

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOSEPH G. CLOSE, JR.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9402143RAL

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 31 day of August 1994.



Patricia McCormack, Deputy Secretary
Department of Regulation and Licensing

PROCEDURAL HISTORY

appeared in person, without counsel, but he stated that he wished to be represented, and that he had been attempting to arrange for counsel to appear with him. The hearing was therefore adjourned to May 9, 1994.

D. Mr. Close filed an answer on April 29, 1994.

E. The adjourned hearing was resumed on May 9th. Mr. Scanlan appeared for the Division of Enforcement, and Mr. Close appeared without counsel. The hearing was recorded, but no transcript has been prepared. The testimony and exhibits entered into evidence at the hearing on May 9, 1994 form the basis for this Proposed Decision.

F. Mr. Close alleged during the course of the hearing that an appeal was pending in the Supreme Court of Illinois to overturn his conviction. This allegation was contradicted by testimony presented by the complainant, but because the question was raised, Mr. Close was granted 30 days in which to submit evidence that his conviction is not final.

G. On June 3, 1994, attorney Peter B. Nolte of Rockford, Illinois sent a letter to Mr. Scanlan in which he stated that he mailed a Petition for Leave to Appeal to the Illinois Supreme Court on December 13, 1994, but that the Supreme Court apparently never received it. Mr. Nolte further stated that he would file a Motion for Leave to File to correct the matter.

H. No further communication from either Mr. Close or attorney Nolte has been received as of August 17, 1994, the date of this proposed decision.

FINDINGS OF FACT

1. The respondent, Joseph G. Close, Jr., is licensed as a private detective in the state of Wisconsin, under license number 87689, and he has held that license continuously since it was originally granted on or about March 9, 1992

2. On November 4, 1992, Mr. Close was convicted of the misdemeanor offense of Criminal Trespass to Real Property following a trial to the court in McDonough County, Illinois.

3. Following a presentence investigation and report, Mr. Close was sentenced for the above offense to one year of probation. He was further ordered to have no contact, direct or indirect, with the victim or her family, and he was ordered to undergo psychological evaluation, to present proof of the evaluation within 30 days of the sentencing hearing, and to follow any recommended course of treatment.

4. On March 23, 1993, the State's Attorney's Office for McDonough County, Illinois filed a Petition to Revoke Probation, alleging that Mr. Close had not obtained a mental health evaluation. Mr. Close did obtain a mental health evaluation and the petition was ultimately dismissed.

5. Another Petition to Revoke Probation was filed following Mr. Close's arrest for another criminal offense. The criminal charge was unresolved as of the date of the hearing, and the petition for revocation was dismissed when witnesses failed to appear for the revocation hearing.

6. Despite repeated requests from the department, neither Mr. Close nor his attorney ever notified the Wisconsin Department of Regulation and Licensing of his conviction.

CONCLUSIONS OF LAW

I. The Department of Regulation and Licensing is the legal authority responsible for controlling credentials for private detectives, under ch. 440, Stats. The Department has jurisdiction over Mr. Close's license.

II. The Department has personal jurisdiction over Mr. Close under sec. 801.04 (2), Stats., based on his receiving notice of the proceeding, and his holding a credential issued by the Department.

III. The Department has jurisdiction over the subject-matter of a complaint alleging conviction of a crime or other unprofessional conduct by a private detective, under sec. 440.26(6), Stats. and ch. RL 35, Wis. Admin. Code.

IV. The offense of Criminal Trespass to Real Property can be substantially related to the practice of a private detective under certain circumstances.

V. The circumstances of Mr. Close's offense are substantially related to the practice of a private detective, and his conviction is a violation of sec. RL 35.01(2), Wis. Admin. Code.

VI. Mr. Close's failure to notify the department of his conviction is a violation of sec. RL 35.01(2), Wis. Admin. Code.

VII. Mr. Close's two violations of RL 35.01(2), Wis. Admin. Code, constitute conduct reflecting adversely on professional qualification, and the department may impose discipline under sec. 440.26(6), Stats.

