

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
RAPID RESPONSE PUBLIC SAFETY :
and HECTOR RODRIGUEZ, : ORDER 0000783
RESPONDENTS. :

Division of Enforcement File Numbers 08 RAL 009 and 09 RSG 006

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Rapid Response Public Safety
Post Office Box 342722
Milwaukee, Wisconsin 53234

Hector Rodriguez
Post Office Box 342722
Milwaukee, Wisconsin 53234

Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935

Division of Enforcement
Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Department of Regulation and Licensing. The Department of Regulation and Licensing has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department of Regulation and Licensing in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Rapid Response Public Safety (hereinafter RRPS) is licensed as a Private Detective Agency in the state of Wisconsin (License # 62-15752). The license was first issued on November 22, 1996, and is current until August 31, 2011. The last address RRPS reported to the

Department is Post Office Box 342722, Milwaukee, Wisconsin 53234. Department records show that Hector Rodriguez is the sole proprietor of RRPS.

2. Hector Rodriguez, date of birth November 24, 1962, is duly licensed as a Private Detective in the state of Wisconsin (License #63-8387) by the Wisconsin Department of Regulation and Licensing. The permit was first issued on June 11, 1990, and is current through August 31, 2012. The last address Mr. Rodriguez reported to the Department is Post Office Box 342722, Milwaukee, Wisconsin 53234. Hector Rodriguez is the owner of RRPS.

3. On February 26, 1998, Hector Rodriguez was disciplined by the Department in Final Decision and Order LS 9709221 RAL. The factual basis for the discipline was that: (1) Mr. Rodriguez operated a private detective agency, Midevil [sic] Investigations, and employed a person as a private detective without a current private detective license; and (2) Mr. Rodriguez was convicted of a misdemeanor in Milwaukee Circuit Court for employing said private detective without a current private detective license. Mr. Rodriguez's private detective license was suspended for a period of one year.

4. On April 6, 2001, RRPS and Hector Rodriguez were enjoined and prohibited from operating as a private detective agency and as a private detective without the proper credential by the Department in LS 0102191 RAL. The factual basis for the injunction was that RRPS operated as a private detective agency while its license was expired, and that Mr. Rodriguez operated as a private detective while his license was expired.

5. Department records indicate that from October 25, 2007 through January 29, 2009, RRPS did not obtain the required bond or liability insurance policy. Department records indicate that RRPS's policy with TCA Financial Services Inc. terminated on October 25, 2007.

6. On January 16, 2008, the Department sent a letter to RRPS by certified mail to the agency's last known address listed in paragraph 1 above. The letter informed RRPS that the agency's bond or comprehensive general liability policy had expired and that private detective agencies are required to maintain either a bond or liability policy. This letter requested that RRPS inform the Department as to whether the agency was still practicing and indicate if the agency ceased practicing during any time period. The letter explained that if the agency is no longer in operation, then it was required to notify and surrender its license to the Department within 30 days. The letter requested a response no later than February 6, 2008. RRPS did not respond by that date.

7. On February 18, 2008, the Department sent a second letter by certified mail to RRPS requesting the same information described in paragraph 6 above. The letter requested a response no later than March 5, 2008. RRPS did not respond by that date. The letter was returned to the Department as unclaimed on April 22, 2008.

8. In a facsimile letter dated October 28, 2008, the Department's Credentialing Specialist informed RRPS's insurance carrier, TCA Financial Services, that the Department received a Certificate of Insurance covering November 26, 2007 through November 26, 2008. The letter informed TCA Financial Services that the required form #1482 was not included, rendering it an incomplete insurance filing. TCA Financial Services did not submit the required form #1482 for the lapsed period. This suggests that RRPS did not carry the required bond or

comprehensive general liability insurance during November 26, 2007 through November 26, 2008.

9. On July 10, 2009, the Department's Consumer Protection Investigator assigned to this case placed a call to TCA Financial Services at its office number of (262) 783-7060 and spoke with a representative. The representative informed the Investigator that RRPS did not have any insurance with TCA Financial Services for part of 2007 and all of 2008.

10. The Department's Consumer Protection Investigator assigned to this case sent RRPS a letter on January 16, 2009 regarding the lapsed policy. The Investigator requested copies of RRPS's current policy and any cut-through that may be required, including an explanation of all the facts concerning the lapsed period.

11. Hector Rodriguez responded to the Investigator's request in a letter dated January 31, 2009. Mr. Rodriguez stated that "the only practice we did was the sales of surveillance equipment and installing of cameras." He further stated that, "I have not operated as a detective or security agency for almost three years. Until just this end of January when we obtained insurance which has been sent to the Dept. of Reg's [sic] and Licensing by my insurance carrier." He also stated that "I did have insurance a while back and even then did not operate. I have been busy involved with other ventures and running a church."

12. The Department's investigation revealed that Hector Rodriguez renewed RRPS's license on August 3, 2008 and at that time, the agency had five employees, three of whom were added since November 16, 2007.

a. Juan Cruz was duly licensed as a Private Security Person in the state of Wisconsin (License #108-14606) on June 22, 2000 and was employed by RRPS on November 16, 2007. Mr. Cruz's license expired on September 1, 2008. RRPS failed to notify the Department that Juan Cruz was terminated from RRPS when Mr. Cruz's private security permit expired on September 1, 2008.

b. Ernesto Garcia was duly licensed in the state of Wisconsin as a Private Security Person (License #108-6872) on December 17, 1998 and was employed by RRPS on December 14, 2007. Mr. Garcia's license expired on August 31, 2010. RRPS has not notified the Department in writing that Mr. Garcia's employment was terminated by the agency. This indicates that he may be currently employed by RRPS or that RRPS failed to notify the Department of his termination.

c. Jose Rios was duly licensed in the state of Wisconsin as a private security guard (License #108-16266) on December 1, 2000 and was employed by RRPS on December 8, 2008. Mr. Rios' license expired on August 31, 2010. RRPS has not notified the Department in writing that Mr. Rios' employment was terminated by the agency. This indicates that he may be currently employed by RRPS or that RRPS failed to notify the Department of his termination.

