

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
BRIAN K. KURCZEWSKI, : LS0312291RAL
BRIAN KURCZEWSKI CONFIDENTIAL :
INVESTIGATION AGENCY, :
RESPONDENTS. :

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Brian K. Kurczewski
110 East Chateau Place
Milwaukee, WI 53217

Brian Kurczewski Confidential
Investigation Agency
316 East Silver Spring Drive
Suite 219
Milwaukee, WI 53217

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Department. The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Brian K. Kurczewski (Brian), whose address of record with the Department is 110 East Chateau Place, Milwaukee, WI 53217, was at all times material to the allegations contained in this Final Decision and Order licensed as a private detective (# 63-4996).

His license was first granted on April 28, 1978 and is current through August 31, 2004. He is doing business as (d/b/a) Brian Kurczewski Confidential Investigation Agency (Agency) and he is the sole proprietor of that Agency.

2. Respondent Brian Kurczewski Confidential Investigation Agency (Agency), whose address of record with the Department is 316 East Silver Spring Dr., Suite 219, Milwaukee, WI 53217, was at all times material to the allegations contained in this Final Decision and Order licensed as a private detective agency (# 62-15098). The license was first granted on June 4, 1990 and is current through August 31, 2004. The Agency is owned and operated by Respondent Brian Kurczewski.

3. Norbert A. Kurczewski (Norbert), whose address of record with the department is 4875 North Shoreland

Avenue, Milwaukee, WI 53217, was granted a license (# 63-4950) as a private detective on December 7, 1977. That license expired on August 31, 1996 and has not been renewed.

4. Norbert A. Kurczewski was at all times material to this Order employed by Respondent Brian Kurczewski at Respondent Brian Kurczewski Confidential Detective Agency as “office manager” and/or “consultant.”

5. DS had a Power of Attorney to handle business and legal affairs for CO, who was incarcerated in Federal Prison pursuant to a murder conviction. On June 29, 1997 DS and Brian Kurczewski signed a written contract for the Respondent private detective agency to provide investigative services relating to CO at a retainer fee of \$600.00. Other contracts were signed and during the course of their contacts with the Respondents, DS, CO and CO’s family paid the Respondents a total of \$1,750.00.

6. Brian K. Kurczewski communicated at various times with DS and CO and CO’s brother and provided some information about the services the Respondents performed but the Respondents did not provide an accounting of their services to DS or CO in response to the client’s request. Furthermore, the Respondents did not reimburse any fees paid to them by DS or CO.

7. On March 2, 1998 LG signed a written contract with Brian Kurczewski for the Respondent private detective agency to perform private investigative work involving surveillance of LG’s spouse for a retainer fee of \$1,200.00. LG paid \$1,200.00 with a check. During the course of her contact with the Respondents, LG learned that her spouse had been alerted to his possibly being under surveillance and investigated. LG talked to Norbert Kurczewski and directed him to terminate the investigation and refund half of the fees paid by her to the Respondent Agency.

8. While Respondent Brian K. Kurczewski communicated with LG describing the actions that he took in the case, he did not return any money to LG. In addition, he did not provide LG with an accounting of the funds spent and services provided by the Respondents on behalf of LG.

9. Brian K. Kurczewski telephoned LG on April 1, 1998, and called her names, threatened and intimidated her. As a result of his telephone calls to LG, Brian Kurczewski was issued a municipal citation by Whitefish Bay Police Department, dated April 8, 1998 for violating Whitefish Bay’s ordinance s. 8.02(16)-Telephone Call-Harass/Obscene, which is analogous to Sec. 947.012 (2), Stats.-Unlawful Use of Telephone. Brian Kurczewski was found guilty as charged on July 22, 1998 in the Village of Whitefish Bay Municipal Court by a Municipal Judge, and Brian K. Kurczewski was assessed a forfeiture of \$275.00 and witness fees of \$7.00, for total costs of \$282.00.

10. JR telephoned Respondent Brian Kurczewski Confidential Investigation Agency on, or about, September 5, 2001 to inquire of their services. Norbert Kurczewski answered the call. They discussed the nature of JR’s call, and Norbert verbally agreed that the Respondent Agency would provide surveillance/investigative work for JR consisting of eight hours of work at \$50.00 per hour for a total of \$400.00. As verbally agreed, JR submitted a personal check # 739 payable to B.K. Kurczewski, dated September 5, 2001, for \$400.00. JR subsequently submitted a second personal check # 742, for \$400.00, payable to B. K. Kurczewski dated September 7, 2001, because she thought she might have mailed the first check to the wrong zip code. Brian Kurczewski kept and cashed both checks on September 10, 2001.

11. While a written contract dated September 10, 2001 may have been prepared on behalf of the Respondents regarding the investigative services to be provided to JR, at no time did JR sign that written contract or any other written contract with the Respondents regarding the services to be performed by the Respondents.

12. JR requested an accounting of the services provided and a refund. While Respondent Brian K. Kurczewski provided some information to JR in an October 26, 2001 letter to JR, he did not refund any money to JR and he did not provide JR with an accounting of the Respondents’ activities on JR’s behalf.

13. GS is a dentist who is licensed to practice dentistry in Wisconsin. He had sold his dental practice and clinic, was retiring out of state and was resolving related matters, including obtaining an annulment from his wife. He wanted information relating to his ex-wife, JK, and her current husband, and GS contacted the Respondent agency to get that information.