ORDER

THEREFORE, IT IS ORDERED that the private detective's license issued to Joseph G. Close, Jr. be suspended for 60 days, commencing on the 10th day after this order is signed on behalf of the Department.

IT IS FURTHER ORDERED that Joseph G. Close pay the costs of this proceeding, as authorized by sec. 440.22(2), Stats, and sec. RL 2.18, Wis. Admin. Code, and if he fails to pay the costs within 90 days of this order, his license will be summarily suspended, under sec. 440.22(3), Stats.

OPINION

The Department of Regulation and Licensing is the authority charged under ch. 440, Stats. with the responsibility of issuing and regulating credentials for private detectives in Wisconsin. The disciplinary complaint filed in this matter alleges two grounds for imposing professional discipline on Mr. Close. First, under sec. 440.26(6), Stats., and sec. RL 35.01(2), Wis. Admin. Code, the department may take disciplinary action against a private detective who has been convicted of a crime, though such action is subject to subchapter II of ch. 111, Stats., the Fair Employment Act. Second, also under sec. 440.26(6), Stats., and sec. RL 35.01(2), Wis. Admin. Code, the department may take disciplinary action if a licensee fails within 30 days of a conviction to provide information to the department regarding the crime.

On November 4, 1992 Mr. Close was convicted of the misdemeanor offense of Criminal Trespass to Real Property following a trial to the court in McDonough County, Illinois. The first question is whether the circumstances of that offense are substantially related to the circumstances of private detection. The second question is whether he informed the department of that conviction as required by rule.

Whether Mr. Close's Conviction is Substantially Related to the Practice of Private Detection.

Mr. Close's conviction mentions the word "property" and on its face suggests a relatively minor violation of property rights. This is not to say that a violation of property rights may not be serious enough to warrant discipline, but the nature of this particular offense begs the question of what lay behind it, and this is a case where the inquiry must go beyond the mere title or the statutory description of a conviction. It is tempting to try to imagine exactly what the original offense was, and even whether the charge of trespass could have been issued as a different charge. However, I have tried to resist the invitation to speculate, and I have gleaned only those facts that can be reasonably or inescapably inferred from the record. Even from those restricted inferences I find that Mr. Close's conviction resulted from violations of both personal and property rights which were serious enough to justify the Department's concern over his fitness to carry a license as a private detective.

The determining facts in the written record are as follow:

- The Information filed March 8, 1991 [exhibit 1] states that Mr. Close "knowingly remained upon the land of Catherine R. Weaver ... after receiving notice from the owner or occupant Catherine R. Weaver, to depart"
- In his answer, Mr. Close stated that his conviction "involved a dispute between [himself] and a former girl friend".
- Following a pre-sentence investigation and report, Mr. Close was sentenced to one year of probation. The probation order signed January 6, 1993 states as a condition of probation that he "shall have no contact either directly or indirectly with Cathrine Weaver or any member of her family". Another condition of probation was that he "obtain a Mental Health Evaluation within 30 days of this order and follow all treatment recommendations".

I conclude that Mr. Close was convicted of Trespass to Real Property after an incident in which he violated rights of "a former girl friend", that he was on property owned or occupied by her, that his presence on the property was offensive to her, and that he remained on the property contrary to her express demand that he leave. I also conclude that his actions during or after the incident were extreme enough to prompt the person doing the pre-sentence investigation as well as the judge to be concerned for Mr. Close's mental health.

