

## 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 Disciplinary Proceedings Against  
Deborah A. Hudnell and Intrastate Services,  
Respondents

FINAL DECISION AND ORDER

Order No. **0005685**

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**Division of Legal Services and Compliance Case No. 15 RSG 016**

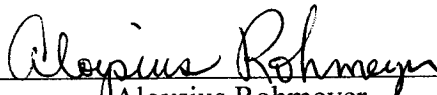
The State of Wisconsin, Department of Safety and Professional Services, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

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 3rd day of April, 2018.

  
\_\_\_\_\_  
Aloysius Rohmeyer

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 Disciplinary Proceedings  
Against Deborah A. Hudnell and Intrastate  
Services, Respondents

DHA Case No. SPS-18-0005  
DLSC Case No. 15 RSG 016

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**PROPOSED DECISION AND ORDER**

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

Deborah A. Hudnell  
P.O. Box 614  
Packwaukee, WI 53953

Wisconsin Department of Safety and Professional Services  
P.O. Box 8366  
Madison, WI 53708-8366

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

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

**PROCEDURAL HISTORY**

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Complaint against Respondents Deborah A. Hudnell and Intrastate Services (Respondents). The Complaint alleged Respondents' credentials were subject to disciplinary action pursuant to Wis. Stat. § 440.26(6)(a)2., 4. and 5. and Wis. Admin. Code §§ SPS 35.01 and 35.02 because Respondents: (1) engaged in conduct reflecting adversely on their professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(23) by failing to cooperate in a timely manner with the Department's investigation of a complaint filed against

them; (2) engaged in conduct reflecting adversely on their professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(3) by operating under a name that is different than a name that the credential holder has provided to the Department on an application for a credential or in other written form pursuant to Wis. Admin. Code § SPS 31.06; and (3) engaged in conduct reflecting adversely on their professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(10) by employing any person who engages in any act or course of conduct for which the Department may discipline a credential holder (namely, Wis. Admin. Code § SPS 35.01(19)), if the employer knows or should know that the person is engaging or has engaged in the act or course of conduct. The Complaint further alleged that Respondent Hudnell violated Wis. Stat. § 440.26(4) and Wis. Admin. Code § SPS 31.034(2) and engaged in conduct reflecting adversely on professional qualification pursuant to Wis. Admin. Code § SPS 35.01(11) by failing to maintain a surety bond or liability policy. The Complaint also alleged that Respondent Intrastate Services violated Wis. Stat. § 440.26(4) and Wis. Admin. Code § SPS 31.034(1) and (2) and engaged in conduct reflecting adversely on professional qualification pursuant to Wis. Admin. Code § SPS 35.01(11) by failing to maintain a surety bond or liability policy.

The Division served Respondents on January 12, 2018, by sending a copy of the Notice of Hearing and Complaint to their addresses on file with the Department. Respondents failed to file an Answer to the Complaint within 20 days from the date of service, as required by Wis. Admin. Code § SPS 2.09(4). Respondents failed to appear at the telephone prehearing conference held before the Division of Hearings and Appeals on February 15, 2018. The Division provided two telephone numbers for Respondents, a personal telephone number for Respondent Hudnell and a business number for Respondent Intrastate Services. The Administrative Law Judge (ALJ) attempted to contact Respondents at both numbers but the numbers were disconnected.

The Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondents' failure to file an Answer to the Complaint and failure to appear for the prehearing conference, the ALJ found Respondents to be in default and issued a Notice of Default and Order on February 15, 2018. Consistent with this notice, the Division filed a recommended proposed decision and order on March 2, 2018.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Except where otherwise indicated, Findings of Fact 1–15 are taken from the Division's Complaint against Respondents filed in this matter.

1. Respondent Deborah A. Hudnell is permitted in the State of Wisconsin to practice as a private security person, having permit number 33262-108, first issued on May 2, 2007, and current through August 31, 2018.

2. The most recent address on file with the Department for Respondent Hudnell is P.O. Box 614, Packwaukee, Wisconsin 53953.

3. Respondent Intrastate Services is licensed in the State of Wisconsin as a private detective agency, having license number 17097-62, first issued on December 30, 2014 and expired on September 1, 2017.

4. The most recent address on file with the Department for Respondent Intrastate Services is 815 River Road, P.O. Box 835, Wisconsin Dells, Wisconsin 53965.

