

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 APPLICATION FOR A | : | |
| PRIVATE SECURITY PERSON PERMIT | : | |
| | : | ORDER GRANTING |
| | : | LIMITED LICENSE |
| FABIOLA ESPARZA, | : | |
| APPLICANT. | : | ORDER 0007705 |

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

Fabiola Esparza
Janesville, WI 53546

Department of Safety and Professional Services
4822 Madison Yards Way
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the resolution of this application. The Wisconsin Department of Safety and Professional Services (Department) adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. On or about July 22, 2021, Fabiola Esparza (Applicant) filed an application (#772938) for a Private Security Person permit.
2. Information received in the application process establishes that Applicant has the following conviction:
 - A. On or about July 14, 2021 – Disorderly Conduct, a misdemeanor conviction.
3. The facts and circumstances of this conviction include but are not limited to the following:
 - A. The criminal complaint states Applicant became upset with a coworker for reporting Applicant's conduct (spreading rumors about other coworkers) to their union representative. In response, Applicant searched out the coworker and struck or slapped her in the face, breaking her glasses, and causing bruising and a nasal fracture. Applicant reported to police that she had felt betrayed by her coworker, that this made her mad, and that she "could not control herself."

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

CONCLUSIONS OF LAW

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

2. Pursuant to Wis. Stat. § 440.26(5m)(am) and Wis. Admin. Code §§ SPS 31.02(3)(a), 31.05(1)(e) and 35.01(2), the Department may refuse to issue a Private Security Person permit, who has been convicted of a misdemeanor or found to have violated any state or local law that is punishable by a forfeiture, subject to Wis. Stat. §§ 111.321, 111.322, and 111.335.

3. Pursuant to Wis. Stat. § 111.335(3)(a)(1), it is not employment discrimination because of conviction record to refuse to license, or to bar or terminate from licensing, any individual who has been convicted of any misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity.

4. A substantial relationship occurs where “the tendencies and inclinations to behave a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed.” *County of Milwaukee v. Labor & Indus. Review Comm’n*, 139 Wis. 2d 805,824 (1987). The crux of the inquiry is the circumstances which foster criminal activity, e.g. the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person. *Id.*

5. The facts and circumstances of the above referenced conviction are substantially related to the practice of a Private Security Person.

- A. Private Security Persons are responsible for maintaining order, upholding rules, and protecting the security of private persons, the public and/or private property. In addition, Private Security Persons are likely to encounter volatile situations and are tasked with deescalating, rather than escalating, such situations.
- B. The circumstances of Applicant’s July 14, 2021, conviction involve Applicant escalating a conflict with a coworker to a physical confrontation, striking and slapping the coworker, breaking her glasses, and fracturing her nose.
- C. Applicant’s conduct demonstrates character traits of disregard for others’ safety and inability to maintain order.

6. As a result of the above Findings of Fact and Conclusions of Law, Applicant’s Private Security Person permit application is subject to limitations or denial, pursuant to Wis. Stat. §§ 440.26(5m)(am), and 111.335(3)(a)(1) and Wis. Admin. Code §§ SPS 31.02(3)(a), 31.05(1)(e), and 35.01(2).

ORDER

1. The attached Stipulation is accepted.
2. Applicant's application for a Private Security Person permit is granted subject to the following limitations.
3. Applicant's ability to practice as a Private Security Person is LIMITED for a period of at least two years from the date of this Order as follows:

A. Practice Limitations

- i. Applicant shall show a copy of this Order to his current and any future employer(s). Applicant shall provide the Department of Safety and Professional Services Monitor (Department Monitor) with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.
- ii. Applicant shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge or conviction, including DWI/OWI and municipal ordinance violations, to the Department Monitor within forty-eight (48) hours of any such event, including any convictions resulting from pending charges.

