

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF
CHRISTOPHER STEPHEN NAHLEY
TO PRACTICE AS AN
UNARMED PRIVATE SECURITY OFFICER
IN THE STATE OF UTAH

DEFAULT ORDER

Case No.
DOPL-OSC-2007-~~68~~ 165

The attached Notice of Entry of Default and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah Respondent's license to practice as an unarmed private security officer is thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing

Dated this 7th day of May, 2009.




Thad LeVar
Interim Director

In accordance with Subsection 63G-4-209(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF	:	NOTICE OF ENTRY
CHRISTOPHER STEPHEN NAHLEY	:	OF DEFAULT AND
TO PRACTICE AS AN UNARMED PRIVATE	:	RECOMMENDED ORDER
SECURITY OFFICER IN THE STATE OF UTAH	:	Case No.
	:	DOPL-OSC-2007-165
	:	

Appearances:

Laurie Noda for the Division of Occupational and
Professional Licensing

No appearance by or on behalf of Respondent

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a February 26, 2009 notice of agency action. The notice recites Respondent was required to file a written response with the Division within twenty (20) days of the mailing date of the notice. That notice also recites an April 9, 2009 hearing would be conducted before the Security Services Licensing Board.

The February 26, 2009 notice of agency action was sent by both certified and first class mail to Respondent's last known address of Dickson City PA 18519. The certified mailing was thus received on March 4, 2009.

Respondent has not filed a response to the February 25, 2009 Verified Motion for Order to Show Cause. Respondent also failed

to appear for the April 9, 2009 hearing. The Division thus requested the entry of Respondent's default, based on his failure to have filed a response and his nonappearance for that hearing.

Utah Code Ann. §63G-4-209(1)(b) and (c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to attend a properly scheduled hearing after receiving proper notice or fails to file a response. Given Respondent's failure to have appeared for the April 9, 2009 hearing and his failure to have filed a response, the Court concluded a proper basis exists to enter Respondent's default and his default was so entered

After the issuance of a default order, §63G-4-209(4)(a) provides further proceedings may be conducted as necessary to complete the adjudicative proceeding without the participation of the party in default. §63G-4-209(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party.

Based on the proffer made by the Division, the Court adopts the allegations set forth in Paragraphs (1) through (3) of the February 25, 2009 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the allegations in the first paragraph of the legal argument of the February 25, 2009 Verified Motion for Order to Show Cause as its Findings of Fact and Conclusions of Law

Specifically, the Court concludes Respondent engaged in unprofessional conduct when he failed to comply with the terms and conditions governing his license to practice as an unarmed private security officer. Respondent failed to meet with the Board on a quarterly basis and he failed to provide the Board of his change of address.

Respondent also failed to notify the Board of a change in his employment status and he did not keep his license in an active status while it was governed by a June 27, 2007 Order. The Court thus concludes a proper factual and legal basis exists to enter a disciplinary sanction as to Respondent's license. Absent any matters offered in defense or mitigation, the Court concludes the Recommended Order set forth below is warranted.

One final matter should be addressed. The Court notes Respondent's license expired on November 30, 2008 when he did not seek a timely renewal of that license. §58-1-308(5)(a) provides

Any license that is not renewed may be reinstated at any time within two years after nonrenewal upon submission of an application for reinstatement, payment of the renewal fee together with a reinstatement fee determined by the department under §63-38-3.2, and upon submission of documentation showing completion of or compliance with renewal qualifications

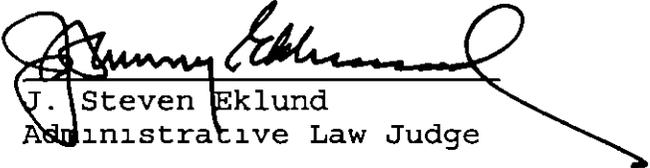
Based on that statute, Respondent would generally have the opportunity to seek reinstatement of his license upon compliance with the requirements of §58-1-308(5)(a)

However, given the entry of Respondent's default in this proceeding and the Recommended Order set forth below, the Court concludes Respondent's residual rights under §58-1-308(5)(a) should also be revoked. The Court thus submits the following Recommended Order to the Division for its review and action:

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as an unarmed private security officer in this state and all residual interests which Respondent may have to seek the reinstatement of that license shall be revoked, effective the date this Recommended Order may be adopted.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order were submitted to Thad LeVar, Interim Director of the Division of Occupational and Professional Licensing, on the 7th day of May 2009 for his review and action


J. Steven Eklund
Administrative Law Judge