13. The proof of insurance Hector Rodriguez referred to in paragraph 11 above was a Certificate of Insurance filed with the Department in January 2009 covering January 29, 2009 through January 29, 2010. This insurance filing was completed when RRPS's insurance carrier,

TCA Financial Services, submitted the required missing form #1482 via facsimile on April 17, 2009.

14. On February 4, 2009, the Department's Consumer Protection Investigator assigned to this case called RRPS at its most recent telephone number listed with the Department, (414) 327-2825. The Investigator left a message noting the gap in the agency's insurance and that she needed to speak with Mr. Hector Rodriguez regarding this matter. The Investigator provided her name and direct agency phone number, along with her office hours. No one responded to the Investigator's phone message.

15. The Department's investigation revealed that on March 4, 2009 the Department's Credentialing Specialist sent a letter to RRPS at its last known address listed in paragraph 1 above. In the letter, the Credentialing Specialist reminded RRPS that she had notified the agency, on three separate occasions during November 2007 through January 2008, that the Department did not have the required form #1482 to accompany the Certificate of Insurance. The letter informed Hector Rodriguez that he was required to submit either proof of insurance for two lapsed periods between October 25, 2007 through January 29, 2009 or **"an affidavit stating that the agency did not operate while it was uninsured or some combination of the two of these so as to cover the entirety of both gaps."** The letter further stated,

If you supply an affidavit, it must stipulate that the agency did not perform any duties requiring a license and specify the dates during which the agency was non-operational. The final line of the affidavit must read, 'Under the penalty of perjury I swear that the statements in this document are true'. Hector Rodriguez must then sign the statement in the presence of a notary.

The Department has not received proof of insurance for the lapsed period or an affidavit from RRPS.

16. The Department's Consumer Protection Investigator assigned to this case sent Hector Rodriguez and RRPS a letter on May 5, 2009 regarding the insurance policy lapse from October 27, 2007 through January 29, 2009. The Investigator requested (1) copies of the current policy, including any cut-through that may be required; (2) an explanation of all the facts concerning this matter; and (3) information regarding an employee with an expired permit. The letter requested a response no later than May 20, 2009. Hector Rodriguez did not respond to this letter.

17. In resolution of this matter, Rapid Response Public Safety and Hector Rodriguez consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing is authorized to enter in the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct referred to in paragraphs 5-17 of the Findings of Fact, Rapid Response Public Safety and Hector Rodriguez, have violated:

a. Wis. Admin. Code § RL 32.06(2) by failing to file a written report with the Department, within 5 days of Juan Cruz's termination as a private security person.

Section RL 32.06(2) states, "A private detective agency shall notify the department in writing within five days after the termination of employment of a private security person."

b. Wis. Admin. Code § RL 35.01(9) by violating any rule in chapters RL 30-35. Section RL 35.01(9) states, "The department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder 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: Violating any rule in chs. RL 30 to 35."

c. Wis. Admin. Code § RL 35.01(11) by failing to obtain the required bond or liability insurance policy from October 25, 2007, through January 29, 2009. Section RL 35.01(11) states, "The department may deny an application for renewal, limit, suspend or revoke a credential, or reprimand a credential holder 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: Failing to maintain a bond or liability policy for the period of licensure as required by s. 440.26, Stats."

d. Wis. Admin. Code § RL 35.01(23) by failing to respond to several Department inquiries during the course of investigating this matter. Section RL 35.01(23) states, "After a request by the department, failing to cooperate in a timely manner with the department's investigation of a complaint filed against the credential holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the department has not acted in a timely manner."

3. By committing the violations described in paragraph 2 of the Conclusions of Law, Rapid Response Public Safety and Hector Rodriguez are subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)4.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Private Detective Agency License of Rapid Response Public Safety (License #62-15752) is hereby REPRIMANDED.

2. The Private Detective License of Hector Rodriguez (License #63-8387) is hereby REPRIMANDED.

IT IS FURTHER ORDERED that:

3. Rapid Response Public Safety shall pay COSTS in the amount of SIX HUNDRED EIGHTY dollars (\$680.00) in this matter.


4. Payments shall be submitted within one hundred twenty (120) days from the effective date of this Order. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-267-3817

5. 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 Rapid Response Public Safety's license to practice as a private detective agency in the state of Wisconsin (number 62-15752) and Respondent Hector Rodriguez's license to practice as a public detective in the state of Wisconsin (number 63-8387). The Department of Regulation and Licensing in its 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 Rapid Response Public Safety fails to timely submit payment of the costs as set forth above, Rapid Response Public Safety's license to practice as a private detective agency in the state of Wisconsin (number 62-15752) and Hector Rodriguez's license to practice as a private detective in the state of Wisconsin (number 63-8387) may, in the discretion of the Department of Regulation and Licensing, be SUSPENDED, without further notice or hearing, until Rapid Response Public Safety and Hector Rodriguez have complied with payment of the costs.

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

THE WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

By: 
Michael J. Berndt, General Counsel
On behalf of the Department


Date