

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	:	FINAL DECISION AND ORDER
	:	AS TO RESPONDENT
MJ PROTECTION & INVESTIGATION LLP,	:	MJ PROTECTION &
MICHAEL L. WALDEN,	:	INVESTIGATION LLP
ANGEL L. MONTERO,	:	
THOMAS M. BRUSKY AND	:	LS0608035RSG
HERMAN P. WEBER,	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 05 RSG 024

The parties to this action for the purpose of Wis. Stat. §227.53 are:

MJ Protection & Investigation LLP
922 Partridge Lane
Fredonia, WI 53021

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

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Department of Regulation and Licensing (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 **MJ Protection & Investigation LLP** (“MJ Protection”) is a Wisconsin licensed Private Detective Agency, having license # 62-16347. The license was first granted on 12/22/2003 and is current through 8/31/2006. MJ Protection’s last reported address on file with the Department of Regulation and Licensing is 922 Partridge Lane, Fredonia, WI 53021.

2. Department records show that MJ Protection is a Limited Liability Partnership with Respondent Michael L. Walden listed as the President and Jacquelyn L. Walden listed as the business manager.

3. Respondent **Michael L. Walden** (“Walden”), whose date of birth is 12/05/1962, holds State of Wisconsin private security permit # 108-5307. This permit was first granted on 9/15/1997 and is current through 8/31/2006. Walden’s last reported address on file with the Department of Regulation and Licensing is 922 Partridge Lane, Fredonia, WI 53021.

4. Respondent **Angel L. Montero** (“Montero”), whose date of birth is 4/15/1962, holds State of Wisconsin private security permit # 108-4029. This permit was first granted on 7/01/1997 and is current through 8/31/2006. Montero’s last reported address on file with the Department of Regulation and Licensing is 9314A W. Burleigh Street, Milwaukee, WI 53222.

5. According to Department records, Montero was an employee of MJ Protection from 06/28/2005 to 08/08/2005.

6. Respondent **Thomas M. Brusky** (“Brusky”), whose date of birth is 8/22/1978, holds State of Wisconsin private security permit # 108-25954. This permit was first granted on 4/28/2004 and is current through 8/31/2006. Brusky’s last reported address on file with the Department of Regulation and Licensing is 1623 Missouri Avenue, South Milwaukee, WI 53172, but his current address is 2828 East Bolivar Avenue, St. Francis, WI 53235.

7. According to Department records, Brusky was an employee of MJ Protection from 06/28/2005 to 11/02/2005.

8. Respondent **Herman P. Weber** (“Weber”), whose date of birth is 6/25/1968, holds State of Wisconsin private security permit # 108-28232. This permit was first granted on 4/11/2005 and is current through 8/31/2006. Weber’s last reported address on file with the Department of Regulation and Licensing is 503 Dries Street, Saukville, WI 53080.

9. According to Department records, Weber began working for MJ Protection on 06/28/2005 and continues to be an employee there.

10. On 06/29/2005, Walden, Weber, Montero and Brusky went to the home of Carey Evers (“Evers”) wearing their MJ Protection security guard uniforms and duty belts containing pepper spray, handcuffs, batons and firearms. They asked Evers to step outside, which he did, and advised Evers that they were there to take him into custody on a Department of Revenue tax warrant.

11. Evers protested and told Walden, Weber, Montero and Brusky that they had no authority to arrest him.

12. When Evers attempted to re-enter his home, he was restrained and handcuffed. Walden, Weber, Montero and Brusky placed the handcuffed Evers in an unmarked MJ Protection van. At the time Evers was handcuffed and placed in the van, he was wearing a t-shirt, sweatpants and socks, but no shoes. Evers was not allowed to get any shoes before being placed in the van.

13. Weber, Montero and Brusky transported Evers to the 6th District Station of the Milwaukee Police Department with the intent of turning Evers over to the police. Walden had another assignment that evening and did not accompany the others to the police station.

14. Weber and Brusky took Evers inside the police station and Walden arrived in another vehicle to pick up Montero to take him to a security assignment for the evening. The police station refused to accept Evers and told Weber and Brusky to take Evers to the Milwaukee County Jail.

15. Weber and Brusky took Evers to the Milwaukee County Jail where Evers was placed in a holding cell while Weber and Brusky spoke with jail staff.

16. Jail staff advised Weber and Brusky that they had no authority to place Evers in jail on a tax warrant and that Evers had to be released. Weber and Brusky then took Evers home.

17. According to Evers, he was in Respondents’ custody for approximately five hours.

18. Neither MJ Protection nor any of its employees had any kind of contract with the Wisconsin Department of Revenue to pick up citizens on tax warrants or provide any services for the Wisconsin Department of Revenue.

19. When Walden, Montero, Brusky and Weber picked up Evers, they were not working for any contracted client.

20. Prior to arresting Evers on the tax warrant, Weber and Brusky went to the Wisconsin Department of Revenue office in Milwaukee to verify that the tax warrant information they had obtained from the Consolidated Court Automation Programs (CCAP) website was valid. Weber and Brusky contend that they were told by a Department of Revenue employee that it was okay for them to pick up Evers on the outstanding tax warrant. The Department of Revenue maintains that while they did verify that there was an outstanding tax warrant for Evers, they did not tell Weber and Brusky that the warrant provided a basis to arrest Evers. The Department of Revenue employee explained to Weber and Brusky that tax warrants are not used to arrest people, but are instead used for such actions as garnishments and supplemental hearings in court.

21. Walden, Montero, Brusky and Weber are licensed in Wisconsin as “private security persons.” None of them is licensed as a private detective in Wisconsin.

