

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	:	INTERIM ORDER
	:	
BRENDAN M. EICHSTEADT and	:	
METROPOLITAN PROTECTIVE	:	
SERVICES,	:	LS#_____RSG
	:	
RESPONDENTS.	:	

Division of Enforcement Case Number: 08 RSG 019

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

Brendan M. Eichsteadt
Respondent
429 Valeria Drive #1
De Forest, WI 53532

Metropolitan Protective Services
Respondent
1601 Seybold Road #209
Madison, WI 53719

Department of Regulation and Licensing
Office of the Secretary
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 Division of Enforcement, Department of Regulation and Licensing, has opened an investigation against Respondents. The parties in this matter agree to the terms and conditions of this Interim Order and the attached Stipulation as the temporary disposition of this matter, subject to the approval of the Secretary of the Department of Regulation and Licensing or her designee. The Secretary or designee has reviewed this Stipulation and considers it acceptable.

Accordingly, the Secretary or designee in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Brendan M. Eichsteadt (Eichsteadt), date of birth March 28, 1981, has been issued a permit to practice as a security person (#108-15981) in the State of Wisconsin, which was first granted on November 3, 2000 and which will expire on August 31, 2008. Mr. Eichsteadt’s last address reported to the Department is 429 Valeria Drive #1, De Forest, WI 53532.

2.. Respondent Metropolitan Protective Services (MPS) has been issued a license to practice as a Private Detective Agency (#62-16527) in the State of Wisconsin, which was first granted on September 7, 2006, and which will expire on August 31, 2009. MPS is registered to do business as “Metropolitan Private Police Agency.” Per Department records, MPS is owned and operated by Mr. Eichsteadt and his spouse, Brenda Eichsteadt. MPS’ last address reported to the Department is 1601 Seybold Road #209, Madison, WI 53719.

3. Kelley Sankbeil is an investigator with the Department of Regulation and Licensing, and has been assigned to Case No. 08 RSG 019.

4. Kelley Sankbeil witnessed Respondent Brendan Eichsteadt make statements creating probable cause to believe that violations of statutes and rule governing the conduct of private security persons and private detective agencies have occurred, to wit:

a. Mr. Eichsteadt stated that he began issuing parking tickets in May of 2008. Mr. Eichsteadt has further stated that he issued the tickets to vehicles located on private property.

b. Mr. Eichsteadt stated that about 50% of the tickets that he has issued have been paid. Monies received were deposited into an account owned and controlled by Metropolitan Protective Services and Mr. Eichsteadt.

c. Mr. Eichsteadt was not acting on behalf of any local authority within the meaning of Wis. Stat. §§ 340.01 (26) and 349.06.

5. Per Wis. Admin. Code § RL 35.01, “The department may... suspend or revoke a credential... upon proof that the credential holder or any owner of an agency has engaged in conduct reflecting adversely on professional qualification. Conduct reflecting adversely on professional qualification includes, but is not limited to, any of the following: (21) Obtaining or attempting to obtain anything of value from a client by fraud, misrepresentation, deceit or duress.”

6. Per Wis. Stat. § 440.26 (6) (a), “...the department may... revoke, suspend or limit the license or permit of any person who has done any of the following: 2. Engaged in conduct reflecting adversely on his or her professional qualification.”

7. Per Wis. Admin. Code § RL 6.06 (1), “If the licensing authority finds... probable cause to believe that the respondent has engaged in conductor is likely to engage in conduct such that the public... safety or welfare imperatively requires emergency suspension of the respondent’s license, the licensing authority may issue an order for summary suspension.

CONCLUSIONS OF LAW

1. Enactment and enforcement of parking regulations is given to local authorities under Wis. Stat. § 349.06. The term “local authorities” is defined by Wis. Stat. § 340.01 (26) as, “...every county board, city council, town, or village board or other local agency having authority under the constitution and laws of this state to adopt traffic regulations.”

2. Neither Mr. Eichsteadt nor MPS are a “local authority” within the meaning of Wis. Stat. § 349.06, nor were they acting for any local authority when issuing tickets for alleged parking violations.

3. There is probable cause to believe that Respondents Brendan M. Eichsteadt and Metropolitan Protective Services have issued tickets for alleged parking violations and/or causing others to issue the same, and without being a local authority or acting on behalf of a local authority within the meaning of Wis. Stat. § 349.06; have attempted to obtain compensation by fraud, misrepresentation, deceit or duress; and have obtained compensation by fraud, misrepresentation, deceit or duress; and have thereby engaged in conduct reflecting adversely upon their professional qualifications in violation of Wis. Stat. § 440.26 (6) (a) 2. and Admin. Code § RL 35.01.

4. There is probable cause to believe that Brendan M. Eichsteadt and Metropolitan Protective Services, d/b/a Metropolitan Private Police Agency, have engaged in conduct such that the public welfare has been harmed, and that

protection of the public welfare imperatively requires emergency suspension of the respondents' licenses.