14. On April 10, 2001 GS and Respondent Brian Kurczewski signed an agreement for the Respondents to perform investigative services for GS. Among other things GS specifically wanted head and body pictures of his ex-spouse and pictures and information on his ex-spouse's homestead. The contract was for a retainer fee of \$2,000. GS paid Norbert \$1,000.00 cash then. GS paid the second \$1,000.00 to the Respondents on April 18, 2001. During the first week of June, 2001, or about then, Brian Kurczewski called GS and said that he needed another \$500.00 to purchase a camera lens for the case. GS issued a check for that amount to Brian Kurczewski, and the check was cashed. Around June 15, 2001, GS received a few pictures of real estate and a copy of a Sheriff's Department Deed from Respondent Brian K. Kurczewski.

15. In July and August, 2001 GS made numerous telephone calls to the Respondents and Norbert Kurczewski to attempt to obtain information on the status of the investigation and an accounting of the services provided. He also demanded a refund of the money that he paid.

16. While GS spoke to Norbert Kurczewski and Respondent Brian K. Kurczewski at times, GS did not receive an accounting of the services provided for him by the Respondents, nor did GS receive any refund of his payments to the Respondents.

CONCLUSIONS OF LAW

1. The absence of a written contract with a client (JR) for whom Respondent Brian K. Kurczewski performed investigative services as set forth in the Findings of Fact (paragraph 11) constitutes a violation by Respondent Brian K. Kurczewski of Wis. Admin. Code sec. RL 33.06.

2. The violation of the written contract rule as set forth in paragraph 1 of the Conclusions of Law constitutes unprofessional conduct as defined in Wis. Admin. Code sec. RL 35.01 (12m) for which disciplinary action can be taken against the Respondent Brian K. Kurczewski pursuant to Wis. Admin. Code sec. RL 35.01 and Wis. Stat. sec. 440.26 (6).

3. The failure of Respondent Brian K. Kuczewski or provide the four clients described in the Findings of Fact with an accurate written account of services within a reasonable period of time after having been requested to do so by the clients constitutes unprofessional conduct as defined in Wis. Admin. Code sec. RL 35.01 (14). The unprofessional conduct as defined by that section provides a basis for taking disciplinary action against Respondent Brian K. Kurczewski pursuant to Wis. Admin. Code sec. RL 35.01 and Wis. Stat. sec. 440.26 (6).

4. The ordinance violation of which Respondent Brian K. Kurczewski was convicted as described in paragraph 9 of the Findings of Fact substantially relates to the practice of a private detective. The failure of Respondent Brian K. Kurczewski to send to the Department of Regulation and Licensing a copy of the complaint or other information which described the nature of the conviction and the judgment of conviction within 48 hours after the judgment of conviction against him for the ordinance violation in order that the department may determine whether disciplinary action must or should be taken against credential holder constitutes unprofessional conduct as defined in Wis. Admin. Code sec. RL 35.01 (2). In addition, Respondent Brian K. Kurczewski's failure to report the conviction is a violation of Wis. Stats. sec. 440.26 (4m). Those violations provide a basis for taking disciplinary action against Respondent Brian K. Kurczewski pursuant to Wis. Admin. Code sec. RL 35.01 and Wis. Stat. sec. 440.26 (6).

5. The actions of Respondent Brian K. Kurczewski in violating Wis. Admin. Code sections of Chs. RL 33-35 as set forth in paragraphs 1-4 of the Conclusions of Law constitute the basis for taking disciplinary action against Respondent Brian K. Kurczewski Confidential Investigation Agency in accordance with Wis. Admin. Code sec. RL. 35.02.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. Brian K. Kurczewski (private detective license number 63-4996) is **SUSPENDED** from the practice of a private detective for a period of 7 DAYS. The 7 DAYS of the suspension shall commence upon the date that this Order is signed.
2. Brian Kurczewski Confidential Investigation Agency (private detective agency license number 62-15098) is

SUSPENDED from the practice of a private detective agency for a period of 7 DAYS. The 7 DAYS of the suspension shall commence upon the date that this Order is signed.

3. IT IS FURTHER ORDERED that Respondents Brian K. Kurczewski and Brian K. Kurczewski Confidential Investigation Agency shall pay COSTS of \$2,000.00 in this matter, within 180 days of the effective date of this Order. Payment shall be made to the Department of Regulation and Licensing, Post Office Box 8935, Madison, WI 53708-8935.

4. IT IS FURTHER ORDERED that in the event Respondents Brian K. Kurczewski and Brian Kurczewski Confidential Investigation Agency fail to pay the costs within the time and manner as set above, then and in that event, and without further notice to Respondents, the private detective license of Brian K. Kurczewski and the private detective agency license of Brian K. Kurczewski Confidential Investigation Agency shall be suspended without further hearing and without further Order of the Department of Regulation and Licensing. Said suspension shall continue until the full amount of said costs has been paid to the Department of Regulation and Licensing and Respondents failure to pay the costs shall be considered a violation of this Order.

5. This Order shall become effective upon the date of its signing.

THE DEPARTMENT OF REGULATION AND LICENSING

By: Steven M. Gloe
General Counsel

5-4-04
Date