CONCLUSIONS OF LAW

1. The State of Wisconsin Department of Regulation and Licensing has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.26(6) and Wis. Admin. Code § RL 35.01 (intro), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. By restraining Cary Evers on a civil tax warrant without his consent and without any lawful authority to do so, Respondents Walden, Montero, Brusky and Weber falsely imprisoned Evers, in violation of Wis. Stat. § 940.30. Such conduct reflects adversely on their professional qualifications in violation of Wis. Stat. § 440.26(6)(a)2 and Wis. Admin. Code § RL 35.01(intro) and § RL 35.01(2).
3. Pursuant to Wis. Stat. §§ 440.26(1) and 440.26(1m), and Wis. Admin. Code § RL 30.02(13)(a), a private security permit authorizes the permit holder to stand watch for security purposes. By restraining Cary Evers on a civil tax warrant, Respondents Walden, Montero, Brusky and Weber exceeded the scope of their private security permits and are subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)2. and 4.
4. By investigating the tax warrant status of Cary Evers Respondents Weber and Brusky were acting as private detectives without being licensed as private detectives. This is in violation of Wis. Stat. § 440.26(1), Wis. Admin. Code §§ RL 30.02(12)(a) and RL 31.01(2).
5. Pursuant to Wis. Admin. Code § RL 35.02, the Department may take disciplinary action against the private detective agency license of Respondent MJ Protection for the violations committed by Respondents Walden, Montero, Brusky and Weber.

ORDER

1. NOW THEREFORE, IT IS HEREBY ORDERED that private detective agency license #62-16347, issued to Respondent **MJ Protection & Investigation LLP**, shall be **SUSPENDED** for **THIRTY (30) days**, commencing ONE HUNDRED EIGHTY (180) days from the date this Order is signed.

2. IT IS FURTHER ORDERED that Respondent **MJ Protection & Investigation LLP**, shall, within sixty (60) days from the date of this Order, pay **COSTS** of this proceeding in the amount of **ONE THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00)**. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264

3. Pursuant to Wis. Admin Code. § RL 35.03, the suspension of the private detective agency license of **MJ Protection & Investigation LLP** terminates all private detective or private security personnel activity by all employees of the agency during the term of the suspension.

4. MJ Protection & Investigation LLP owners Michael L. Walden and Jacquelyn L. Walden shall not seek to obtain any other private detective agency license during the period of MJ Protection & Investigation's license suspension.

5. IT IS FURTHER ORDERED that MJ Protection owner Michael L. Walden shall develop a security training program for the employees of MJ Protection. The training program shall include, at a minimum, a manual for employees and an educational program for employees, meeting the requirements below.

6. The training manual shall include, at a minimum, the following:

- a. reproduction of, and discussion of, the Wisconsin Statutes and Wisconsin Administrative Code provisions that govern security personnel, as well as the criminal statutes on false imprisonment,

carrying concealed weapons and other crimes involving the use of firearms, impersonating a peace officer, criminal trespass, battery, and self-defense/use of force; and

- b. all company policies and procedures.

The training manual shall be completed and submitted to the Department Monitor for review by the Secretary or her designee within **NINETY (90) DAYS** of the date of this order. Once approved by the Secretary or her designee as being acceptable, the training manual shall be provided to all MJ Protection employees within **THIRTY (30) DAYS** of approval. Within that 30-day time frame, Michael L. Walden shall provide a written certification to the Department Monitor certifying that copies of the training manual have been provided to all employees.

- 7. The educational program for employees shall include, at a minimum, the following:

- a. eight hours of review and discussion of the Wisconsin Statutes and Wisconsin Administrative Code provisions governing security personnel as well as the criminal statutes mentioned above in paragraph 5.a.;
- b. three hours of review and discussion of disciplinary orders entered in security guard cases in Wisconsin; and
- c. one hour of review and discussion of the company policies mentioned above in paragraph 5.b.

8. The educational program components described in paragraphs 7.a. and 7.b. shall be presented by an outside trainer or trainers acceptable to and preapproved by the Department Secretary or her designee. The educational program may take place over the course of multiple days, at the discretion of MJ Protection owner Michael L. Walden, but the entire 12-hour educational program must be presented within the same week. Owner Michael L. Walden is responsible for coordinating the scheduling of the educational program with the preapproved outside trainer(s).

9. Prior to presenting the educational program to the employees of MJ Protection, owner Michael L. Walden shall provide the Department Monitor with a minimum of **TEN (10) BUSINESS DAYS** notice of when the program is scheduled to take place. The Secretary and/or her designee(s) may attend part of or the entire educational program.

10. All MJ Protection employees must attend this educational program, in its entirety, no later than **ONE HUNDRED TWENTY (120) DAYS** after the date of this order. The entire educational program may be offered on more than one occasion, but all employees must complete the program within 120 days of the date of this order. Each employee must sign a certification attesting to his/her attendance at the educational program, and each employee certification must also be signed by MJ Protection owner Michael L. Walden, certifying that the named employee attended the educational program. Employee certifications shall be mailed to the Department Monitor no later than **ONE HUNDRED FIFTY (150) DAYS** after the date of this order.

11. MJ Protection is solely responsible for all costs associated with developing and providing the educational program to its employees.

12. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in further disciplinary action against MJ Protection's private detective agency license (# 62-16347). In the event Respondent MJ Protection fails to timely submit payment of the costs as set forth above, or fails to prepare and provide the training manual and educational program as set forth above, the MJ Protection agency license (# 62-16347) SHALL BE SUSPENDED, without further notice or hearing, until MJ Protection has complied with the terms of this Order.

- 13. This Order is effective on the date of its signing.

By: Celia M. Jackson
Secretary

8/3/06
Date

