

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

MICHAEL J. BOROWSKI,

:

LS0805233RAL

:

LS0805233RSG

RESPONDENT.

:

Division of Enforcement File No.s: 06 RAL 068 and 06 RSG 032

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

Michael J. Borowski
8100 West Norwich Avenue
Milwaukee, WI 53220

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 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 Secretary of the Department of Regulation and Licensing ("Secretary"). The Secretary has reviewed this Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent **Michael J. Borowski** ("Borowski"), whose date of birth is October 28, 1959, and whose address of record with the Department of Regulation and Licensing ("Department") is 8100 West Norwich Avenue, Milwaukee, WI 53220, holds a license as a Private Detective (#63-10937). The license was first granted on September 9, 2004, and will expire on August 31, 2008. Mr. Borowski also holds a license as a Private Security Guard. The latter license was first granted on December 12, 2001, and will expire on August 31, 2008.

2. On July 27, 2006, Mr. Borowski submitted applications for the renewal of his licenses. In the application Mr. Borowski disclosed that on October 4, 2005, he had been convicted of a charge of Disorderly Conduct (While Armed), contrary to Wis. Stat. §§ 947.01 and 939.63, a Class B Misdemeanor. This criminal charge was not reported to the Department other than in the response to a question on the application for renewal.

3. Per the criminal complaint, Mr. Borowski was under the influence of a combination of legally prescribed medications and alcohol, which appear to have had a hallucinogenic effect on Mr. Borowski. Mr. Borowski entered the

apartment of a neighbor while armed with pepper spray and a hand gun. Mr. Borowski believed that he was preventing a robbery. Mr. Borowski telephoned law enforcement officers himself, apparently after discharging pepper spray. When law enforcement officers arrived they did not find any person present in the apartment, including the resident, whom Mr. Borowski believed was present. Upon further investigation law enforcement officers found that the resident of the apartment had been at work throughout the time of the alleged robbery.

4. A review of Wisconsin Criminal Records shows that Mr. Borowski has been convicted of two other charges that were punishable by forfeiture. On May 9, 2004, Mr. Borowski was convicted of Operating a Motor Vehicle While Under the Influence of Alcohol. On October 12, 2005, Mr. Borowski was convicted of a violation of a local ordinance prohibiting disorderly conduct. Neither charge was reported to the Department by Mr. Borowski. The form used by Mr. Borowski at the time of renewal asks only for information concerning “felony or misdemeanor” charges.

5. Per Wis. Admin. Code § RL 35.01 (2), the Department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder, if a licensee is convicted of, “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. A credential holder who is convicted of a felony, misdemeanor or ordinance violation... shall send to the department within 48 hours after the judgment of conviction... a copy of the complaint or other information which describes the nature of the crime... so that the department may determine whether disciplinary action should be taken against the credential holder.”

Mitigating Factors

6. No person was harmed during the incident described above in paragraph 3. There is no evidence of ill-intent or lack of character on the part of Mr. Borowski. Mr. Borowski successfully completed all terms of his probation in October of 2006, including the completion of treatment provided by the U.S. Department of Veterans Affairs. A review of Wisconsin Circuit Court records shows no further incidents since he was sentenced on October 24, 2005. Mr. Borowski asserts that he abstains from the use of alcohol.

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, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By failing to notify the Department within 48 hours of his convictions, as set forth above in paragraphs 2-5, Mr. Borowski has engaged in unprofessional conduct, thereby subjecting itself to discipline per Wis. Admin. Code § RL 35.01 (2).

3. Mr. Borowski’s conviction of Disorderly Conduct (While Armed) is substantially related to the practice of a Private Detective and a Private Security Guard, and, therefore, by his conviction Mr. Borowski has engaged in unprofessional conduct, thereby subjecting itself to discipline per Wis. Admin. Code § RL 35.01 (2).

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. The Private Detective and Private Security Guard licenses issued to **Michael J. Borowski** (# 63-10937 and 108-19507), shall be, and hereby are **REPRIMANDED** and **LIMITED** as follows: (a) the Department shall not issue any firearms permit to any entity allowing Mr. Borowski to carry any firearm; (b) Mr. Borowski may not possess any dangerous weapon while acting as a Private Detective or Private Security Guard unless: (i) he is employed by a Private Detective Agency in which he has no ownership interest or supervisory responsibilities, and (ii) a supervisor verifies that he is not under the influence of alcohol or any drug which might impair his judgment immediately prior to beginning any assignment; and (c) a copy of this Order shall be given to any person or entity that employs Mr. Borowski as a Private Detective or Private Security Guard prior to the beginning of any assignment.

2. IT IS FURTHER ORDERED that **Michael J. Borowski** shall, within NINETY days of the date of signing of this Order, pay **COSTS** of this proceeding in the amount of **TWO HUNDRED FIFTY DOLLARS (\$250.00)**. 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. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's licenses (#63-10937 and 108-19507). The Secretary in her discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment as set forth above, Respondent's licenses (#63-10937 and 108-19507) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

4. This Order is effective on the date of signing.

5. Division of Enforcement Case Numbers 06 RAL 068 and 06 RSG 032 are hereby CLOSED.

By: Celia M. Jackson
Secretary

5/23/08
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS :
AGAINST : STIPULATION
:
MICHAEL J. BOROWSKI, : LS _____
:
RESPONDENT. :

Division of Enforcement File No.s: 06 RAL 068 and 06 RSG 032

It is hereby stipulated and agreed, by and between Michael J. Borowski, 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 of Respondent’s licensures by the Division of Enforcement (Case No.s 06 RAL 068 and 06 RSG 032). Respondent consents to the resolution of this matter by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has been provided with the opportunity to confer with legal counsel prior to signing this Stipulation.
4. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives 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, without the presence of the Respondent or his attorney, 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. Respondent is informed that should the Secretary adopt this Stipulation, the Secretary’s final decision and order is a public record and will be published in accordance with standard Department procedure.
8. The Division of Enforcement joins the Respondent in recommending that the Secretary adopt this Stipulation and issue the attached Final Decision and Order.

MICHAEL J. BOROWSKI, Respondent
8100 West Norwich Avenue
Milwaukee, WI 53220

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