during the hearing. I accordingly conclude that it is more likely than not that Mr Wood regularly requested cash payments from owners of cars he clamped. The extent of these cash payments is unable to be established as Mr Woods does not keep proper business records and cash payments do not appear to have been banked into Custom Auto Services Bank Account.

[9] Police have also raised concerns that Mr Wood is the victim of a romance scam but refuses to accept it. CIPU questioned the identity of the person whose cancer diagnosis Mr Wood gave as the reason for what he says was uncharacteristic behaviour in his interactions with Mr McLuskie. Mr Wood has not answered those questions.

Application for a company licence by Custom Auto Services

[10] Mr Wood's failure to maintain basic business records for his car clamping business raises serious questions about Mr Wood's suitability to be the sole company officer of a security company. Further concerns are raised by Mr Wood's lack of understanding of his responsibilities under the Act despite being a certificate holder since the PSPLA was established. CIPU also report that Mr Woods business appears to be regularly in overdraft which may also be a sign of Mr Wood's lack of business acumen.

[11] In his response to the CIPU report, Mr Wood has not addressed the concerns about failure to keep any business records for his car clamping business. There is no evidence that he has taken any steps to better understand his responsibilities as a security licence holder or any intention to adopt better record keeping. He does however say that the financial state of his business is fine but then says that as a pensioner he is not in a position to pay a large fine.

[12] If Mr Wood had taken steps to improve his business records and made a genuine attempt to better understand his responsibilities as a potential security licence holder, I may have been prepared to grant Custom Auto Services' application for a company licence. However, he has not done so, and it is unlikely that he will begin to do so now.

[13] Therefore, after considering all the evidence before me relating to Mr Wood's character, circumstances, and background I am satisfied he is not suitable to be the sole company officer of a security licence holder. Custom Auto Services Limited's application for a company licence is accordingly dismissed.

What is the appropriate penalty for Mr Wood's misconduct?

[14] I previously concluded that Mr Wood has contravened the Act and is therefore guilty of misconduct. 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.

[15] 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 Wood's competency, experience, and character.

[16] Mr Wood has held a certificate of approval since shortly after the PSPLA was established and no prior issues have arisen with his guarding work while working for a security licence holder. All evidence of Mr Wood's misconduct relates to the operation of his wheelclamping business. The refusal to grant Custom Auto Services' company licence is a consequence of this and is a penalty in itself.

[17] I will not in addition suspend or cancel Mr Wood's certificate of approval. However, Mr Wood can only use his certificate to work for another security licence holder and not to carry on his own business. I conclude that in addition to refusing to grant Custom Auto Services a company licence the appropriate penalty is a reprimand, a fine and to impose a condition on Mr Wood's certificate that he is not to work as a property guard enforcing parking restrictions or clamping cars.

[18] . Mr Wood is advised that if he again starts operating a wheelclamping business without a licence, or breaches the condition attached to his certificate, his certificate of approval will be cancelled.

Summary and orders:

[19] Mr Wood has contravened the Act and is therefore guilty of misconduct. He has also demonstrated a lack of understanding of his responsibilities as a licence or certificate holder and has failed to keep proper business records. I therefore conclude that Mr Wood is not suitable to be the sole company officer of a security licence holder.

[20] I make the following orders:

- a) Custom Auto Services Limited's application for a company licence is declined.
- b) Mr Wood is officially reprimanded.
- c) A condition is attached to Mr Wood's certificate to the effect that he is not to work as a property guard clamping cars or enforcing parking restrictions.
- d) Mr Wood is fined \$400.

DATED at Wellington this 22nd day of December 2023


P A McConnell
Private Security Personnel Licensing Authority

