

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**

:
BRENDAN M. EICHSTEADT and :
METROPOLITAN PROTECTIVE :
SERVICES, : LS0906083RSG

:
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 parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Secretary of the Department of Regulation and Licensing (Secretary). The Secretary has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Secretary 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. On August 26, 2008, a criminal complaint was filed against Mr. Eichsteadt. On February 19, 2009 the State filed an Amended Information, charging a total of 11 counts alleging violations of Wis. Stat. § 948.20(1)(d) (Theft by False Representation, >\$2,500, which is a Class A Misdemeanor); and an additional total of 11 counts alleging violations of Wis. Stat. §946.68(1r)(a) (Simulating Legal Process, which is a Class I Felony). The charges alleged 12 incidents wherein Mr. Eichsteadt issued fee notices to individuals parked in private parking lots.

4. On April 15, 2009, Mr. Eichsteadt pled “no contest” to five counts of Theft by False Representation, and was found guilty of the same. Mr. Eichsteadt also pled “no contest” to one count of Simulating Legal Process; the Court withheld adjudication of this crime. The remaining seven counts of Theft by False Representation and eleven counts of Simulating Legal Process were dismissed, but read-in for sentencing purposes.

5. All crimes concerned a series of incidents committed by Mr. Eichsteadt and others on behalf of MPS. Specifically, Mr. Eichsteadt admitted that he and others created “parking tickets” which were issued to vehicles parked on private property on at least 12 occasions. Mr. Eichsteadt further admitted that MPS had received payment on 12 occasions.

6. 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.” Mr. Eichsteadt admits that MPS was not acting on behalf of any local authority that is entitled to issue parking tickets within the meaning of Wis. Stat. §§ 340.01(26) and 349.06.

7. 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: “(2) 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.”

8. 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.”

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in these matters pursuant to Wis. Stat. § 440.26.

2. The Wisconsin Department of Regulation and Licensing has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).

3. By issuing tickets for alleged parking violations and/or causing others to issue the same, without being a local authority or acting on behalf of a local authority within the meaning of Wis. Stat. § 349.06, Respondents **Brendan M. Eichsteadt** and **Metropolitan Protective Services** have violated or aided and abetted violations of laws, the circumstances of which are substantially related to the practices of Private Security Persons and Private Detective Agencies, reflecting adversely upon their professional qualifications, and thereby subjecting themselves to discipline per Wis. Stat. § 440.26 (6) (a) 2. and Admin. Code § RL 35.01(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licenses of Respondents **Brendan M. Eichsteadt** (#108-15981) and **Metropolitan Protective Service** 16527) shall be, and hereby are, **REVOKED**.

IT IS FURTHER ORDERED that:

2. **Brendan M. Eichsteadt and Metropolitan Protective Services**, shall pay the costs of this investigation in the amount of ONE THOUSAND FOUR HUNDRED DOLLARS (\$1,400.00). The full amount of all costs shall be immediately due and owing upon receipt of any application for any license administered by the Department of Regulation and Licensing from Brendan M. Eichsteadt, or any other owner of Metropolitan Protective Services.

3. Proof of completion of coursework, payment of costs, and all other submissions required by the Order shall be mailed, faxed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

4. Case number 08 RSG 019 is hereby closed.

5. This Order is effective on the date of its signing.

DEPARTMENT OF REGULATION AND LICENSING

By: CELIA M. JACKSON, SECRETARY

Date 6/8/09

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS :
AGAINST : **STIPULATION**
:
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; G. Brian 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 resolves a pending investigation against Respondents' licensures by the Division of Enforcement (08 RSG 019). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
 2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, 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 them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 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.
 3. Respondents have been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
 4. Respondents agree to the adoption of the attached Final Decision and Order by the Secretary of the Department of Regulation and Licensing (Secretary). 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. Respondents waive all rights to any appeal of the Secretary'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 then 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 the consideration of this attempted resolution.
 6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement ever assigned as an advisor in this investigation may appear before the Secretary, without the presence of Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Secretary's 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 Respondent in recommending the Secretary adopt this Stipulation and issue

the attached Final Decision and Order.

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

G. BRIAN BROPHY
Sipsma, Hahn & Brophy, LLC,
Attorneys for Respondent
701 East Washington Avenue #201
Madison, WI 53703-2958
Approved as to form.

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