B. Reporting Requirements

- i. Applicant shall arrange for written reports from her private security person supervisor(s) to be provided to the Department Monitor on a quarterly basis, beginning ninety (90) days from the date of this Order. These reports shall describe the circumstances of Applicant's employment, assess her work performance and verify that she is in compliance with the laws governing the practice of a private security person and the terms of this Order.
- ii. Applicant is responsible for compliance with all of the terms and conditions of this Order. Applicant shall promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order by Applicant.

4. The Department Monitor is the individual designated by the Department as its agent to coordinate compliance with the terms of this Order. Any information required by this Order shall be mailed, faxed or delivered to:

DEPARTMENT MONITOR
Department of Safety and Professional Services
Division of Legal Services & Compliance
P.O. Box 7190, Madison, WI 53707-7190
Telephone: (608) 267-3817; Fax: (608) 266-2264
dspsmonitoring@wi.gov

Information may also be submitted online via the Department's Monitoring Case Management System at: <https://app.wi.gov/DSPSMonitoring>

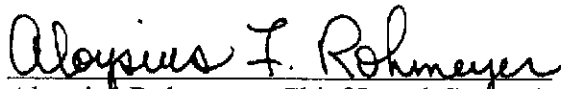
5. Applicant may petition the Department for full, unrestricted licensure upon demonstration of continuous, successful practice in compliance with the terms of the Order for at least one (1) year. "Practice in compliance" includes the submission of work reports, the content of which are satisfactory to the Department or its designee. Any such petition shall be accompanied by a written recommendation from Applicant's current employer. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3), or 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal.

6. Applicant shall be responsible for all costs and expenses associated with compliance with the terms of this Order.

7. If Applicant violates any term of this Order, Applicant's permit may, in the discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Applicant has complied with the terms of the Order. The Department may, in addition and/or in the alternative, refer any violation of this Order to the Department's Division of Legal Services and Compliance for further investigation and action.

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

Dated at Madison, Wisconsin this 24th day of November, 2021.


Aloysius Rohmeyer, Chief Legal Counsel
On behalf of the Department of Safety
and Professional Services

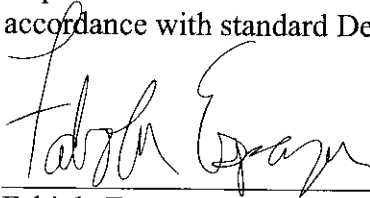
STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

| | | |
|------------------------------------|----|----------------------|
| IN THE MATTER OF APPLICATION FOR A | : | |
| PRIVATE SECURITY PERSON PERMIT | : | |
| | : | STIPULATION |
| FABIOLA ESPARZA, | :: | |
| APPLICANT. | : | ORDER 0007705 |

Applicant Fabiola Esparza and the Department of Safety and Professional Services stipulate as follows:

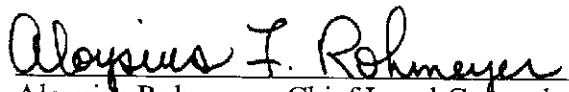
1. Applicant filed an application for a Private Security Person permit (#772938).
2. Information received by the Department reflects a basis for denial of Applicant's application.
3. Based upon the information of record, the Department agrees to issue and Applicant agrees to accept an Order granting a Private Security Person permit, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application;
 - the right to confront and cross-examine the witnesses against Applicant;
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant'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 Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Department. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, pleading, appearance, or consent of the parties. Applicant waives all rights to any appeal of the Department's order, if adopted in the form as attached.

7. Applicant is informed that should the Department adopt this Stipulation, the Department's Order Granting Limited License is a public record and will be published in accordance with standard Department procedure.



Fabiola Esparza, Applicant
Janesville, WI 53546
Application no. 772938

11-18-2021
Date



Aloysius Rohmeyer, Chief Legal Counsel
Department of Safety and Professional Services
4822 Madison Yards Way
P.O. Box 8935
Madison, WI 53708-8935

11/24/2021
Date