5. Respondent Hudnell is identified in Department records as the owner of Respondent Intrastate Services.

6. On or about August 27, 2015, the Department received a complaint from the Wisconsin Dells Police Department alleging that Respondents allowed unpermitted felons to work as private security persons. The Division of Legal Services and Compliance Case No. 15 RSG 016 was subsequently opened for investigation.

7. On August 22, 2015, a Wisconsin Dells Police Officer observed N.M., an employee of Respondents and a convicted felon, in a security uniform providing security for a local waterpark/hotel.

8. N.M. has never been permitted as a private security person.

9. During the Department's investigation of this matter, Respondent Hudnell informed the Department that Respondent Intrastate Services is operating under the name Intrastate Services d/b/a Sretlaw Staffing Agency and Wisconsin Protection Agency. The application submitted to the Department for Intrastate Services by Respondent Hudnell also did not list any operating name besides Intrastate Services. The Department was not previously notified of a name change or trade name for Intrastate Services until an investigation had commenced. (Respondents' Application, attached to the Division's recommended proposed decision and order.)

10. Respondents' liability insurance coverage has been expired since December 31, 2015.

11. Respondents continued to provide private security services without liability coverage. On March 27, 2016, a Wisconsin Dells Police Officer observed an employee of Respondents providing security services at a hotel. (Police Report, attached to the Division's recommended proposed decision and order.)

12. On March 14, 2017, the Department telephoned and emailed Respondent Hudnell at her telephone number and email address of record requesting additional information.

13. Respondent Hudnell failed to respond to the Department's requests.

14. On March 16, 2017, the Department emailed Respondent Hudnell at her email address of record advising her that, according to the Department's records, the required liability insurance coverage for Respondent Intrastate Services had been expired since December 31, 2015, and requested that she remedy this immediately.

15. Respondent Hudnell failed to respond to or comply with the Department's request.

16. Pursuant to Wis. Stat. § 440.08(3), Respondent Intrastate Services retains the right to renew its private detective agency license through August 31, 2022.

#### Facts Related to Default

17. The Complaint and Notice of Hearing in this matter were served on Respondents on January 12, 2018, by both certified and regular mail consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing advised Respondents: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Department may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

18. Respondents failed to file an Answer as required by Wis. Admin. Code § SPS 2.09(4).

19. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for February 15, 2018. Notice of this prehearing conference was sent to all parties, with instructions that Respondents provide to the ALJ a telephone number at which they could be reached no later than February 12, 2018. The Notice instructed Respondents: "The Respondents' failure to appear at a scheduled conference or hearing may result in default judgment being entered against the Respondents."

20. Respondents failed to provide a telephone number and could not be reached for the February 15, 2018 prehearing conference. The ALJ attempted to contact Respondents at two telephone numbers provided by the Division, but both numbers were disconnected.

21. Based on Respondents' failure to file an Answer to the Complaint and failure to appear at the February 15, 2018 prehearing conference in this matter, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c).

22. On February 15, 2018, the ALJ issued a Notice of Default and Order, requiring the Division to file and serve no later than March 2, 2018, a recommended proposed decision and order.

23. The Division timely filed its recommended proposed decision and order by March 2, 2018.

24. Respondents did not file a response to the Notice of Default or to the Division's recommended proposed decision and order.

## DISCUSSION AND CONCLUSIONS OF LAW

### Default

As stated in the February 15, 2018 Notice of Default and Order, Respondents are in default for failing to file an Answer to the Complaint and failing to appear at the telephone prehearing conference held on February 15, 2018. As a result, an order may be entered against Respondents on the basis of the Complaint and other evidence. *See* Wis. Admin. Code § SPS 2.14; Wis. Admin. Code § HA 1.07(3)(b) and (c).

### Violations of Wis. Admin. Code §§ SPS 31.034(1), (2), 35.01(3), (10), (11), (23), and Wis. Stat. § 440.26(4)

The Division alleges that Respondents are subject to discipline pursuant to Wis. Stat. § 440.26(6) and Wis. Admin. Code § SPS 35.01 and 35.02. Wisconsin Stat. § 440.26(6) states, in relevant part:

(a) Subject to the rules adopted under s. 440.03(1), the department may reprimand the holder of a license or permit issued under this section or 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.

...

4. Violated this section or any rule promulgated or order issued under this section.

5. Failed to maintain a bond or liability policy as required under sub. (4).

Wisconsin Admin. Code §§ SPS 35.01 provides that 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.” Wisconsin Admin. Code § SPS 35.02 states that the Department “may take disciplinary action against a licensed private detective agency for violation of ch. SPS 30 to 35 committed by licensed private detectives or security persons employed by the agency.”