Two other incidents were touched on in the hearing, but they do not properly form part of this decision. The first was a Petition to Revoke Probation filed on March 23, 1993 [exhibit 4]. The basis for the petition was that Mr. Close did not comply with the mental health evaluation requirement. In his answer, Mr. Close explained that his probation officer did not schedule the mental health evaluation within 30 days of his sentencing, that he did cooperate with the evaluation at a later date, and that the petition to revoke probation was ultimately dismissed. Mr. Close further explained that he was placed on probation in McDonough County, the venue of the offense, and that his probation was immediately transferred to Winnebago County, where he lives. Although it would generally be implausible that a probation officer would misunderstand his or her responsibility with regard to scheduling a mental health evaluation, the transfer of responsibility provides a basis for crediting the testimony, and no other evidence was presented to contradict Mr. Close's explanation, so I accept it as accurate. Therefore I do not include his alleged violation of probation as a relevant fact either in finding that his conviction was substantially related to the practice of private detection or in imposing discipline. I only note the fact that one of the conditions of his probation was to obtain a mental health evaluation. The other incident was an arrest while he was on probation for battery to an old girlfriend (a different one). This resulted in another Petition to Revoke Probation, but it too was dismissed. As it was an arrest and not a conviction, and as it was ultimately dismissed, the allegations of the petition must not be considered as facts, and this decision does not rest in any way on that incident.

Sec. 111.321, Stats., generally prohibits employment discrimination (defined in sec. 111.322, Stats., to include refusing to license an individual) on the basis of conviction record. An exception exists, however, in sec. 111.335, Stats., which says "notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ or license, or to suspend from employment or licensing, any individual who: 1. has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity"

A number of reported cases have dealt with the question of how to establish whether the "circumstances" of a particular offense are "substantially related." These include Law Enforcement Stds. Bd. v. Lyndon Station, 101 Wis. 2d 472, 305 N.W.2d 89 (1981), Gibson v. Transp. Comm., 106 Wis.2d 22, 315 N.W.2d 346 (1982), and County of Milwaukee v. LIRC, 139 Wis.2d 805, 407 N.W.2d 908 (1987). The court in the latter case says, at 823:

What is important in this assessment is not the factual details related to such things as the hour of the day the offense was committed, the clothes worn during the crime, whether a knife or a gun was used, whether there was one victim or a dozen or whether the robber wanted money to buy drugs or to raise

bail money for a friend. All of these could fit a broad interpretation of "circumstances." However, they are entirely irrelevant to the proper "circumstances" inquiry required under the statute. It is the circumstances which foster criminal activity that are important, e.g., the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person.

The question is, therefore, whether the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person are substantially related to the circumstances of private detection.

I find that the very nature of private detection leads to situations in which the opportunity for criminal behavior exists. I will not elaborate greatly on the nature of the profession, since such descriptions were not part of the record of this hearing, but I take judicial notice of the administrative rules governing the profession, especially the definition of "private detective" in sec. RL 30.02(12)(a), Wis. Admin. Code. That description includes investigating or otherwise obtaining or furnishing information relating to

- a. Crimes or wrongs done or threatened against the United States, any state or territory, or any political subdivision thereof.
- b. The identity, conduct, business, honesty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person, if such information is obtained in secret, without the knowledge of the person being observed.
- c. The location, disposition or recovery of lost or stolen property.
- d. The cause or responsibility for fires, libels, losses, accidents, damage, injury or death.
- e. Securing evidence to be used before any court, board, officer, or investigating committee.

It is evident that a private detective may obtain information which would place him or her in a position of power relative to another person, that a private detective may be on property belonging to another, that he or she may have to deal with sensitive issues of personal rights, and generally be in situations which could lead to criminal behavior on the part of the private detective if he or she does not have a strong legal and ethical sense.

The next part of the test is the person's reaction to responsibility. The record here of Mr. Close's reaction to rules and authority is mixed, but generally poor. The conviction itself reflects a violation of another person's personal and property rights, and a violation of law, all disrespectful and irresponsible acts. The two alleged violations of probation would be additional strong indicators of his disrespect for authority and lack of responsibility, but since they were dismissed they should not be looked at in that way and they cannot be considered. Finally, he did notify the department of his pending charges in his application, but his subsequent failure to respond to the department's request for information on his conviction (described below) and his failure to file an answer to the complaint in this matter must be considered. On their face, they also demonstrate a lack of respect for authority or an irresponsible attitude. On the other hand, Mr. Close lays the blame for these failures on his attorney, and it would be inappropriate to hold Mr. Close entirely

responsible for what appears to have been his attorney's incompetence. Indeed, the fact that Mr. Close's appeal to the Illinois Supreme Court seems to have been lost tends to confirm that the attorney is a weak link in this case. I am therefore reluctant to assign all the fault to Mr. Close for the failure to communicate with the department, but orderly legal procedure requires that the responsibility lie somewhere, and some of it at least does fall on Mr. Close.

