

## 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 Robert Jarstad, Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER0008247**

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**Division of Legal Services and Compliance Case No. 18 UNL 061 (RSG)**

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 11<sup>th</sup> day of November, 2022

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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 a Petition for an Administrative  
Injunction involving Robert Jarstad, Respondent.

DHA Case No. SPS-22-0040  
DLSC Case No. 18 UNL 061 (RSG)

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**AMENDED PROPOSED DECISION AND ORDER**

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

Robert Jarstad  
1817 104<sup>th</sup> St., Lot 50  
Pleasant Prairie, WI 53158

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

**PROCEDURAL HISTORY**

On June 8, 2022, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Petition for an Administrative Injunction against Robert Jarstad (Respondent) alleging that he engaged in the practice of private security without the necessary credentials in violation of Wis. Stat. § 440.26(1). Administrative Law Judge (ALJ) Angela Chaput Foy was assigned to the matter.

The Division served the Respondent with a copy of the Notice of Hearing and Petition for an Administrative Injunction on June 8, 2022, by sending them to his last known address via regular and certified mail, pursuant to Wis. Admin. Code § SPS 3.07(1). The Respondent failed to file an answer within 20 days of the date of service, as required by Wis. Admin. Code § SPS 3.08(4).

Following the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for July 18, 2022. Notice of the conference was sent to both parties. The Respondent failed to appear for the prehearing conference.

On July 18, 2022, the Division moved for default based on the Respondent's failure to file an answer and failure to appear at the prehearing conference, pursuant to Wis. Admin. Code §§ SPS 3.13 and HA 1.07(3)(c).

On July 22, 2022, the ALJ issued a Notice of Default against the Respondent and ordered the Division to file a recommended proposed decision and order by August 31, 2022.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Findings of Facts 1-11 are set forth in the Division's Petition for an Administrative Injunction against the Respondent filed in this matter.

1. Respondent Robert Jarstad of Pleasant Prairie, Wisconsin, is not and has never been permitted as a private security person in the state of Wisconsin.

2. On July 27, 2018, the Department received a request from an employee of Diversified Investigations LLC (Diversified) to verify the validity of a private security permit and firearms proficiency permit that Respondent had presented as his. The Department's Division of Professional Credential Processing (DPCP) determined that the permits did not belong to Respondent. The Division of Legal Services and Compliance (Division) subsequently opened Case Number 18 UNL 061 (RSG) for investigation.

3. On August 3, 2018, the Diversified employee stated that they had hired armed security through Midwest Patrol & Investigative LLC (Midwest Patrol) to provide additional security for a business Diversified had contracted with. The contracting business asked Diversified to conduct background checks on all employees working onsite.

4. Respondent was one of the security guards provided by Midwest Patrol to work onsite at the business. According to Midwest Patrol, Respondent was an employee of a company called Tactical Response LLC, with whom Midwest Patrol had contracted to provide additional security employees.

5. Through Diversified's investigation, they discovered that the permit information provided by Respondent did not match Department records.

6. Further, the Diversified employee stated that while Respondent was working at the business, he contacted local law enforcement to report a threatening person. Local law enforcement determined that Respondent's report was false, and that Respondent had two active warrants. Law enforcement arrested Respondent.

7. According to a police report for the incident, when Respondent was arrested, he was wearing "a tactical security type costume and was armed with a handgun."

8. Pursuant to Wis. Stat. § 440.26(1m), a "private security person" means any private police, guard, or any person who stands watch for security purposes.

9. Pursuant to Wis. Stat. § 440.26(1)(a)2., a license or permit is required to act as a private security person.

10. The conduct described above constitutes unpermitted practice as a private security person, contrary to Wis. Stat. § 440.26(1)(a)2. and Wis. Admin. Code §§ SPS 31.01(1)(a)2. and 31.01(3)(a).

11. Pursuant to Wis. Stat. § 440.21, the Department is authorized to enforce laws requiring a credential.

#### Facts Related to Default

12. On June 8, 2022, the Division served the Petition for Administrative Injunction and Notice of Hearing on the Respondent by sending them to his last known address by both certified and regular mail, pursuant to Wis. Admin. Code § SPS 3.07.

13. The Respondent failed to file an answer to the Petition for Administrative Injunction.

14. Following the expiration of the 20-day period to file an answer, the ALJ scheduled a telephone prehearing conference for July 18, 2022, at 9:30 a.m. The ALJ mailed the notice of the prehearing conference to the Respondent at his last known address by regular mail, ordering him to contact the ALJ no later than July 15, 2022, to provide his current telephone number.

