

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

BRIAN W. NEWLUN, COLORADO

FINAL DECISION AND ORDER

RIVER INVESTIGATIONS,

RESPONDENTS

00 RAL 006

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Brian W. Newlun & Colorado River Investigations

313 Price Place, Suite 114

Madison, WI 53705

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

The State of Wisconsin, Department of Regulation and Licensing, having considered the stipulation agreement annexed-here to of the parties, in resolution of the captioned-matters, makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Department, that the stipulation agreement annexed-here to, filed by Complainant's attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Department of Regulation and Licensing.

Let a copy of this Order be served on Respondents by certified mail.

Dated this 2nd day of October, 2001.

Oscar Herrera

Secretary or his Designee

Department of Regulation and Licensing

STATE OF WISCONSIN

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

BRIAN W. NEWLUN, COLORADO

STIPULATION

RIVER INVESTIGATIONS,

RESPONDENTS

00 RAL 006

Respondents Brian W. Newlun (Newlun), Colorado River Investigations, and Complainant's attorney Sanders, Division of Enforcement, having reached agreement(s) for disposition of the captioned-matter, stipulate and agree as follows:

1. Respondent Newlun of 313 Price Place, Suite 114, Madison, WI 53705, was at all time material to the complaint, licensed as a Private Detective (#63-8893), d/b/a and sole proprietor of Respondent Colorado River Investigations agency, and has been so licensed under the provisions of subchapter II, section 440.26, Wis. Stats., and ch. RL 31, Wis. Adm. Code, since October 8, 1992.

2. Respondent Colorado River Investigations, of 313 Price Place, Suite 114, Madison, WI 53705, was at all time material to the complaint, licensed as a Private Detective Agency (#62-15291), owned and operated by Respondent Newlun – and has been so licensed under the provisions of subchapter II, sec. 440.26, Wis. Stats., and chapter RL 31, Wis. Adm. Code, since October 8, 1992.

3. This Stipulation shall be submitted to the Department of Regulation and Licensing (Department) for approval and disposition of the matters. If the terms of the Stipulation are not acceptable to the Department, then the parties shall not be bound by any of the provisions of the Stipulation.

a. This Stipulation is dispositive of Investigative Complaint #00 RAL 006.

4. Respondents have been advised of their rights to public hearings on each and every allegation of the complaint, but hereby freely and voluntarily waive their rights to public hearings in these matters on the condition that all provisions of the Stipulation be acceptable to and approved by the Department.

a. Respondents further agrees to waive any appeals of the Department's Final Decision and Order adopting the Stipulation agreement.

5. The Department received the subject complaint against Respondents from the Waupaca County Corporation Counsel's office, which alleged that in November 1999, Jeanette R. Newell (Newell), legal assistant, Waupaca County Corporation Counsel's office, contacted Respondents for the purpose of obtaining personal service of documents on out-of-state child support clients.

a. Newell's duties included assisting in existing Waupaca County child support orders through court action as well as establishing paternity on child support cases where no father has been adjudicated.

6. Respondent Newlun explained that he could provide the needed out-of-state process services and that his doing so would involve using a courier service.

7. At that time Newell specifically questioned Respondent as to whether the Certificates of Service (affidavits of services) would be properly signed by the process server and notarized in the states that service occurred in. Respondent Newlun purportedly informed her that yes, the documents would be prepared that way.

8. That after talking with Respondent, Newell was under the understanding that a courier would be used for out-of-state service of papers, that the courier would sign the Certificate of Service (affidavit) and have it properly notarized in the state of service, and that the courier would then return that document to Respondent Newlun who would then forward the same to Waupaca County Corporation Counsel's office, along with any billing(s).

9. That starting on approximately November 10, 1999, papers were sent to Respondent Newlun to serve, and a second group was sent to him later to serve; but in early February, Newell noticed that documents returned to

her from Respondents, were not properly stamped with notary seals, and all of the various signatures on the various documents appeared to be similar or the same.

10. Newell confronted Respondent on about February 4, 2000, and inquired about the discrepancies on the affidavits, and Respondent admitted to her that he had been falsifying the Notary Public signatures and the sheriff process servers names.