The final part of the test is stated as the character traits of the person. In that regard, we know almost nothing about Mr. Close beyond what is stated in the paragraph above, and I will pass up the opportunity to speculate on the basis of hints and clues in the record. I therefore do not modify the above analysis either way. I do however conclude that the circumstances of Mr. Close's conviction are unquestionably related to the circumstances of the practice of private detection.

Whether Mr. Close Informed the Department of the Conviction as Required by Rule.

According to department records [exhibit 5], Mr. Close applied for a private detective's license on January 17, 1992. In his application he disclosed that the trespass charge was pending against him. On February 18, 1992 the Department informed him of the status of his application and stated "We have also contacted [attorney] Bruce Biagini to get copies of the complaint and final decision ... You may wish to contact him to expedite the matter." On March 10, 1992 the Department wrote again to Mr. Close directly and stated "This letter is to remind you that once a final decision has been reach [sic] ... that you notify this office immediately and send a copy of the final decision." On May 27, 1992 the Department wrote again to Mr. Close with a request to "please advise us of the status ... If you have been convicted of a crime, please provide us with a copy of the Judgment of Conviction." On August 18, 1992 the Department wrote to Mr. Close asking him to "please submit a written response by August 31, 1992 as to the status ... If you have been convicted of a crime, please provide us with a copy of the Judgment of Conviction." No responses appear in the file until finally, on September 1, 1992 attorney Biagini wrote and informed the Department that the charge was still pending.

The trial was held on November 4, 1992 and the sentencing on January 6, 1993. On February 11, 1993 and March 10, 1993 the Department wrote to attorney Biagini asking for information on the status of Mr. Close's case. No response from attorney Biagini appears in the files. On May 14, 1993 the Department wrote directly to the clerk of courts for McDonough County and received back a document which showed that Mr. Close had been found guilty of Criminal Trespass to Real Property and sentenced to one year's probation. No communication of any sort from Mr. Close to the Department appears in the files between the date of his application on January 17, 1992 and May of 1993.

Mr. Close stated that he relied on his attorney to respond to the Department. He also submitted a document from another attorney [exhibit 6] which purports to record a telephone communication between the attorney and the Department, however the date is September 23, 1993, which makes it irrelevant. As stated above, it might be inappropriate to hold Mr. Close entirely responsible for his attorney's failure to communicate with the department. Nevertheless, the rule requiring a licensee to report any conviction within thirty days places the burden of compliance on

the licensee, and Mr. Close did not follow through. Mr. Close was notified directly by the Department of his duty, and his failure to do so is both a violation of the rule and a comment on his reaction to responsibility.

Discipline.

Mr. Close made a comment in his closing that the incident which led to his conviction involved his personal life, and that it does not reflect on his professional abilities. To an extent I am sure that is true, and the facts and circumstances of his conviction do not suggest that his license must be revoked. However, the separation between personal and professional life is not so perfect for most people that the facts here can be ignored. The purpose of discipline is to protect the public, both as individuals and as collective members of society.

Mr. Close has demonstrated a lack of respect for another person's personal and property rights, and a lack of respect for the Department which issued him his license. Discipline is appropriate to ensure that he understands his responsibilities better in the future. Discipline is also appropriate to inform or remind other members of the profession of their responsibilities and to ensure, to the extent possible, that no other member of the profession will repeat either of the behaviors for which this professional is being disciplined.

The Department requested a suspension of 90 days for Mr. Close's violations.

