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

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In the Matter of the Disciplinary Proceedings  
Against Devon X. Harris, Respondent.

FINAL DECISION AND ORDER

Ord **ORDER 0008163**

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**Division of Legal Services and Compliance Case No. 19 RSG 005**

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 20th day of September, 2022.

A handwritten signature in cursive script, reading "A. Rohmeyer".

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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 Devon X. Harris, Respondent

DHA Case No. SPS-22-0034  
DLSC Case No. 19 RSG 005

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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:

Devon X. Harris  
5724 W. Forest Home Ave., Apt. #4  
Milwaukee, WI 53220

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

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

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

PROCEDURAL HISTORY

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 Devon X. Harris (Respondent) on May 4, 2022, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Respondent 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).

Following the expiration of the 20-day period to file an answer, the Administrative Law Judge (ALJ) scheduled a telephonic prehearing conference for June 16, 2022, at 9:30am. The Respondent failed to appear for the prehearing conference.

Based on the Respondent's failure to file an answer to the Complaint and failure to appear at the prehearing conference, the Division moved for a finding that the Respondent was in

default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). On June 16, 2022, the ALJ issued a Notice of Default against the Respondent and ordered the Division to file a recommended proposed decision and order by July 18, 2022.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Findings of Fact 1–14 are taken from the Division’s Complaint against the Respondent filed in this matter.

1. Respondent Devon X. Harris (Birth Year 1995) is permitted by the State of Wisconsin as a private security person, having permit number 57080-108, first issued on March 6, 2017 and expired as of September 1, 2020.
2. Respondent’s most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Milwaukee, Wisconsin 53220.
3. According to the Police Report, on August 19, 2017, Respondent was pulled over for speeding in West Allis, Wisconsin. Police arrested Respondent for resisting an officer for not following the officer’s directions, attempting to flee, and physically resisting officers’ attempts to place him in handcuffs. During the stop, police found a firearm on the rear passenger seat of Respondent’s vehicle. Respondent was issued a citation for resisting an officer.
4. On December 19, 2017, Respondent was found guilty of obstructing an officer (Citation No. 1S80SPZ7S7), an ordinance violation in the City of West Allis, as a result of the incident of August 19, 2017.
5. On September 1, 2018, Respondent’s private security person permit expired.
6. On September 16, 2018, Respondent applied to renew his private security person permit with the Department. The permit renewal application asked:

Since your last renewal *or* initial licensure (if this is your first renewal), do you have any pending charges, and/or have you violated any federal or state laws, or any local ordinances (does not include minor traffic violations that do not involve alcohol or drugs, such as speeding, running stoplights, and seat belt violations)?

Respondent answered the question, “No, I do not have pending charges and/or convictions.”
7. On October 16, 2019, Respondent’s private security person permit was renewed.
8. On February 21, 2020, the Department emailed Respondent to ask if he had acted as a private security person while his permit was expired.

9. On February 21, 2020, Respondent emailed the Department to state that he did not act as a private security person while his permit was expired. He stated he was on staff at a security company but did not work any security jobs at that time.

10. On March 2, 2020, the Department contacted Respondent's employer to ask if Respondent acted as a private security person while his permit was expired.

11. Respondent's employer stated that Respondent did act as a private security person while his permit was expired, from September 2018 to March 22, 2019.

12. On February 17, 2022, the Department contacted Respondent's employer to clarify whether Respondent had worked as a private security person or in another capacity.

13. On February 17, 2022, Respondent's employer responded and stated that Respondent had been assigned to work security at a business, but that his last day working was September 1, 2018. Respondent remained on the payroll until March 22, 2019, in case other work came up, but Respondent did not work security during this time.

14. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew his private security person permit until August 31, 2025.

#### Facts Related to Default

15. On May 4, 2021, the Division served the Notice of Hearing and the Complaint in this matter on the Respondent by both certified and regular mail. The Notice of Hearing advised the Respondent:

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 other costs pursuant to Wis. Admin. Code § SPS 2.18, without further notice or hearing.

16. The Respondent failed to file an answer as required by Wis. Admin. Code § SPS 2.09(4).

17. Following the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for June 16, 2022. The ALJ sent notice of this prehearing conference to all parties, with instructions that the Respondent provide the ALJ a telephone number at which he could be reached no later than June 15, 2022. The Notice also stated: "The Respondent's failure to appear at a scheduled conference or hearing may result in default judgment being entered against the Respondent."

