

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

NORTHERN EXPOSURE INVESTIGATIONS,

CASE # LS0806041 RAL

RESPONDENT

ORDER GRANTING MOTION TO WITHDRAW COMPLAINT

(Division of Enforcement Case File 07 RAL 037)

TO: Northern Exposure Investigations
c/o Robert Dossetto
P.O. Box 182
Marquette, MI 49855

Angela L. Arrington
Prosecuting Attorney
Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

PROCEDURAL HISTORY

This Class 2 disciplinary proceeding was commenced by the filing of a Notice of Hearing and Complaint on behalf of the Department of Regulation and Licensing by the Division of Enforcement, on June 4, 2008. Attorney Angela Arrington represented the Division of Enforcement. The Respondent appeared *pro per* through Robert Dossetto, the owner of Northern Exposure Investigations. On June 20, 2008, prior to the scheduling and holding of the hearing, Ms. Arrington filed an *Affidavit of Facts* seeking to set aside and dismiss the Complaint. In response, on June 23, 2008, Mr. Dossetto filed a *Motion for Summary and Request for Discovery and Disclosure* on behalf of the Respondent.

On July 14, 2008, a prehearing conference was held before the Administrative Law Judge, Colleen M. Baird. At the conference, Ms. Arrington indicated that Mr. Dossetto had received his private detective license as of July 10, 2008, and upon this basis she was prepared to withdraw the formal Complaint. Accordingly, the hearing scheduled to be held on July 17, 2008 was adjourned. The order of Adjournment requested that Ms. Arrington submit her motion in writing with an explanation of the reasons supporting the motion.

On July 23, 2008, Ms. Arrington filed a more complete *Motion to Withdraw Complaint* which set forth the reasons and information which supported the motion. On August 7, 2008, the Respondent filed a response indicating that he opposed the *Motion to Withdraw* and requested that the ALJ issue a ruling on the matter based upon the facts and evidence presented by the parties.

Analysis

This is a Class 2 disciplinary proceeding involving allegations that the Respondent Northern Exposure Investigations,

through its' business advertisements, has violated Wis. Stat. § 440.26(6)(a)4 and Wis. Admin. Code § RL 35.01(6). Essentially, the Complainant alleges that the Respondent Northern Investigations engaged in false, misleading and deceptive advertisements by offering to provide private detective services when it did not have a licensed private detective working for or associated with the company.

The Complainant further alleged that Mr. Dossetto, the sole proprietor of Northern Investigations, had been repeatedly advised by the Department that he was required to obtain a private detective license before his company could lawfully advertise to furnish detective services; the grant of a business entity license alone was not sufficient.

The Respondent admits through Mr. Dossetto that it did not have in its employ a licensed private detective at the time it advertised to furnish private detective services. However, Mr. Dossetto argued in his *Motion to Dismiss* that he had completed an application and submitted the credential fees in 2004 to obtain a private detective license from the Department, but was issued the wrong type of license. Because the Complainant has moved to withdraw the Complaint on the basis that the appropriate license has since been issued, there was no adjudication of this allegation and there is no legal basis to proceed in a Class 2 disciplinary action.

It is a fundamental requirement in a disciplinary proceeding that a genuine controversy or dispute must exist between the parties; not rendered moot by subsequent action. In this matter, the controversy between the parties has been resolved or mooted by the granting of the private detective license. As a result, the Complainant has chosen to withdraw the disciplinary Complaint because the dispute has been resolved through compliance. Given the resolution of this matter, the Administrative Law Judge is not authorized to proceed as there no longer remains a genuine controversy nor can the prosecution of this matter be forced to continue.

COSTS

The Respondent also contends that he is entitled to reimbursement of Mr. Dossetto's time and expenses in examination preparation and fees. The administrative rule governing the Class 2 disciplinary proceedings does not provide for the reimbursement of expenses in connection with obtaining a credential required for the lawful conduct of licensed activity. Moreover, the costs for which the Respondent is seeking reimbursement are those normally incurred by anyone who is applying for a credential. Reimbursement of litigation costs may be available in certain governmental actions under the Wisconsin Equal Access to Justice Act (WEAJA), Wis. Stat. § 227.485, if the party seeking costs meets the threshold requirements of the law. The Respondent has not filed a petition for such costs and would not likely meet the requirements for an award of costs under WEAJA because it is not the prevailing party since the matter was withdrawn.

For these reasons, it is the interests of judicial economy to grant the Complainant's *Motion to Withdraw* the Complaint and close this matter with no further action.

Dated this 5th day of December, 2008.

Colleen M. Baird
Administrative Law Judge
P.O. Box 8935
Madison, WI 53708
(608) 266-1815