I have also considered all other cases decided by the Department involving private detectives which were decided solely on the issues of being convicted of a crime or failing to report the conviction. Those decisions are not binding or precedential, but they assist in understanding the Department's interpretation of the substantive and disciplinary rules for this profession. Since 1979 the following decisions have been filed:

- (a) revocation for murder, armed robbery and arson,
- (b) revocation for fraudulent insurance claims,
- (c) revocation of license for multiple instances of false statements,
- (d) revocation for an ordinance disorderly conduct,
- (e) stipulated revocation for carrying a concealed weapon and possessing a firearm as a felon,
- (f) stipulated surrender of license for sexual assault,
- (g) stipulated surrender for possession of marijuana,
- (h) stipulated agreement not to apply for renewal of license for theft,
- (i) stipulated 15-day suspension for being convicted of and failing to report a noise ordinance violation,
- (j) reprimand for failing to report an ordinance violation.

The fourth decision listed above, (d), is especially instructive. It is In the Matter of Disciplinary Proceedings Against Erwin W. Braski, decided 12/30/87. Mr. Braski entered a person's home without permission and began asking questions, presumably as part of an investigation. Upon being requested to leave, he refused, and only did so when the occupant moved toward him. Mr. Braski was originally charged with Criminal Trespass to a Dwelling, and the charge was reduced to a county ordinance violation of disorderly conduct. There were no other aggravating circumstances

noted. The Department revoked Mr. Braski's license. If such a decision were treated as a legal precedent, Mr. Close would lose his license. The cases listed above establish that the professional standards for private detectives are stringently enforced, and the Department's request for a three-month suspension is well within the range of discipline imposed in other cases.

On the other hand, not everything which the Department set out in its complaint against Mr. Close was proven. The complaint alleged that he twice violated his probation, and that he was responsible for the failure to communicate with the Department or to file an answer. Had he refused to cooperate with a mental health evaluation, and been guilty of disorderly conduct (with another girlfriend) while on probation, his scores on respect for authority and reaction to responsibility would have been much lower and the need for rehabilitation much greater. Those petitions were dismissed, however, and based on the conviction for trespass and the failure to notify the department of his conviction justify a lesser suspension. The same would be true if some of the blame for the failure to communicate and to file an answer did not lie with his attorney. In consideration of all the facts and circumstances, I recommend that discipline be imposed, and that Mr. Close's license be suspended for sixty days.

Costs.

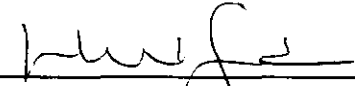
The assessment of costs against a disciplined professional is authorized by sec. 440.22(2), Wis. Stats. and sec. RL 2.18, Wis. Admin. Code, but neither the statute nor the rule clearly indicates the circumstances in which costs are to be imposed. One approach is routinely to impose the costs of investigating and prosecuting unprofessional conduct on the disciplined individual rather than on the profession as a whole, and I am aware that the Supreme Court does so in attorney discipline cases. Another approach is to use costs as an incentive to encourage respondents to cooperate with the process, and thus to impose costs only if the respondent is uncooperative or dilatory. I prefer the latter approach, and find that costs are appropriate in this case. Mr. Close was informed in the notice of hearing that by administrative rule (sec. RL 2.09, Wis. Admin. Code) he must file an answer within twenty days of service of the complaint. He did not do so. Mr. Close was also required by sec. RL 35.01(2) of the administrative rules regulating private detectives to notify the department within thirty days after the judgment of conviction. He did not do so. Because of his failure to cooperate with these simple requirements, I have included an order for costs.

The Appeal of the Underlying Conviction.

