

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF APPLICATION FOR A	:	
PRIVATE SECURITY PERSON PERMIT	:	
	:	ORDER GRANTING
	:	LIMITED PERMIT
KEVIN WAGNER,	:	
APPLICANT.	:	ORDER0008980

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

Kevin Wagner  
Fond Du Lac, WI 54935

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. Kevin Wagner (Applicant) applied for a Private Security Person Permit issued by the Department (#805117).

2. Information subsequently reviewed in the application process establishes that Applicant has the following record:

- A. On October 23, 2019 – *Trespass to Land*, an ordinance violation.
  - i. On September 9, 2019, Applicant was found to be on a private college campus in violation of an order specifically prohibiting his presence on campus.
- B. On August 3, 2020 – *Theft*, an ordinance violation.
  - i. On October 15, 2019, Applicant and his girlfriend attempted to shoplift \$792 worth of merchandise from a department store and when

confronted by a store employee, they left the merchandise and fled the scene in a vehicle.

C. On January 25, 2021 – Two counts of *Retail Theft – Intentional Conceal*, both misdemeanor convictions.

i. On September 23 and 27, 2019, Applicant attempted to shoplift \$247 worth of merchandise from a department store but was apprehended by store security.

3. Further information on file reflects the following:

A. When Applicant submitted application #805117, he answered “No” to a question on the Conviction Questionnaire which asks:

Have you ever been convicted of a misdemeanor, felony, or other violation of federal, state, or local law or do you have any felony, misdemeanor, or other violation of federal, state, or local law charges pending against you in this state or any other? This includes municipal ordinances resulting only in monetary fines or forfeitures and convictions resulting from a plea of no contest, a guilty plea, or verdict. If YES, complete and attach Form #2254, Convictions and Pending Charges.

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(2)(c)5, 440.26(5m)(am), and 440.26(6)(a)1., and Wis. Admin. Code §§ SPS 31.05(1)(e) and 35.01(2), the Department may refuse to issue a Private Security Person permit to someone 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 generally not employment discrimination because of a 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 Applicant's violations and convictions 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 people and property.
- B. Private Security Persons are often employed in retail environments.
- C. The circumstances of Applicant's offenses involve multiple instances of shoplifting from retail stores and trespassing on private property in violation of a legal order, all of which is substantially related to the practice of a Private Security Person because it demonstrates a propensity to violate the security of retail merchandise and private property.
- D. Due to Applicant's conduct described above, the circumstances of his violations and convictions are substantially related to the practice of private security.

6. Pursuant to Wis. Stat. § 111.335(4)(c)1.b. and (d), the Department reviewed all information Applicant submitted and determined he has not yet shown competent evidence of sufficient rehabilitation and/or fitness to engage in the practice of private security.

7. Pursuant to Wis. Stat. §§ 440.26(2)(c)5. and 440.26(6)(a)3. and Wis. Admin. Code §§ SPS 31.05(1)(a), SPS 31.05(1)(e), and SPS 35.01(17), the Department may refuse to issue a Private Security Person permit to someone who commits fraud or makes misrepresentations in the application, such as failing to disclose violations of law and/or convictions.

8. 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. §§ 111.335(3)(a)(1), 111.335(4)(c)1.b. and d., 440.26(2)(c)5., 440.26(5m)(am), 440.26(6)(a)1., and 440.26(6)(a)3. and Wis. Admin. Code §§ SPS 31.05(1)(a), SPS 31.05(1)(e), SPS 35.01(2) and SPS 35.01(17).

#### 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 14 days of beginning new employment and/or within 14 days of the date of this Order for employment current as of the date of this Order.
- ii. Applicant shall be prohibited from practicing in a retail environment.
- iii. 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 48 hours of any such event, including any convictions resulting from pending charges.

B. Reporting Requirements

- i. Applicant shall arrange for written reports from his private security person supervisor(s) to be provided to the Department Monitor on a quarterly basis, beginning 90 days from the date of this Order. These reports shall describe the circumstances of Applicant's employment, assess his work performance and verify that he 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, emailed 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  
[dpsmonitoring@wi.gov](mailto:dpsmonitoring@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 to lift or revise the Limitations above upon demonstration of continuous, successful practice in compliance with the terms of the Order for at least one 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 14th day of March, 2024.



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

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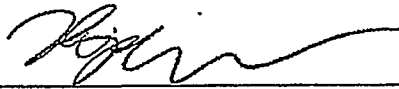
IN THE MATTER OF APPLICATION FOR A	:	
PRIVATE SECURITY PERSON PERMIT	:	
	:	STIPULATION
KEVIN WAGNER,	:	
APPLICANT.	:	ORDER0008980

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Kevin Wagner (Applicant) and the Department of Safety and Professional Services (Department) stipulate as follows:

1. Applicant filed an application for a Private Security Person Permit (#805117).
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 Limited 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 Permit by the Department. The parties to the Stipulation consent to the entry of the attached Order Granting Limited Permit 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 Permit is a public record and will be published in accordance with standard Department procedure.



Kevin Wagner, Applicant  
Fond Du Lac, WI 54935  
Application #805117

3-5-24

Date



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

03/14/2024

Date