

Friday 24 January 2014

False certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor

ICAC FINDINGS

The ICAC found that Christopher Binos engaged in corrupt conduct by soliciting and receiving money from applicants for heavy vehicle driver licences in return for exercising his public official functions as a Roads and Maritime Services- (RMS) accredited heavy vehicle assessor to make false entries in their learner's log books to the effect that he had assessed them as competent to drive heavy vehicles, in accordance with RMS requirements, in order for them to apply to the RMS for heavy vehicle driver licences.

The Commission found that Alexander Daubney, Mark McDonagh, Peter Friend-Ngui, Shane Florio and Jacqueline Riley each engaged in corrupt conduct by paying money to Mr Binos as an inducement or reward on account of him exercising his public official functions as an RMS-accredited heavy vehicle competency assessor to make false entries in their learner's log books to the effect that he had assessed them as competent, in accordance with RMS requirements, in order for them to apply to the RMS for heavy vehicle driver licences.

ICAC RECOMMENDATIONS

The ICAC is of the opinion that the advice of the Director of Public Prosecutions should be obtained with respect to the prosecution of Mr Binos for offences under section 249B(1) of the *Crimes Act 1900* of corruptly soliciting or receiving a benefit and to the prosecution of Mr Daubney, Mr McDonagh, Mr Florio, Mr Friend-Ngui and Ms Riley for offences under section 249B(2) of the *Crimes Act* of corruptly giving a benefit to Mr Binos.

CORRUPTION PREVENTION

The Commission has made the following recommendation to the RMS to address what it considers to be a weakness in the new heavy vehicle competency-based assessments (HVCBA) system:

That the RMS requires registered training organisations to implement in-cabin video camera and GPS technology solutions to record and monitor HVCBA final competency assessments completed by assessors for the issue of heavy vehicle driver licences, and that the RMS implements systems, processes and business rules to own, collect, review and archive the recordings, including utilising the recordings to enhance the auditing of the HVCBA scheme.

BACKGROUND

In November 2012, the Commission received a report from the RMS pursuant section 11 of the *Independent Commission Against Corruption Act 1988*, which requires the principal officer of a public authority to report suspected corrupt conduct. The report concerned an allegation made by an applicant that Mr Binos had misused his position to solicit money from the applicant to falsely certify that the applicant had passed his assessment for a heavy vehicle driver licence without having to undertake the required assessment tasks.

Evidence obtained by the Commission from Mr Binos and other sources suggested that Mr Binos had falsely certified at least 95 people as competent to drive heavy vehicles. The Commission held a public inquiry as part of the investigation over two days in October 2013. The ICAC decided that it was not in the public interest to call to the public inquiry all the persons who appeared to have been falsely certified as competent by Mr Binos; to do so would only have unnecessarily extended the duration and added to the expense of the public inquiry. Apart from Mr Binos, the Commission determined it was appropriate to call evidence from a limited selection of applicants, including those who in compulsory examinations had denied any involvement in, or knowledge of, impropriety.

Commissioner the Hon David Ipp AO QC presided at the public inquiry, at which seven witnesses gave evidence. The report is available on the ICAC website at www.icac.nsw.gov.au.

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