The final issue to be dealt with, and the one which has in large part delayed the disciplinary process by two months, is the question of whether Mr. Close's conviction is final or on appeal to the Illinois Supreme Court. During the hearing, Mr. Close stated that his attorney in Illinois had appealed his conviction [see exhibit 7], but the Department produced testimony that the Illinois Supreme Court denied the existence of any such appeal. This apparent conflict was resolved after the hearing by a letter from Mr. Close's attorney which was faxed to Mr. Scanlan on June 3, 1994, and which was forwarded to me and placed in the file. The letter contains the explanation that the appeal was sent to the Illinois Supreme Court by first-class mail, but never received. Mr. Close's

attorney stated that he would still seek leave to file the appeal. There has been no further communication from Mr. Close or the attorney in the last two months, and I have not considered it appropriate to initiate communications on this issue. Therefore, Mr. Close must provide any further information regarding the finality of his conviction to the Board in the period specified for receiving objections to this proposed decision. Unless evidence to the contrary is provided, at this point the record shows that his conviction is final.

Dated and signed: August 17, 1994



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN DEPARTMENT OF REGULATION

AND LICENSING. 1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

SEPTEMBER 2, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
JOSEPH G. CLOSE, JR.,
RESPONDENT.

: **AFFIDAVIT OF COSTS OF**
: **OFFICE OF BOARD LEGAL SERVICES**
: Case No. LS-9402143-RAL
:
:


John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.
2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.
3. The expenses for the Office of Board Legal Services are set out below:

a. Administrative Law Judge Expense @ \$23.99/hour.	
4/26/94 Hearing (adjourned)	3/4 hr.
5/9/94 Hearing (concluded)	3/4 hr.
5/11/94 Work on proposed decision	1 1/2 hrs.
8/10/94 "	1/2 hr.
8/16/94 "	3 hrs.
8/17/94 "	4 hrs.
Total:	10 1/2 hrs.
	= <u>\$251.90</u>

b. Reporter Expense	
Attendance, 5/19/94	= <u>\$75.00</u>

Total allocable costs for Office of Board Legal Services = \$326.90


John N. Schweitzer
Administrative Law Judge

Sworn to and signed before me this 17th day of August, 1994.

Louise Turner, Notary Public, State of Wisconsin.

My commission expires 11-6-94.

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOSEPH G. CLOSE, JR.,
RESPONDENT.

AFFIDAVIT OF COSTS
93 RAL 034

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Gerald M. Scanlan, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
August 17, 1993	Conference with Investigator Cargill	15 minutes
August 30, 1993	Reviewed file	3 hours
August 31, 1993	Research and draft stipulation	5 hours
September 16, 1993	Finalize stipulation-dispatch	1 hour
September 23, 1993	Telephone conversation with Respondent's attorney	15 minutes
January 23, 1994	Draft complaint	2 hours
February 3, 1994	Finalize and file complaint	1 hour

April 12, 1994	Conference with Investigator Cargill	10 minutes
April 19, 1994	Prepare for hearing	2 hours
April 20, 1994	Prepare for hearing	1 hour
April 22, 1994	Prepare for hearing	1 hour
April 26, 1994	Prepare for and attend hearing	2 hours
May 5, 1994	Prepare for hearing	1 hour
May 6, 1994	Prepare for hearing	1 hour
May 9, 1994	Prepare for and attend hearing	2 hours, 30 minutes
September 9, 1994	Prepare Affidavit of Costs	30 minutes

TOTAL HOURS

23 hours, 40 minutes

Total attorney expense for # hours and minutes at
\$30.00 per hour (based upon average salary and benefits
for Division of Enforcement attorneys) equals:

\$ 710.00

INVESTIGATOR EXPENSE FOR KELLEY E. CARGILL

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
07/13/93	Receive/Review Case File.	30 minutes
07/13/93	Conference with Attorney Scanlan.	25 minutes
07/13/93	Telephone Call to Information.	5 minutes
07/13/93	Left Telephone Message for Donald Tinder.	5 minutes
07/21/93	Left Telephone Message for Donald Tinder.	5 minutes
07/21/93	Dictated Letter to Donald Tinder.	20 minutes
07/21/93	Telephone Message left for Richard Gambrell.	10 minutes
07/22/93	Telephone Call from Donald Tinder.	15 minutes