15. The Respondent failed to contact the ALJ by July 15, 2022.

16. On July 18, 2022, the Respondent failed to appear at the prehearing conference. The Division moved for default based on the Respondent's failure to answer the Petition for an Administrative Injunction and failure to appear at the prehearing conference pursuant to Wis. Admin. Code §§ SPS 3.13 and HA 1.07(3)(c).

17. On July 22, 2022, the ALJ issued a Notice of Default and Order against the Respondent and ordered the Division to file a recommended proposed decision and order by August 31, 2022.

18. The Division timely filed its recommended Proposed Decision and Order.

## DISCUSSION AND CONCLUSIONS OF LAW

### Jurisdictional Authority

The Department has authority to conduct investigations, hold hearings, and make findings as to whether a person has engaged in the practice of a private security person without a credential required under chapters 440 to 480, Wis. Stats. If the Department determines that a person has engaged in a practice without a credential, the Department may issue a special order enjoining the person from the continuation of the practice. Wis. Stat. § 440.21(1) and (2).

The Division of Hearings and Appeals has authority to issue this proposed decision and order pursuant to Wis. Stat. § 227.43(1m) and Wis. Admin. Code § SPS 3.09.

### Default

The Division properly served the Petition for Administrative Injunction and Notice of Hearing on the Respondent by mailing copies to him at his last known address. Wis. Stat. § 440.11(2). Service is complete upon mailing. Wis. Admin. Code § SPS 3.07(1). “If the respondent fails to answer as required by s. SPS 3.08 or 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.” Wis Admin. Code § SPS 3.13; *see also* Wis. Admin. Code § HA 1.07(3)(b) (“If a respondent fails to appear, the administrative law judge may...take the allegations in an appeal as true as may be appropriate....”).

The Division of Hearings and Appeals properly served the Respondent with its notices pursuant to Wis. Admin. Code § HA 1.03 (The division may serve decisions, orders, notices and other documents by first class mail).

Here, the Respondent failed to file an answer to the Petition for Administrative Injunction within 20 days from the date of service, in violation of Wis. Admin. Code § SPS 3.08(4). The Respondent also failed to appear and participate in the prehearing telephone conference on July 18, 2022. Therefore, the Respondent is in default, and findings and an order may be entered based on the Petition.

### Violation of Wis. Stat. § 440.26(1)

No person may act as a private security person without a license or permit issued by the Department. Wis. Stat. § 440.26(1)(a)2. A “private security person” means any private police, guard, or person who stands watch for security purposes. Wis. Stat. § 440.26(1m). There are exemptions to the credentialing requirements, set out in Wis Stat. § 440.26(5), which include if an individual is employed directly by a commercial establishment.

The facts as stated in the Petition for Administrative Injunction are undisputed. The Respondent was working as a private security person without a credential, and he was not exempt from the credentialing requirement as he was not directly employed by a commercial establishment. The Respondent was employed by a private security agency who supplied

employees to work security at a business. A private security permit purporting to belong to the Respondent was presented to the business, however the permit number belonged to a different individual.

Furthermore, while the Respondent was working, he contacted local law enforcement to report a threatening person. The Police determined that the Respondent's report was false and that the Respondent had two active arrest warrants. When the Respondent was arrested, the police reported that the Respondent was armed with a handgun and wearing a security uniform.

Therefore, pursuant to Wis. Stat. § 440.21(2) and Wis. Admin. Code Ch. SPS 3, a special order enjoining the Respondent from continuing to act as a private security person until he is properly licensed in the state of Wisconsin is reasonable and warranted.

**SPECIAL ORDER FOR ADMINISTRATIVE INJUNCTION**

For the reasons set forth above, IT IS ORDERED that the Respondent Robert Jarstad, is hereby enjoined and prohibited from acting as a private security person in the state of Wisconsin in a capacity in which a credential is required until he is properly licensed by the Wisconsin Department of Safety and Professional Services. If the Department determines that there is probable cause to believe that the Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

IT IS FURTHER ORDERED that the Respondent shall provide a copy of this Administrative Injunction with any application submitted by the Respondent for a credential issued by the Department.

IT IS FURTHER ORDERED that in the event the Respondent violates this Special Order, the Respondent may be required to forfeit of up to \$10,000 for each day of violation. See Wis. Stat. § 440.21(4)(a).

Dated at Madison, Wisconsin on October 4, 2022.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By:

  
Angela Chaput Foy

Administrative Law Judge