11. When confronted by the Department regarding the allegations, Respondent Newlun admitted in pertinent part that:

" . . . yes, our office did prepare the affidavits and sign them. However, this must be clarified. In November of 1999, I was contacted by Jeanette Newell . . . to help them in setting up a more economical way to get their papers served out-of-state, and came up with a plan and implemented it.

. . . using a courier service would be substantially less in cost, but there would be certain parts that would have to be addressed, more specifically, the affidavits I explained in great detail we would send the papers out through a courier service, they would receive a signature for the delivery of the papers from the confirmation paperwork we would receive from the courier service, and the affidavits would be generated through our office upon confirmation. . . . the fees would be a flat fee of \$65.00 for each paper served and \$30.00 for each no found.

She stated she would have to talk it over and call us back. Approximately on November 10, 1999, we received our first batch of serves from Jeanette. Those serves were completed as discussed and we were paid. More papers were sent to us in January. The same procedures were taken and the served papers were completed and forwarded to Jeanette for payment.

Then, in the first part of February, I received a call from Jeanette Newell, again, confirming we had generated the affidavits from our office. I concurred and reaffirmed it was just as we had originally planned (in retrospect, I should have picked up a tone of concern in her voice). She stated she had to talk it over with her boss if there was a problem and get back to us.

That was the last communication I heard from anyone there.

. . . here is the part I don't understand . . . why are we being singled out as the cause of the problem, when since the very beginning, everything was disclosed and went exactly as stated.

. . . they approved the plan and moved forward with it. Are they filing this complaint in an attempt to hurt our reputation as well as a possible cover-up to an internal mistake by blaming us?"

12. Waupaca County Corporation Counsel's office filed the subject complaint with the Department.

13. Respondent, in essence, Federal Expressed the subject papers directly to the individuals needing to be served. Upon service of the documents, Respondent would receive back from the courier a copy of the statement showing the time, and date the papers were received, and a copy of the signature of the person receiving the papers.

14. Respondent would complete Certificate of Service forms, providing false names of alleged process servicers, and Notary Publics, and billed Complainants. Respondent is not a Notary Public. See e.g., Exhibit #1, sample document.

15. Accordingly, Respondent Newlun, d/b/a Colorado River Investigations has violated secs. 440.26(6)(a)(2), Wis. Stats., engaged in conduct reflecting adversely on his/her professional qualification; violated secs. RL 35.01(2), (21), Wis. Adm. Code. (2) Violating, or aiding or abetting the violation of any law the circumstances of which substantially relate to the practice of a private detective or private security person, and (21) obtaining or attempting to obtain any compensation from a client by fraud, misrepresentation, deceit or duress.

a. Respondent Colorado River Investigations agency is subject to discipline pursuant to sec. RL 35.02, Wis. Adm. Code, for violations of chs. RL 30-35 committed by licensed private detectives or security persons employed by the agency.

16. Based upon the above and in settlement of these matters, both Respondents Brian W. Newlun, and Colorado River Investigations agency hereby consents, accepts, and agrees to voluntarily surrender their private detective license, and private detective agency's licenses respectively, and agrees to pay the amount of \$1,000.00 jointly/severally to the Department as partial assessment of costs.

17. The \$1,000.00 partial assessment of costs shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing, and shall be payable at the execution of this Stipulation, and submitted to the attention of the Department's monitor, hereinafter (designated "assessment of costs").

18. On or before the effective date of the Department's order adopting the stipulation agreement, both

Respondents shall respectively submit all private detectives/agency’s licenses/permits previously issued to him/it to the attention of the Department’s monitor:

Marlene Meyer
Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

19. Respondents agree that this stipulation agreement may be incorporated into the Department’s Final Decision and Order adopting the stipulation agreement.

20. Respondents further agree that Complainant’s attorney Sanders, and Division Administrator, Clete Hansen, may appear at any closed deliberative meeting of the Department with respect to the Stipulation, but those appearances shall be limited solely to clarification, justification and to statements in support of the Stipulation and for no other purpose.

Brian W. Newlun	9-21-01
Respondent	Date
Colorado River Investigations	9-21-01
Respondent, by:	Date
Henry E. Sanders	9-25-01
Complainant’s Attorney	Date