

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID S. KIRMSSE,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004523

Division of Legal Services and Compliance Case Nos. 13 RSG 023, 14 RSG 034 & 14 RAL 009

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

David S. Kirmsse
W6004 County Road P
Black Creek, WI 54106

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent David S. Kirmsse (DOB 12/5/1974) is permitted by the State of Wisconsin as a private security person, having permit number 45189-108, first issued on May 1, 2012 and current through August 31, 2016. Respondent's most recent address on file with the Department is W6004 County Road P, Black Creek, Wisconsin 54106.

2. Respondent was at all times relevant to this action owner of National Security & Investigations LLC.

3. National Security & Investigations LLC is licensed by the State of Wisconsin as a private detective agency, having license number 16901-62, first issued on April 27, 2012 and expired on August 31, 2015. National Security & Investigations LLC's most recent address on file with the Department is W6004 County Road P, P.O. Box 66, Black Creek, Wisconsin 54106.

4. On July 10, 2013, Respondent assigned three employees, R. W., K. D., and B. K., to provide private security personnel duties to a subcontractor for a job from July 11, 2013 through July 16, 2013. On July 12, 2013, Respondent allowed R. W. and B. K. to carry a firearm with the client's consent.

5. On July 11, 2013 through July 16, 2013, K. D. and B. K. had not yet been issued a permit to provide private security personnel duties in Wisconsin. These individuals were issued private security permits by the State of Wisconsin on August 9, 2013.

6. On July 11, 2013 through July 16, 2013, R. W. had a permit to practice as a private security person but this permit was identified in Department records as associated with another private detective agency.

7. R. W.'s firearm permit expired on June 8, 2013 and was not renewed until July 21, 2014. The firearm permit was also identified in Department records as associated with another private detective agency.

8. Respondent never obtained a firearm permit for R. W. However, Respondent contends R.W. had a permit to carry a concealed weapon. No verification of this assertion was provided.

9. Respondent did not notify the Department of R. W.'s transfer of employment to National Security & Investigations LLC until October 21, 2013.

10. Respondent issued a check from his business account for a liability policy with Scottsdale Insurance Company. The check was dishonored by the bank for insufficient funds on June 2, 2014.

11. Respondent did not have liability coverage for National Security & Investigations LLC from February 22, 2013 through April 24, 2013, from June 15, 2014 through September 8, 2014, and from November 20, 2014 to August 31, 2015.

12. Respondent continued to provide private security services through National Security & Investigations LLC while the liability coverage lapsed.

13. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.26(6), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent David S. Kirmsse engaged in conduct reflecting adversely on professional qualification pursuant to Wis. Admin. Code § SPS 35.01(13) by assigning any person to perform private security personnel duties who has not been issued a permit prior to performing the services or who has not properly notified the department of an employment transfer pursuant to SPS 32.05.

3. By the conduct described in the Findings of Fact, Respondent David S. Kirmsse violated Wis. Admin. Code S SPS 34.015(3) by failing to obtain a new firearm permit before requiring or permitting an employee to carry a firearm.

4. By the conduct described in the Findings of Fact, Respondent David S. Kirmsse violated Wis. Stat. § 440.26(4) and Wis. Admin. Code § 31.034(1) and (2), and engaged in conduct reflecting adversely on his professional qualification pursuant to Wis. Admin. Code § SPS 35.01(11) by failing to maintain a bond or liability policy for the period of National Security & Investigations LLC's licensure.

5. By the conduct described in the Findings of Fact, Respondent David S. Kirmsse engaged in conduct reflecting adversely on professional qualification pursuant to Wis. Admin. Code § SPS 35.01(15) by issuing checks on a business account which contained insufficient funds.

6. As a result of the violations noted in the Conclusions of Law, Respondent David S. Kirmsse is subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)1., 2., 4., 5. and Wis. Admin. Code § SPS 35.01.

ORDER

1. The attached Stipulation is accepted.
2. Respondent David S. Kirmsse's private security person permit (no. 45189-108) is **SUSPENDED** for 30 days, beginning 15 days from the date of this Order.
3. Within 150 days from the date of this Order, David S. Kirmsse shall pay the **COSTS** of this matter in the amount of \$3,335.
4. Payment of the costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent to the Department Monitor at the address below:

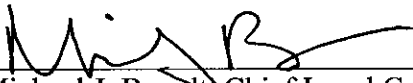
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. In the event Respondent fails to timely submit payment of the costs as ordered, Respondent's permit (no. 45189-108), or Respondent's right to renew his permit, may, in the

discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

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

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: 
Michael J. Berndt, Chief Legal Counsel
On Behalf of the Department

2/5/16
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID S. KIRMSSE,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004583

Division of Legal Services and Compliance Case Nos. 13 RSG 023, 14 RSG 034
and 14 RAL 009

Respondent David S. Kirmsse and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, 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 Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

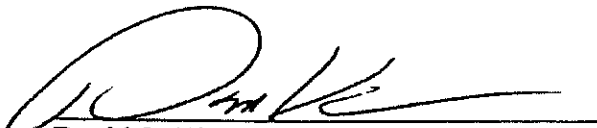
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department 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 Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.



David S. Kirmsse, Respondent
W6004 County Road P
Black Creek, WI 54106
Permit no. 45189-108

2/4/16
Date



Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

2/5/2016
Date