18. The Respondent failed to provide a telephone number at which he could be reached for the prehearing conference.

19. On June 16, 2022, the Respondent failed to appear for the prehearing conference. The ALJ attempted to reach the Respondent at the telephone number that the Department had on file for him. The ALJ called this number twice, but each time the line disconnected after two rings. The ALJ also emailed the Respondent at the email address on file.

20. The Respondent did not respond to the email or contact the ALJ.

21. On June 16, 2022, the Division moved for a finding that the Respondent was in default based on his failure to file an answer to the Complaint and failure to appear at the June 16, 2022 telephone prehearing conference pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)©.

22. On June 16, 2022, the ALJ issued a Notice of Default against the Respondent and ordered the Division to file and serve a recommended proposed decision and order by July 18, 2022.

23. The Division timely filed its recommended proposed decision and order.

24. The Respondent 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

#### Jurisdictional Authority

The Department has the authority to impose discipline against the Respondent's permit. Wis. Stat. § 440.26. The undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1). Wis. Admin. Code § SPS 2.10(2).

#### Default

The Respondent is in default for failing to file an answer to the Complaint and failing to appear at the telephone prehearing conference held on June 16, 2022. Accordingly, an order may be entered against the Respondent 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

The Department may reprimand the holder of a permit or revoke, suspend, or limit the permit of a private security person for conduct reflecting adversely on his professional qualification. Wis. Admin. Code § SPS 35.02 and Wis. Stat. § 440.26(6). Conduct that is grounds for the Department to take disciplinary action includes, but is not limited to:

- a. Conviction of a misdemeanor or violation of any state or local law that is punishable by a forfeiture. Wis. Stat. § 440.26(6)(a)1 and Wis. Admin. Code § SPS 35.01(2).
- b. Violation of any law which substantially relates to the practice of a private security person. Wis. Admin. Code § SPS 35.01(2).

- c. Engaging in conduct reflecting adversely on the professional qualification. Wis. Stat. § 440.26(6)(a)2
- d. Making a false statement in connection with the application for a permit. Wis. Stat. § 440.26(6)(a)3
- e. Failing to notify the Department in writing of the date, place, and nature of a conviction within 48 hours after the entry of the judgment of conviction. Wis. Stat. § 440.26(6)(a)4 and Wis. Admin. Code § SPS 35.01(2).

On December 19, 2017, the Respondent was convicted of obstructing an officer, an ordinance violation, in the City of West Allis, Wisconsin. The circumstances surrounding this violation substantially relate to the Respondent's practice as a private security person as the Respondent failed to comply with directions he received from a police officer, attempted to flee the officer, and resisted attempts by the officer to place him in handcuffs.

The Department has previously found ordinance violations for obstructing an officer to be substantially related to the practice of a private security person for the purpose of imposing discipline. *See In the Matter of the Disciplinary Proceedings Against Brandon T. Roach*, ORDER0005126 (January 13, 2017) and *In the Matter of Tramon S. Moore*, ORDER0003811 (March 16, 2015). Private security persons frequently interact with members of law enforcement and must be able to do so in a manner that is respectful and cooperative. The Respondent's conviction shows a lack of respect for the law and law enforcement, which is unacceptable for a private security person charged with protecting the public. Moreover, the Respondent was in possession of a loaded firearm at the time. The Respondent's behavior in the presence of a firearm endangered not only himself, but also the arresting officer and any bystanders nearby. The Respondent's behavior would likely be of great concern to potential employers and to the Wisconsin citizens the Respondent is charged to protect.

The Respondent also failed to notify the Department within 48 hours of the entry of the judgment finding that he committed the ordinance violation. Wisconsin Stat. § 440.26(4m)(b) requires the holder of a permit who is found to have committed a violation, to "notify the department in writing of the date, place and nature of the ... finding within 48 hours after the entry of the ... judgment finding that the person committed the violation." *See also* Wisconsin Admin. Code § SPS 35.01(2).