07/26/93	Telephone Call from Richard Gambrell.	20 minutes
08/17/93	Conference with Attorney Scanlan.	15 minutes
08/18/93	Case Summary Dictated.	45 minutes
04/12/94	Conference with Attorney Scanlan.	10 minutes
04/13/94	File Review.	20 minutes
04/13/94	Telephone Call to Information.	10 minutes
04/13/94	Telephone Call to Richard Gambrell.	5 minutes
04/18/94	Telephone Call to Richard Gambrell.	5 minutes
04/19/94	Telephone Call from Richard Gambrell.	10 minutes
04/19/94	Conference with Attorney Scanlan.	10 minutes
04/19/94	Telephone Message left for Peter Bue.	5 minutes
04/19/94	Telephone Call from Peter Bue.	10 minutes
04/19/94	Telephone Call to Attorney Scanlan.	5 minutes
04/20/94	Telephone Message left for Attorney Richard Gambrell.	5 minutes
04/20/94	Call to Office of Consumer Services, Department of Revenue, and Registration Department.	20 minutes
04/20/94	Conference with Attorney Scanlan.	15 minutes
04/20/94	Telephone Call to Attorney Scanlan.	5 minutes
04/25/94	Hearing Preparation and File Review.	30 minutes
04/26/94	Hearing Preparation.	30 minutes
04/26/94	Attend Hearing.	30 minutes
04/26/94	Conference with Attorney Scanlan.	15 minutes
04/29/94	Telephone Message left for Peter Bue.	5 minutes

04/29/94	Telephone Message left for Richard Gambrell.	5 minutes
04/29/94	Telephone Message left for Donald Tinder.	5 minutes
04/29/94	Telephone Call from Donna Williams.	5 minutes
04/29/94	Telephone Call from Richard Gambrell.	5 minutes
04/29/94	Telephone Message left for Donna Crawford.	5 minutes
04/29/94	Telephone Call from Donald Tinder.	15 minutes
05/02/94	Telephone Call from Donna Crawford.	15 minutes
05/03/94	Telephone Message left for Richard Gambrell.	5 minutes
05/04/94	Telephone Message left for Richard Gambrell.	5 minutes
05/04/94	Telephone Call to McDonough County Circuit Court.	15 minutes
05/04/94	Telephone Call to Springfield, Illinois Supreme Court.	10 minutes
05/04/94	Telephone Call to Chicago, Illinois Supreme Court.	10 minutes
05/04/94	Telephone Call to McDonough County Circuit Court.	5 minutes
05/04/94	Telephone Call to Chicago, Illinois Supreme Court.	10 minutes
05/04/94	Telephone Call to Chicago, Illinois Supreme Court.	5 minutes
05/04/94	Telephone Call to Springfield, Illinois Supreme Court.	10 minutes
05/05/94	Telephone Call to Chicago, Illinois Supreme Court.	20 minutes
05/05/94	Telephone Call to Appellate Court.	10 minutes
05/05/94	Telephone Message left for Donna Crawford.	5 minutes
05/05/94	Telephone Call from Donna Crawford.	10 minutes
05/05/94	Telephone Call from Peter Bue.	10 minutes
05/06/94	Conference with Attorney Scanlan.	45 minutes

05/06/94	Prepare for Hearing.	60 minutes
05/09/94	Hearing Preparation.	60 minutes
05/09/94	Attend Hearing.	90 minutes
05/09/94	Conference with Attorney Scanlan.	30 minutes
08/29/94	Assess Costs.	60 minutes

TOTAL HOURS

15 hours 50 minutes

Total investigator expense for 15 hours and 50 minutes at \$18.00 per hour (based upon average salary and benefits for Division of Enforcement investigators) equals:

\$ 284.99

TOTAL ASSESSABLE COSTS

\$ 994.99

Gerald M. Scanlan, Attorney
Name and position

Subscribed and sworn to before me this
14 day of September, 1994.

Roger Hall
Notary Public

My Commission is permanent

GMS:kcb
ATY-DLG982