

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before The  
State Of Wisconsin  
**DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

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IN THE MATTER OF A PETITION FOR AN  
ADMINISTRATIVE INJUNCTION INVOLVING  
**DARREL ABRAMCZAK AND FUGITIVE  
INVESTIGATIONS**, Respondents

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FINAL DECISION AND ORDER  
Order No. 0002285

**Division of Legal Services and Compliance Case No. 12 UNL 014**

The State of Wisconsin, Department of Safety and Professional Services, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Safety and Professional Services.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 12th day of February, 2013.

Michael J. Berndt  
Chief Legal Counsel  
Department of Safety and Professional Services



Before The  
State Of Wisconsin  
**DIVISION OF HEARINGS AND APPEALS**

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IN THE MATTER OF A PETITION FOR AN  
ADMINISTRATIVE INJUNCTION INVOLVING  
**DARREL ABRAMCZAK AND FUGITIVE**  
**INVESTIGATIONS, Respondents**

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PROPOSED DECISION AND ORDER  
DHA Case No. SPS-12-0027

**Division of Legal Services and Compliance<sup>1</sup> Case No. 12 UNL 014**

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Darrel L. Abramczak  
W28952343 Cty. Rd. DT  
Waukesha, WI 53188

Fugitive Investigations  
P.O. Box 372  
Waukesha, WI 53187

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

Attorneys Laura M. Varriale and Michael Shull  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 8935  
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Michael J. Berndt  
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**PROCEDURAL HISTORY**

On March 26, 2012 the Department of Safety and Professional Services (Department),  
Division of Legal Services and Compliance (Division), filed with the Division of Hearings and  
Appeals (DHA) a formal Notice of Hearing and Petition for an Administrative Injunction against

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

Respondents Darrel Abramczak and Fugitive Investigations (Respondents, collectively), alleging that they performed services as a private detective or private detective agency without having a private detective or private detective agency license. On April 13, 2012, Respondents faxed two copies of their answer (one was addressed to DHA) to the Division. The Division's attorney forwarded DHA's copy to DHA.

Following two telephone prehearing conferences held in this matter, the Administrative Law Judge (ALJ) issued a scheduling order on June 21, 2012, setting a hearing for September 5, 2012 and establishing other hearing-related deadlines.

Respondents failed to appear for the September 5, 2012 hearing and the Division moved for default. On September 26, 2012, the Division filed a recommended Proposed Decision and Order, a letter brief on administrative injunctions and a decision involving an administrative injunction in another matter. Respondents did not file a response.

### **FINDINGS OF FACT**

#### **Facts Related to the Alleged Violation**

Findings of Fact 1-8 are taken from the Division's Petition for an Administrative Injunction against Respondents filed in this matter.

1. Respondents have been advertising services that include "investigations" on their website, Facebook page and business card.

2. The most recent address found for Respondent Abramczak is W28952343 Cty. Rd. DT, Waukesha, WI 53188.

3. The most recent address found for Respondent Fugitive Investigations is P.O. Box 372, Waukesha, WI 53187.

4. On January 24, 2012, Respondent Abramczak went to the Green Bay Police Department to request assistance with a subject he had "apprehended" as a bail enforcement agent. Bail enforcement agents are not authorized to act in the State of Wisconsin.

5. Respondent Abramczak was displaying a badge. His business card identifies him as a "Fugitive Investigator."

6. Neither Respondent Abramczak nor Respondent Fugitive Investigations is licensed as a private detective/investigator or private detective agency with the Department.

7. On July 25, 2011, in Division case number 10 UNL 134 (RAL), Respondents were sent a Cease and Desist Notice following the Department's receipt of complaints that Respondents were "offering private detective or private security person services without the required licensure."

8. In a response to the complaint in case number 10 UNL 134, Respondents admitted that they advertise private investigations services.

#### **Facts Related to Default**

9. Following a prehearing conference held on April 30, 2012, at which Respondents appeared, the ALJ issued a Notice of Telephone Status Conference on May 1, 2012 setting a telephone conference for June 7, 2012. Respondents failed to appear at that teleconference, but Abramczak called the ALJ later that day. A Notice of Rescheduled Telephone Prehearing Conference was issued on June 8, 2012, setting the rescheduled conference for Thursday, June 21, 2012. Respondents appeared at that conference and, pursuant to discussions at the conference, a scheduling order was established.

10. In each of the three Notices setting prehearing or status conferences, the ALJ advised Respondents: "A respondent's failure to appear at a scheduled conference or hearing may result in default judgment being entered against" the respondent.

11. The Prehearing Conference Report and Scheduling Order dated June 21, 2012, stated discovery shall be completed by July 23, 2012, and that the parties shall file and serve their final witness and exhibit lists by August 2, 2012. The Order also set the hearing for September 5, 2012, at 10:00 a.m.

12. The Division filed its Final Witness List and Final Exhibit List along with said exhibits via facsimile on August 2, 2012. Respondent failed to file a final witness or exhibit list.

13. On September 5, 2012, at approximately 10:15 a.m., the ALJ went on the record and noted that Respondents had failed to appear. The Division moved for Default.

14. On September 26, 2012, the Division filed a recommended Proposed Decision and Order, a letter brief on administrative injunctions and a proposed decision and order involving an administrative injunction in another matter. Respondents did not file a response.

## **DISCUSSION**

### **Violations of Wisconsin Statutes and Administrative Code<sup>2</sup>**

Wisconsin Admin. Code § SPS 3.13 provides:

**SPS 3.13 Default.** If the respondent . . . fails to appear at the hearing at the time fixed therefor, the respondent is in default and the department may make findings and enter an order on the basis of the petition and other evidence. The department may, for good cause, relieve the respondent from the effect of the findings and permit the respondent to answer and defend at any time before the department enters an order or within a reasonable time thereafter.

