

IN THE MATTER OF Complaint against **PI & ABC INVESTIGATORS LIMITED** made under s 73 Of the Private Security Personnel and Private Investigators Act 2010 (the Act)

DECISION

[1] Ms DM was involved in Family Court proceedings with her former partner Mr TR. She believed that Mr TR had given the Family Court false details about where he was living and where their daughter would be staying while in his custody. She therefore engaged Mr PI, a licenced private investigator, to find out where Mr TR was living.

[2] During his investigation Mr PI spoke to people who lived near Mr TR and to his property manager. Mr TR claims that Mr PI is guilty of misconduct or unsatisfactory conduct by wrongfully telling people he was employed by the Ministry of Justice so he could obtain information about him. He also says that Mr PI provided confidential, but false information about him to third parties.

[3] I referred the complaint to the Complaints Investigation and Prosecution Unit (CIPU) for investigation and report. The investigation established that Mr PI introduced himself as being a private investigator licensed with the Ministry of Justice.

[4] CIPU was unable to definitively conclude that Mr PI provided private information about Mr TR to third parties although one of the witnesses recalls Mr PI specifically saying he was investigating dodging child support payments. Mr PI had not been contracted to investigate or collect arrears in child support payments and Mr TR was not in arrears at the time of the investigation.

[5] CIPU also raised concerns that Mr PI conducted an Infolog Consumer Credit search on Mr TR giving the reason as being debt collection. CIPU question whether this check was conducted for a proper purpose.

[6] Mr PI accepts he introduced himself as being licenced with the Ministry of Justice but says private investigators routinely refer to themselves in this way. He also accepts he conducted an Infolog credit search but says he did this to check recorded addresses for Mr TR.

[7] I accepted at the beginning of the hearing that the matters established during the CIPU investigation did not meet the threshold required for misconduct. The issues I therefore need to decide are:

- Was the way Mr PI described himself to people misleading or likely to mislead? If so, does it amount to unsatisfactory conduct.
- Did Mr PI undertake a credit check for an improper purpose?

Was the way Mr PI described himself to people misleading or likely to mislead?

[8] Mr PI provided a recording of two of his introductions to the investigator. In one he introduced himself Mr PI, "Private Investigator, I'm just licenced with the Ministry of Justice." In another he says

My name is [name], I was just wondering if you could help me, um, I'm doing an inquiry and I'm a licenced investigator with the Ministry of Justice.

[9] Both ways of introducing himself gave the people he spoke to the wrong impression. The second introduction outlined above would cause any reasonable person to think Mr PI was undertaking the investigation or working for the Ministry of Justice. This is in fact what they thought. All the people Mr PI spoke to thought he worked for the Ministry of Justice, the Courts, or some government organisation.

[10] The way Mr PI introduced himself was not only misleading but technically incorrect. Mr PI is licenced with the Private Security Personnel Licensing Authority (PSPLA) rather than the Ministry of Justice. The PSPLA is an independent licensing authority and disciplinary tribunal that is supported and administered by the Ministry of Justice. It is the PSPLA that issues licences and certificates.

[11] In his defence Mr PI provided links to 10 different private investigator's websites which he says contain references to being licenced with the Ministry of Justice. He also says his security ID and licence are issued by the Ministry of Justice and have the Ministry of Justice Crest on it.

[12] Including a reference to being licenced by the Ministry of Justice on a website for a private investigation business, while technically incorrect, is not as misleading as the way Mr PI introduced himself. It is clear from the rest of the websites that they are referring to privately owned and run security businesses. This was not the impression Mr PI gave the people he talked to.

[13] Mr PI also advised that he did not introduce himself as being licenced with the PSPLA as no one knew what that was. If this is the case, he should just introduce himself as being a licenced private investigator. If he is asked for confirmation he can provide a copy of his official security ID, or individual licence.

[14] Mr PI's security ID is headed up with Private Security Personnel Licensing Authority and has no reference to the Ministry of Justice. The crest on the badge is the Crown Coat of Arms, while this is also the Crest the Ministry uses it is not exclusively the Ministry of Justice crest.

[15] I accept that the way Mr PI introduced himself was more through ignorance, and lack of understanding of the impression he gave by introducing himself this way, rather than any intent to deceive. As a private investigator Mr PI should have a better understanding of the Private Security Personnel and Private Investigators Act, and the status of the PSPLA. However, the ignorance appears to be reasonably widespread among some in the industry. Therefore, I do not consider introducing himself in this way meets the threshold required for unsatisfactory conduct.

[16] Mr PI must however ensure in future he does not create the wrong impression when he introduces himself while undertaking investigations. If Mr PI wants to introduce himself as a private investigator he should just say "I am [name] PI, I am a licenced private investigator. If he wants to provide more detail, then he can say "I am a licenced investigator with ABC Investigators Limited

Did Mr PI undertake a credit check for an improper purpose?

[17] CIPU found that Mr PI had conducted an Infolog Consumer Credit search on Mr TR. The reason he stated for such a search was "Debt Enforcement". CIPU consider the Infolog trace search should have provided appropriate address information and they note that Infolog training

states that “when undertaking a credit report on an individual you need to ensure you’re utilising the service for a lawful and fit and proper purpose”.

[18] Mr PI says he had a proper purpose when undertaking the credit search as a credit search can provide alternative addresses to a trace search. For example, the credit search database sometimes leaves a footprint when tenancy application background checks are made which can reference actual addresses.

[19] Mr PI also advises he ticked the debt enforcement box as there were limited options provided and he knew Mr TR has on occasions partially missed some child support payments. Even if he ticked the wrong box, he says this would not be sufficient to make the search improper.

[20] Given Mr PI’s explanation I conclude that Mr PI did not undertake the credit search for an improper purpose.

Final Comments

[21] To provide clarity to the parties I endorse CIPU’s conclusion that the evidence is insufficient to definitively conclude that Mr PI provided private information about Mr TR to third parties. Only one witness recalls Mr PI saying he was investigating dodging child support payments. This is denied by Mr PI and unfortunately that part of their conversation was not recorded.

[22] If Mr PI had advised people that he was investigating Mr TR for dodging child support payments, it would amount to at least unsatisfactory conduct. Not only would it have been a lie, but even if it was correct, it would have been a breach of Mr TR’s privacy to pass this type of information on to unrelated third parties. These comments are made for guidance only as there is insufficient evidence to make any findings on this issue.

Summary and conclusion

[23] The way Mr PI introduced himself when investigating where Mr TR lived was misleading. However, as he did not intend to mislead his actions fell short of amounting to unsatisfactory conduct. The complaint is accordingly dismissed.

[24] As the investigation involved matters before the Family Court, final suppression orders are made in relation to the name and identity of the complainant and the person who engaged Mr PI. Mr PI’s name will also be anonymised in the published version of this decision, but no suppression orders are made in relation to Mr PI.

DATED at Wellington this 4th day of March 2024

The block contains a handwritten signature in black ink, which appears to read 'P A McConnell'. To the right of the signature is a circular official seal. The seal features a central crest with a crown and two lions, surrounded by the text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY' in a circular border.

P A McConnell
Private Security Personnel Licensing Authority