Conduct reflecting adversely on professional qualification includes employing any person who engages in any act or course of conduct for which the Department may discipline a credential holder, if the employer knows or should know that the person is engaging or has engaged in the act or course of conduct. Wis. Admin. Code § SPS 35.01(10). The undisputed facts establish that Respondents permitted an unlicensed individual, who was a convicted felon,

to provide security services for a local waterpark/hotel on August 22, 2015, which would be a violation of Wis. Admin. Code § SPS 35.01(19). Therefore, Respondents have engaged in conduct reflecting adversely on their professional qualification pursuant to Wis. Admin. Code § SPS 35.01(10).

Additionally, conduct reflecting adversely on professional qualification includes, pursuant to Wis. Admin. Code § SPS 35.01(3), operating under a name that is different than a name that the credential holder has provided to the Department on an application for a credential or in other written form pursuant to Wis. Admin. Code § SPS 31.06. The undisputed facts establish that Respondent Intrastate Services operated under the name Intrastate Services d/b/a Stretlaw Staffing Agency and Wisconsin Protection Agency. The Department was not previously notified of a name change or trade name for Intrastate Services until an investigation had commenced. The application submitted to the Department for Intrastate Services by Respondent Hudnell also did not list any operating name besides Intrastate Services. Respondents' operation of Intrastate Services under a different name constitutes conduct reflecting adversely on Respondents' professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(3).

Further, Wisconsin law requires owners of private detective agencies and private detective agencies to obtain and maintain a surety bond or liability policy without lapse in coverage in order to lawfully practice private security in Wisconsin. *See* Wis. Stat. § 440.26(4) and Wis. Admin. Code § SPS 31.034(1) and (2). Failure to do so also constitutes conduct reflecting adversely on Respondents' professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(11). The undisputed facts establish that the liability insurance coverage for Respondent Intrastate Services expired on December 31, 2015, however, Respondents continued to provide private security services without liability coverage. On March 27, 2016, a Wisconsin Dells Police Officer observed an employee of Respondents providing security services at a hotel. Accordingly, Respondents violated Wis. Stat. § 440.26(4) and Wis. Admin. Code § SPS 31.034(2) and Respondent Intrastate Services violated Wis. Admin. Code § SPS 31.034(1). As a result, Respondents engaged in conduct reflecting adversely on Respondents' professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(11).

Finally, pursuant to Wis. Admin. Code § SPS 35.01(23), conduct reflecting adversely on professional qualification includes failing to cooperate in a timely manner with the Department's investigation of a complaint filed against the credential holder, after a request by the Department. There is a rebuttable presumption that a credential holder has not cooperated in a timely manner if he or she fails to respond to a request from the Department within 30 days. Wis. Admin. Code § SPS 35.01(23). The undisputed facts of this case establish that on March 14, 2017, the Department telephoned and emailed Respondent Hudnell at her telephone number and email address of record to request additional information regarding the Department's investigation. On March 16, 2017, the Department emailed Respondent Hudnell again notifying her about the lapse in liability coverage. Respondent Hudnell failed to respond to the Department's requests. Based on these facts, Respondents did not cooperate with the Department's investigation in a timely manner and therefore engaged in conduct reflecting adversely on professional qualifications pursuant to Wis. Admin. Code § SPS 35.01(23).



As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)2., 4. and 5. and Wis. Admin. Code §§ SPS 35.01 and 35.02.

### Appropriate Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division requests that Respondent Intrastate Services' right to renew its private detective agency license and Respondent Deborah A. Hudnell's private security person permit be revoked. The recommended discipline is consistent with the purposes articulated in *Aldrich* and with case law.

"Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, Wisconsin is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep't of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the state cannot assure the public of the licensee's competence to practice the profession, then revocation is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189–90, 349 N.W.2d 68 (1984).

Even though Respondent Intrastate Services' license is currently expired, it is appropriate and necessary to impose discipline. Wisconsin Stat. § 440.08(3)(a) allows the holder of a credential to restore the credential even after expiration by simply paying the application renewal fee and a late renewal penalty of \$25. Under subparagraph (b), the Department is empowered with the ability to promulgate rules requiring credential holders who have failed to renew the credential for five years to complete additional requirements to restore their licenses. *See* Wis. Stat. § 440.08(3)(b). Read together, these provisions have been interpreted by the Department to mean that credential holders retain a right to automatically renew their credentials within five years of expiration by simply paying the required fees. Thus, Respondent Intrastate Services has an automatic right to renew its license until August 31, 2022, just by paying the required fees.