Conduct reflecting adversely on professional qualification includes providing false information in the application for a credential. *See* Wis. Admin. Code § SPS 35.01(17). As part of his September 16, 2018 application to renew his private security person permit, the Respondent answered "no" to the following question:

Since your last renewal *or* initial licensure (if this is your first renewal), do you have any pending charges, and/or have you violated any federal or state laws, or any local ordinances (does not include minor traffic violations that do not involve alcohol or drugs, such as speeding, running stoplights, and seat belt violations)?

However, at the time of the Respondent's renewal application, the Respondent had been found guilty of obstructing an officer.

By engaging in conduct qualifying as grounds for taking disciplinary action on his permit, along with the Respondent's failure to make any argument to the contrary and the deemed admission of all properly pled allegations, the Respondent is subject to discipline pursuant to Wis. Stat. § 440.26(6)(a)1., 2., 3., and 4. And Wis. Admin. Code § SPS 35.01.

### 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 the Respondent's right to renew his private security person permit be revoked. Because the Respondent has made no argument to the contrary and because the recommended discipline is consistent with the purposes articulated in *Aldrich* and with case law, I adopt the Division's recommendation.

"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).

While the Respondent's permit 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 after expiration by 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, unless limited here, the Respondent has an automatic right to renew his license until August 31, 2025, just by paying the required fees. Therefore, the same reasons justifying discipline in cases in which the respondents are currently permitted apply to this case since the Respondent may renew his permit at any time. *See In the Matter of the Disciplinary Proceedings Against Todd Edmonds*, LS-0002317 (Feb. 26, 2013), *citing In the Matter of Disciplinary Proceedings Against Paul S. George, Dean K. George, and George Auction Services*, LS-9804151-AUC (Nov. 18, 1999).



Private security persons are charged with protecting the public, keeping the peace, and preventing the occurrence of criminal actions. Contrary to this authority and responsibility, the Respondent ignored the directions given to him by a police officer. When individuals demonstrate an inability to handle the amount of responsibility commensurate with holding professional permits, they should not continue to be entrusted with that permit.

In addition to ignoring the requirements of the law, the Respondent also ignored the Department's authority. The Respondent did not disclose his ordinance violation within the required time frame. Further, when the Respondent was given an opportunity to disclose his violation to the Department at renewal, the Respondent chose instead to deceive the Department. The Respondent's lack of accountability was further demonstrated throughout this proceeding by his failure to participate. The Respondent has failed to fulfill the responsibilities of his profession, and as such, is not fit to be a permitted private security person. Therefore, revocation of the Respondent's right to renew his permit is an appropriate response to his disrespect for the law, the public welfare, and the licensing authority governing his profession.

Promoting rehabilitation is one of the purposes of discipline; however, rehabilitation is unlikely here. The Respondent failed to comply with the reporting requirements of his permit, which exist to ensure the continuing competence of the credential holder. He also failed to participate in this proceeding. Because the Respondent will not submit to the authority of the licensing agency, it is contrary to public safety for the Respondent to continue to hold a permit. Revocation of the Respondent's right to renew his permit would coincide with the precedent that the requirements of licensure are to be taken seriously and that cooperation with licensing proceedings 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 the Respondent's right to renew his private security person permit is warranted.

### Costs

The Department is vested with discretion concerning whether to assess all or part of the costs of this proceeding against the Respondent. *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.

Considering the factors significant in this case, it is appropriate for the Respondent to pay the full costs of the investigation and prosecution of these proceedings. The Respondent

defaulted and the factual allegations identified in the Complaint were deemed admitted. 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, the Respondent's conduct and violations are serious. The Respondent committed a violation that indicates lack of respect for the law and the public welfare. Also, he attempted to conceal the violation on his renewal application, and did not properly inform the Department of this violation. Further, the Respondent has not cooperated with these proceedings. 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 the Respondent to pay the costs of this proceeding which resulted in significant discipline, rather than spreading the costs among all permitted private security persons in Wisconsin.


ORDER

For the reasons set forth above, IT IS ORDERED that Respondent Devon X. Harris's right to renew his private security person permit (number 57080-108) is REVOKED, effective on the date the Final Decision and Order is signed by the Department.

IT IS FURTHER ORDERED that should the Respondent ever apply for any credential with the Department in the future, the Respondent 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 August 18, 2022.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By:   
Angela Chaput Foy  
Administrative Law Judge