

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
Heber M. Wells Building  
160 East 300 South  
P O Box 146741  
Salt Lake City UT 84114-6741  
Telephone: (801) 530-6628

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

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IN THE MATTER OF THE LICENSE OF	
<b>JASON ROBERT LUNA</b>	<b>NOTICE OF AGENCY ACTION</b>
TO PRACTICE AS AN	.
ARMED PRIVATE SECURITY OFFICER	:
IN THE STATE OF UTAH	.
	Case No. DOPL-2009-34

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THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO  
Jason Robert Luna ("Respondent"), Orem, UT  
84057.

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action. Said action is based upon the Verified Petition of Vincent Garcia, Investigator, State of Utah, a copy of which is attached hereto and incorporated herein by reference

The adjudicative proceeding designated herein is to be conducted on a formal basis. **Within thirty (30) days of the mailing date of this Notice, you are required to file a written response with this Division.** The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Verified Petition. Your written response should be mailed to the following address: Division of Occupational and Professional Licensing, Attn Disciplinary Files, 160 East 300 South, PO Box 146741, Salt Lake City UT 84114-6741

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance and until that Entry of Appearance is filed, the presiding officer will deal directly with you

You are entitled by law to an evidentiary hearing to determine whether your license to practice as an armed private security officer in the State of Utah should be subject to a

disciplinary action. Unless otherwise specified by the Director of the Division, the Security Services Licensing Board will serve as fact finder in the evidentiary hearing. You will be notified by separate notice of the date, time, and place of that evidentiary hearing and of any other hearings.

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder. After the hearing, unless otherwise specified by the Director of the Division, the fact finder will issue findings of fact, conclusions of law and a recommended order to the Director of the Division of Occupational and Professional Licensing for his review and action.

The presiding officer for purposes of conducting hearings will be J. Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701 His telephone number is (801) 530-6648.

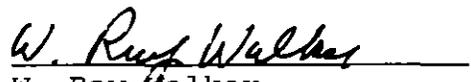
Counsel for the Division in this case is Laurie Noda, Assistant Attorney General at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872. Within ten (10) days after the filing of your response, Ms Noda will request the scheduling of a prehearing conference.

You, or if you have an attorney, your attorney, may attempt to negotiate a settlement of the case without proceeding to a hearing by contacting Ms Noda.

Should you fail to timely file a response, as set forth above, or fail to attend or participate in any scheduled hearing in this case, including prehearing conference(s), you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of the Verified Petition may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly

Dated this 9<sup>TH</sup> day of February, 2009.

  
W. Ray Walker  
Regulatory & Compliance  
Officer

LAURIE L NODA (USB 4723)  
Assistant Attorney General  
MARK L SHURTLEFF (USB 4666)  
Attorney General  
Counsel for the Division of Occupational  
and Professional Licensing  
Heber M Wells Building, 5<sup>th</sup> Floor  
160 East 300 South - Box 140872  
Salt Lake City, Utah 84114-0872  
Telephone (801) 366-0310  
Facsimile (801) 366-0315

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

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IN THE MATTER OF THE LICENSE OF  
JASON ROBERT LUNA TO PRACTICE AS  
AN ARMED SECURITY OFFICER IN THE  
STATE OF UTAH

PETITION

Case no DOPL-2009- 34

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PRELIMINARY STATEMENT

These claims were investigated by the Utah DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING (Division) upon complaints that Jason Robert Luna (Respondent), a licensee of the Division, has engaged in acts and practices which constitute violations of the Division of Occupational and Professional Licensing Act, Utah Code Ann §§ 58-1-101 to 58-1-504 and the Security Personnel Licensing Act, Utah Code Ann §§ 58-63-101 to 58-63-503 Each count in this Petition shall be deemed to incorporate the allegations set forth in all other paragraphs of the Petition

PARTIES

1 The Division is a division of the Department of Commerce of the State of Utah as established by Utah Code Ann § 13-1-2

2 At all times material to the allegations contained herein, Respondent was licensed by the Division to Act as an armed security officer under the Security Personnel Licensing Act. Utah Code Ann §§ 58-63-101 to 58-63-503

3 Respondent's license to practice as an armed security officer was issued on November 14, 1997 and expired on November 30, 2008

#### STATEMENT OF ALLEGATIONS

4 On or around October 23, 2008, Respondent entered a guilty plea to Theft by Deception, a Third Degree Felony and three counts of Attempted Forgery, a Class A Misdemeanor, in the Fourth District Court for Utah County, Case No 081401799, for which he was sentenced to serve 60 days in jail, pay a fine of \$1025 00 and restitution of \$1398 30 In addition Respondent was placed on probation for 36 months and ordered not to use, consume or possess alcohol or illegal drugs or associate with any person using, possessing or consuming alcohol or illegal drugs

#### APPLICABLE LAW

5 Utah Code Ann 58-1-401 provides grounds for the Division to take action on an occupational or professional license

- (1) The division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title
- (2) The division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee in any of the following cases
  - (a) the applicant or licensee has engaged in unprofessional conduct, as defined by statute or rule under this title,
  - (b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title

6 Utah Code Ann 58-1-501(2) defines unprofessional conduct to include

- (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title,
- (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to *safely or competently practice the occupation or profession*,

7 Utah Code Ann § 58-63-302(2) requires each applicant for licensure as an armed security officer to

- (c) have good moral character in that the applicant has not been convicted of
  - (i) a felony,
  - (ii) a misdemeanor involving moral turpitude, or
  - (iii) a crime that when considered with the duties and responsibilities of an armed security officer by the division and the board indicates that the best interest of the public are not served by granting the applicant a license

## COUNT I

### ABILITY TO PRACTICE SAFELY

8 By engaging in conduct leading to convictions of crimes related to his ability to safely and competently practice his profession, Respondent has engaged in unprofessional conduct as defined by Section 58-1-501(2)(c), and a basis exists to sanction his license pursuant to Section 58-1-401(2)(a) and Section 58-1-106(1)(d)

WHEREFORE the Division requests the following relief

- 1 That Respondent be adjudged and decreed to have engaged in the acts alleged herein,

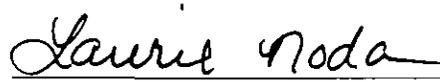
2 That by engaging in the above acts, Respondent be adjudged and decreed to have violated the Division of Occupation and Professional Licensing Act,

3 That Respondent's armed security officer license and/or his residual right to renew or reinstate his license be revoked, and

4 That an Order be issued imposing appropriate sanction against Respondent's license to practice as a n armed security officer the State of Utah

DATED this 9<sup>th</sup> day of February, 2009

MARK L SHURTLEFF  
UTAH ATTORNEY GENERAL



Laurie L. Noda  
Assistant Attorney General

VERIFICATION

STATE OF UTAH            )  
                                          ).ss  
COUNTY OF SALT LAKE )

Vincent Garcia, first being duly sworn, states as follows:

1       I am an Investigator for the Utah Division of Occupational and Professional Licensing and have been assigned to work on this case.

2       I have read the foregoing motion, including the section entitled "Statement of Allegations." All of the factual allegations contained in that "Statement of Allegations" section are true to the best of my knowledge, information and belief.

DATED this 9<sup>th</sup> day of February, 2009.

Vincent Garcia  
Vincent Garcia

Subscribed and sworn to before me this 9<sup>th</sup> day of February, 2009.

Maria E. Bishop