Wisconsin Admin. Code § HA 1.07(3)(b) further provides: “(b) If a respondent fails to appear, the administrative law judge may . . . take the allegations in an appeal as true as may be appropriate.”

Because Respondents failed to appear at the September 5, 2012 hearing, findings may be made and an Order entered “on the basis of the petition and other evidence.” Wis. Admin. Code § SPS 3.13, and the ALJ may take the allegations as true. Wis. Admin. Code § HA 1.07(3)(b).

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<sup>2</sup> The Division served its First Request for Admissions on Respondents by certified mail on July 12, 2012. Respondents never responded to the First Request for Admissions. On August 22, 2012, the Division filed a Motion in Limine requesting that the matters asserted in the Division’s First Requests for Admissions be deemed admitted due to Respondents’ failure to respond to them within the statutory 30-day period, pursuant to Wis. Stat. § 804.11(1)(b). I conclude that based on Respondents’ failure to appear at the hearing which resulted in the allegations of the petition being admitted, there is sufficient evidence to prove the Division’s case against Respondents and that the addition of any admissions contained in the Division’s requests for admissions is not necessary for determination of this case. Therefore, I decline to rule on the motion *in limine*, which was filed prior to Respondents’ failure to appear in this matter.

The facts alleged in the petition and adopted as the findings of fact above establish that Respondents advertised as private investigators, that they admitted to such, that they performed services as private investigators, and that they did not have a license issued by the Department to practice or advertise as an investigator, private detective or private detective agency.

Wisconsin Stat. § 440.26(1) states, in relevant part:

**440.26 Private detectives, investigators and security personnel; licenses and permits.**

**(1) LICENSE OR PERMIT REQUIRED.**

**(a)** No person may do any of the following unless he or she has a license or permit issued under this section:

1. Advertise, solicit or engage in the business of operating a private detective agency.

2. Act as a private detective, investigator, special investigator or private security person.

...

4. Solicit business or perform any other type of service or investigation as a private detective or private security person.

11. Receive any fees or compensation for acting as any person, engaging in any business or performing any service specified in subds. 1. to 4.

**(b)** The department may promulgate rules specifying activities in which a person may engage without obtaining a license or permit under this section.

Wisconsin Admin. Code § SPS 31.01 provides in relevant part:

**SPS 31.01 Credential required.**

**(1) PRIVATE DETECTIVE AGENCY.**

**(a)** . . . [A] person shall obtain a private detective agency license before engaging in the following activities:

1. Advertising, soliciting or engaging in the business of a private detective agency.

2. Acting as a private detective, private investigator, investigator or private security person.

...

4. Soliciting business or performing any other type of service or investigation as a private detective or private security person.

5. Receiving any fees or compensation for acting as any person, engaging in any business or performing any service specified in subds. 1. to 4.

The findings of fact establish a clear violation of Stat. § 440.26(1) and Wis. Admin. Code § SPS 31.01.

## **Administrative Injunction**

Wisconsin Stat. § 440.21(1) and (2) provide as follows:

### **440.21 Enforcement of laws requiring credential.**

(1) The department may conduct investigations, hold hearings and make findings as to whether a person has engaged in a practice or used a title without a credential required under chs. 440 to 480.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may issue a special order enjoining the person from the continuation of the practice or use of the title.

In view of Respondents' conduct of advertising and performing services as private investigators without being duly licensed by the Department, enjoinder of such conduct is warranted under Wis. Stat. § 440.21.

## **CONCLUSIONS OF LAW**

1. The Department has jurisdiction in this matter pursuant to Wis. Stat. § 440.21(1) and (2) and Wis. Admin. Code Chapter SPS 3.

2. By failing to appear at the hearing, Respondents are in default and the Department may make findings and enter an order on the basis of the petition and other evidence pursuant to Wis. Admin. Code § SPS 3.13, and the allegations in the petition are deemed true pursuant to Wis. Admin. Code § HA 1.07(3)(b).

3. By engaging in the practice of private investigation or private security in the State of Wisconsin when not currently licensed, Respondents violated Wis. Stat. § 440.26(1)(a) and Wis. Admin. Code § SPS 31.01 and may be enjoined from such conduct pursuant to Wis. Stat. § 440.21(1) and (2).

## **ORDER**

Accordingly, IT IS ORDERED that:

1. Respondents Darrel Abramczak and Fugitive Investigations are enjoined from performing services as a private detective or private detective agency unless and until they are issued private detective and private detective agency licenses by the Department.

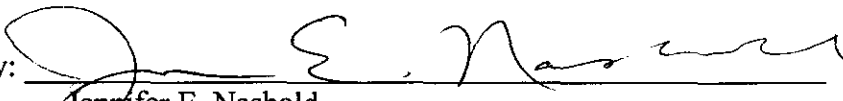
2. Respondents Abramczak and Fugitive Investigations are enjoined from advertising or otherwise presenting themselves to the public as a private detective or private detective agency unless and until Respondents are issued private detective agency and private detective licenses by the Department.

3. Pursuant to Wis. Stat. § 440.21(4)(a), violation of this order may result in a forfeiture of up to \$10,000 for each offense. Each day of continued violation constitutes a separate offense.

4. The ordered terms of this decision are effective the date the Department signs the final decision in this matter.

Dated at Madison, Wisconsin on December 5, 2012.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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Madison, Wisconsin 53705  
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By:   
Jennifer E. Nashold  
Administrative Law Judge