

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

KEVIN J. MCCABE,
RESPONDENT.

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**ORDER OF
SUMMARY SUSPENSION**
DOE Case No. 04 RSG 019

This matter came before the Secretary of the Department of Regulation and Licensing as scheduled and noticed in the Notice and Petition for Summary Suspension filed on September 17, 2004. Attorney John Nicholas Schweitzer appeared; there was no appearance by the respondent. The allegations in the Petition, sworn to by the Petitioner as true upon information and belief, were used as the basis for the decision to issue this order, as well as the sworn testimony of Douglas Austin, investigator for the Division of Enforcement.

FINDINGS OF FACT

1. The Respondent is Kevin J. McCabe. At all times relevant to these facts Mr. McCabe held private security permit number 108-24720 issued by the Wisconsin Department of Regulation and Licensing. As of September 14, 2004, Mr. McCabe's private security permit was in expired status, but he retains a right to apply for its renewal.
2. Mr. McCabe's last-known address on file with the Department of Regulation and Licensing is 1223 Hazel Street, Cleveland, WI 53015.
3. Mr. McCabe was arrested on March 4, 2004 for Impersonating a Peace Officer and Disorderly conduct. The police report says he displayed his permit to the principal and the guidance counselor at a high school, claimed to be a special investigator for the Sheriff's Dept., and created a disturbance. The Impersonating a Peace Officer charge was dismissed for a plea of no contest to Disorderly Conduct (a misdemeanor) on June 28, 2004.
4. Discipline may be imposed on a permit-holder who is convicted of a misdemeanor that is substantially related to private security, pursuant to Wis. Stats., sec. 440.26 (6) (1).
5. Mr. McCabe did not report his conviction for Disorderly Conduct to the Department.
6. Discipline may be imposed on a permit-holder who fails to report a misdemeanor conviction to the Department of Regulation and Licensing within 48 hours, pursuant to Wis. Admin. Code, sec. RL 35.01 (2).
7. On March 8, 2004 Mr. McCabe's residence was searched and Mr. McCabe was arrested on a felony charge of Receiving Stolen Property and a misdemeanor charge of possessing a butterfly knife. The police report says that \$2869 worth of stolen property from a company Mr. McCabe had provided security for was found in his residence, along with the butterfly knife. The charges are still pending.
8. Discipline may be imposed on a permit-holder who pretends to be a law enforcement officer, pursuant to Wis. Admin. Code, sec. RL 35.01 (6).
9. Discipline may be imposed on a permit-holder who violates a law substantially related to the practice of a private security person, pursuant to Wis. Admin. Code, sec. RL 35.01 (2).
10. Mr. McCabe has engaged in and is likely to engage in conduct such that the public health, safety or welfare imperatively requires emergency suspension of Mr. McCabe's private security permit.
11. Respondent was informed of the Notice and Petition for Summary Suspension by first-class mailing on September 17, 2004 to the Respondent's last-known address as indicated in the Department's records, as required by Wis. Admin. Code,

CONCLUSION OF LAW

The legal requirements for the summary suspension of the Respondent's private security permit have been fulfilled pursuant to Wis. Adm. Code, chapter RL 6.

ORDER

NOW, THEREFORE, IT IS ORDERED that the private security permit issued to Kevin J. McCabe is SUSPENDED as of the date of this order, and shall remain suspended until a final decision and order is issued in this matter, or until further order. Respondent shall surrender his credentials immediately to the following address:

Department of Regulation and Licensing
Attn: Pamela Majewski, Paralegal
P.O. Box 8935
Madison, WI 53708

IT IS FURTHER ORDERED that Mr. McCabe may request a hearing to show cause why this suspension order should not be continued, and he may file such request with the Department of Regulation and Licensing at Box 8935, Madison, WI 53708-8935. A hearing on such request shall be scheduled within 20 days of the date the Department receives such request, unless Mr. McCabe agrees to a later date.

Signed and dated September 24th, 2004,

Donsia Strong Hill, Secretary
Department of Regulation and Licensing

NOTICE OF RIGHT TO SHOW CAUSE

PLEASE TAKE NOTICE that you have the right to request a hearing following the issuance of this order to show cause why the order should not be continued until the effective date of a final decision and order. A request to show cause must be filed with the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708. If a hearing to show cause is requested, the hearing shall be scheduled before an Administrative Law Judge on a date within twenty (20) days of the date of receipt by the Department of the request for hearing, unless you request or agree to a later time.

If a hearing to show cause is held, you may testify as well as the petitioner. You and the petitioner may call witnesses and examine and cross-examine them. The petitioner will have the burden to show why the order should be continued. At the conclusion of the hearing, the Administrative Law Judge will make findings of fact and conclusions of law and recommend a final decision and order to the Secretary of the Department. If it is determined that the summary suspension should not be continued, your (expired) permit will be restored to you.

September 24, 2004