WHEREFORE, the Department of Regulation and Licensing makes the following:

ORDER

1. The security person permit of Brendan M. Eichsteadt (#108-15981), is hereby SUMMARILY SUSPENDED as of the date of service under sec. 6.08, Wis. Admin. Code and sec. 801.11, Stats. for the service of summons. The license shall remain suspended until a final decision and order is issued in the disciplinary proceeding, or until further order of the Department of Regulation and Licensing. Respondent shall surrender his credentials immediately upon service to the following address:

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

2. The private detective agency license of Metropolitan Protective Services (#62-16527), is hereby SUMMARILY SUSPENDED as of the date of service under sec. 6.08, Wis. Admin. Code and sec. 801.11, Stats. for the service of summons. The license shall remain suspended until a final decision and order is issued in the disciplinary proceeding, or until further order of the Department of Regulation and Licensing. Respondent shall surrender its credentials immediately upon service to the following address:

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

IT IS FURTHER ORDERED that Mr. Eichsteadt and/or Metropolitan Protective Services 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 Respondents agree to a later date OR within 30 days if Respondents have failed to comply with paragraph 2 of the attached stipulation

Signed and dated June 12, 2008,

FOR THE DEPARTMENT OF REGULATION AND LICENSING:

Celia M. Jackson, Secretary

To: Brendan M Eichsteadt
429 Valeria Drive #1
De Forest WI 53532

Metropolitan Protective Services
1601 Seybold Road #209
Madison WI 53719

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 (except as otherwise provided for by the attached Stipulation and Interim Order).

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 Department of Regulation and Licensing. If it is determined that the summary suspension should not be continued, your license will be restored to you.

cc: Attorney Brian G Brophy
Sipsma Hahn & Brophy LLC
701 East Washington Avenue #201
Madison WI 53703-2958

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	STIPULATION TO ISSUANCE OF
	:	AN INTERIM ORDER
BRENDAN M. EICHSTEADT and	:	
METROPOLITAN PROTECTIVE	:	
SERVICES,	:	LS# _____ RSG
	:	
RESPONDENTS.	:	

Division of Enforcement Case Number: 08 RSG 019

- It is hereby stipulated and agreed, by and between Brendan M. Eichsteadt, Respondent, on his own behalf and on behalf of Metropolitan Protective Services, Respondent; Brian G. Brophy, attorney for Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation is entered into as a result of a pending investigation against Respondents' licensures by the Division of Enforcement (08 RSG 019). Respondents consent to the entry of this Interim Order in lieu of the presentation of a Petition for Summary Suspension of Respondents' licensures.
 2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to presentation of a petition against them, at which time the state has the burden of proving those allegations by a showing of probable cause; the right present information and oral arguments to the officials who are to render the decision to order a summary suspension; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law. Respondents specifically retain the right to request a hearing to show cause pursuant to RL 6.09. However, at least ten days prior to exercising the right to request a hearing to show cause Respondents shall provide notice of intent to do so to the Complainant, and Complainant shall have the right to present a petition for summary suspension to the licensing authority, in order to normalize the procedural posture of the case. Respondents further neither admit nor deny the allegations contained in the attached Interim Order, but admit that there is some evidence from which the licensing authority can make the Findings of Fact, and reach the Conclusions of Law, contained therein. Respondents specifically reserve the right to dispute all allegations of fact and conclusions of law in any future proceedings.
 3. Respondents have conferred with legal counsel prior to signing this Stipulation.
 4. The parties to the Stipulation consent to the entry of the attached Interim Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Secretary of the Department of Regulation and Licensing's order, if adopted in the form as attached.
 5. If the terms of this Stipulation are not acceptable to the Secretary the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Secretary the parties agree not to contend that the Secretary has been prejudiced or biased in any manner by consideration of this attempted resolution.
 6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement may appear before the Secretary in open or closed session, with or without the presence of the Respondents or their attorney(s), for purposes of speaking in support of this agreement and answering questions that the Secretary may have in connection with deliberations on the Stipulation.
 7. Respondents are informed that should the Secretary adopt this Stipulation, the Secretary's Interim Order is a

public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondents in recommending the Secretary adopt this Stipulation and issue the attached Final Decision and Order.

9. The parties agree that the authority of the Secretary to adopt this stipulation may be assigned to another person.

BRENDAN M. EICHSTEADT,

Respondent, on his own behalf and

on behalf of **METROPOLITAN**

PROTECTIVE SERVICES,

Respondent

429 Valeria Drive #1

De Forest, WI 53532

Date

BRIAN G. BROPHY

Sipsma, Hahn & Brophy, LLC,

Attorneys for Respondent

701 East Washington Avenue #201

Madison, WI 53703-2958

Date

MARK A. HERMAN

Attorney, Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708-8935

Date