

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR
AN ADMINISTRATIVE INJUNCTION
INVOLVING: LS0102191RAL

HECTOR RODRIGUEZ AND
RAPID RESPONSE PUBLIC SAFETY,
RESPONDENT

FINAL DECISION AND ORDER

LS0102191RAL

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 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 6th day of April, 2001.

Oscar Herrera
Secretary

STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION
FOR AN ADMINISTRATIVE INJUNCTION
INVOLVING:

HECTOR RODRIGUEZ AND RAPID RESPONSE **PROPOSED DECISION AND ORDER**
PUBLIC SAFETY,
RESPONDENTS

LS0102191RAL

Based on the authority in section 440.21(2) of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and the Findings of Fact and Conclusions of Law below,

THE DEPARTMENT OF REGULATION AND LICENSING HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:

Effective on the date on which this order is signed by the departmental secretary or his designee,

- the respondent, Hector Rodriguez, is **enjoined and prohibited** from continuing to engage, directly or indirectly, in conduct which requires a credential under section 440.26, Stats., and sections RL 31.01 and RL 35.05 (19), Wis. Admin. Code, unless and until he obtains the appropriate credential under chapter 440.26, Stats.; and
- the respondent, Rapid Response Public Safety, is **enjoined and prohibited** from continuing to engage, directly or indirectly, in conduct which requires a credential under section 440.26, Stats., and sections RL 31.01 and RL 35.05 (19), Wis. Admin. Code, unless and until it obtains the appropriate credential under chapter 440.26, Stats.

ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.

PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats., are:

Complainant:

Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Ave.

Madison, WI 53703

Respondent:

Hector Rodriguez

Rapid Response Public Safety

5402 W. Electric Ave.

West Allis, WI 53219

Hector Rodriguez

P.O. Box 340255

Milwaukee, WI 53234

Regulatory Authority:

Department of Regulation and Licensing

1400 East Washington Ave.

Madison, WI 53703

PROCEDURAL HISTORY

A. On February 19, 2001, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a petition for an administrative injunction. On the same date, copies of the petition were mailed

along with a notice of hearing to Hector Rodriguez, Rapid Response Public Safety, at the following addresses:

- P.O. Box 340225, Milwaukee, WI 53234,
- 5402 W. Electric Ave., West Allis, WI 53219,
- 1224 S. 22nd St., Milwaukee, WI 53204.

The mailing to 1224 South 22nd Street was returned, marked "refused".

B. The notice of hearing informed Mr. Rodriguez that he was to file a written answer to the petition within 20 days after service. Mr. Rodriguez did not file an answer to the petition within the specified time limit.

C. The notice of hearing stated that a hearing date would be determined at a future pre-hearing conference. A hearing was scheduled for March 20, 2001 by the undersigned administrative law judge, and a Notice of Hearing was sent by first-class mail to Mr. Rodriguez at P.O. Box 340225, Milwaukee, WI 53234, and 5402 W. Electric Ave., West Allis, WI 53219.

D. The hearing was held as scheduled. The respondent did not appear. The department was represented by Attorney Gerald Scanlan of the Department's Division of Enforcement. Upon the respondent's non-appearance and his failure to file an answer, Mr. Scanlan moved for a finding of default under sec. RL 3.13, Wis. Admin. Code, and the motion was granted. The hearing was recorded. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. The petition in this action was served upon the respondents by mailing to their last-known addresses under section RL 3.07, Wis. Admin Code, and they failed to comply with the requirement to file an answer.

2. The last known address for Rapid Response Public Safety on file with this department is 5402 West Electric Ave., West Allis, WI 53219.

3. Private detective agency license number 15752 was issued to Rapid Response Public Safety, but the license expired on September 1, 2000 and a renewal application was denied, based on a tax delinquency. As of January 31, 2001, and as of the date of the hearing, Rapid Response Public Safety did not hold a license to practice as a private detective agency in the State of Wisconsin.

4. As of January 31, 2001, Rapid Response Public Safety was still operating as a private detective agency by providing armed security guards at WAICO apartments, 1120 West Vine St., Milwaukee, Wisconsin.

5. The last known address for Hector Rodriguez on file with this department is P.O. Box 340255, Milwaukee, WI 53234.

6. Hector Rodriguez is listed in the records of the Department of Regulation and Licensing as the sole proprietor of Rapid Response Public Safety.

7. Private detective license number 8387 was issued to Hector Rodriguez, but the license expired on September 1, 2000 and a renewal application was denied, based on a tax delinquency. As of January 31, 2001, and as of the date of the hearing, Mr. Rodriguez did not hold a license to practice as a private detective in the State of Wisconsin.

CONCLUSIONS OF LAW

I. Under section 440.21, Stats., and chapter RL 3, Wis. Admin. Code, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person or another credential-holder has engaged in a practice without a credential required under chapters 440 through 459.

II. The respondents, Hector Rodriguez and Rapid Response Public Safety, were served by mail at their last-known addresses in Wisconsin under section RL 3.13, Wis. Admin. Code. The Department of Regulation and Licensing has personal jurisdiction over the respondents under section 801.04(2), Stats., and section RL 3.07, Wis. Admin. Code.

III. The respondents, Hector Rodriguez and Rapid Response Public Safety, are in default under section RL 3.13, Wis. Admin. Code. The department may make findings of fact and enter an order on the basis of the petition and the evidence presented at the hearing.

IV. The respondent Rapid Response Public Safety has operated as a private detective agency without a private detective agency license, in violation of section 440.26, Stats., and sections RL 31.01 and RL 35.05 (19), Wis. Admin. Code. A special order enjoining Rapid Response Public Safety from continuing to operate as a private detective agency is therefore appropriate under section 440.21(2), Stats.

V. By his status as the sole proprietor of Rapid Response Public Safety at a time when Rapid Response Public Safety was operating as a private detective agency, the respondent Hector Rodriguez has engaged in the practice of a private detective, in violation of section 440.26, Stats., and sections RL 31.01 and RL 35.05 (19), Wis. Admin. Code.

ANALYSIS

This case is an action for an administrative injunction against Hector Rodriguez and Rapid Response Public Safety, under the authority of sec. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that Rapid Response Public Safety operated as a private detective agency by supplying armed security guards at a time when its license had expired and not been renewed. The petition also alleged that Mr. Rodriguez operated Rapid Response Public Safety at a time when his own private detective license had expired and not been renewed.

The respondents are in default, not having answered the petition as required by administrative rule, and not having appeared at the scheduled hearing. By their default, the respondents have effectively admitted all the allegations of the petition. There is no need in this opinion to weigh or discuss evidence, and no issues of fact remain.

The undisputed allegations in the complaint establish that Rapid Response Public Safety operated as a private detective agency at a time when its license had expired and not been renewed, and that Hector Rodriguez, as sole owner, operated Rapid Response Public Safety at a time when both his license and the agency's license had expired and not been renewed. An administrative injunction is authorized by section 440.21(2), Stats., and chapter RL 3, Wis. Admin. Code, and it is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense. It should be noted that the issuance of a special order in an administrative injunction does not preclude other remedies for the respondent's violations of statutes, such as a misdemeanor prosecution by the district attorney under section 457.17, Stats.

Dated and signed: March 20th, 2001

John N. Schweitzer

Administrative Law Judge

Department of Regulation and Licensing