The same reasons justifying discipline in cases in which the respondents are currently permitted apply to this case as Respondent Intrastate Service may renew its license at any time. *See In the Matter of the Disciplinary Proceedings Against Todd Edmonds*, LS-0002317 (Feb. 26, 2013); *In the Matter of Disciplinary Proceedings Against Kody F. Jack and Delta Ops Private Police Agency, LLC*, LS-0004565 (Feb. 23, 2016).

Private security persons are charged with protecting the public, keeping the peace, and preventing the occurrence of criminal actions. With this considerable authority comes an equal degree of responsibility. Contrary to this, Respondents have operated outside the law and regulations established for their professions. This conduct demonstrates Respondents' continuous lack of respect for both the law and the public. Accordingly, Respondents have failed to fulfill

the responsibilities of their profession, and as such, are not fit to be a permitted private security person and a licensed private detective agency.

In addition to ignoring the requirements of the law, Respondents have also ignored the Department's legitimate authority. Respondents have not maintained a liability policy, have employed unlicensed felons to provide security services, are operating under a name not on file with the Department, and have been uncooperative throughout the Department's investigation and this proceeding. Accordingly, Respondents have failed to fulfill the responsibilities of their professions, and as such, are not fit to be a permitted private security person and licensed private detective agency. Therefore, revocation of Respondent Intrastate Services' right to renew its private detective agency license and Respondent Hudnell's private security person permit is an appropriate response to this disrespect for the law, the public welfare, and the licensing authority governing their profession.

Promoting rehabilitation is one of the purposes of discipline; however, rehabilitation is unlikely here. Respondents have avoided every opportunity to comply with their credentials' requirements, which exist to ensure the continuing competence of the credential holder. Because Respondents will not submit to the authority of the licensing agency, it is contrary to public safety for Respondents to continue to hold credentials. Revocation would set a strong precedent that the requirements of licensure are to be taken seriously and that cooperation with an investigation by the Department is required in all instances.

In light of the facts of this case and the factors set forth in *Aldrich*, revocation of Respondent Intrastate Services' ability to renew its private detective agency license and Respondent Deborah A. Hudnell's private security person permit is warranted.

### Costs

As a result of the Department revoking Respondents' credentials, the Department is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondents. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Department must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. The Department has also, in previous orders, considered many factors when determining if all or part of the costs should be assessed against a Respondent. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS0802183 CHI) (Aug. 14, 2008). It is within the Department's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

The following facts are particularly relevant to the instant case. The Division proved every count it alleged. This is not a case where the Division wasted resources or incurred additional costs by alleging multiple counts and then failing to prove those counts. Additionally, Respondents' conduct and violations are serious. Respondents committed violations that indicate a lack of respect for the law and the public welfare. Further, Respondents have not

cooperated with the Department's investigation and these proceedings. As a result of Respondents' conduct, the Division sought revocation of Respondents' credentials. Revocation of credential equates to the general absence of mitigating factors in this case. Respondents, by nature of being in default, have made no argument concerning whether costs should be assessed against them. Finally, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. As such, fairness weighs heavily in favor of requiring Respondents to pay the costs of this proceeding which resulted in significant discipline rather than spreading the costs among all permitted private security persons and licensed private detective agencies in Wisconsin.

I conclude that all of the costs of this proceeding shall be assessed against Respondents and that the amount of costs be determined pursuant to Wis. Admin. Code § SPS 2.18.

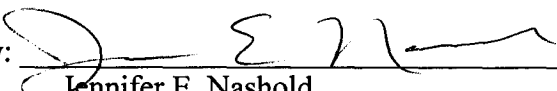
### ORDER

Accordingly, it is ORDERED that Respondent Intrastate Services' right to renew its private detective agency license (number 17097-62) and Respondent Deborah A. Hudnell's private security person permit (number 33262-108) are REVOKED, effective on the date the Final Decision and Order is signed by the Department.

IT IS FURTHER ORDERED that should Respondents ever apply for any credential with the Department in the future, Respondents shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18, prior to the Department's consideration of any such application.

Dated at Madison, Wisconsin on March 7, 2018.

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By:   
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Administrative Law Judge