

**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
PRIVATE INVESTIGATIONS ADVISORY BOARD**

IN THE MATTER OF:

Case No. 15-28-APP

Daniel Zuni

Applicant

Respondent.

DEFAULT ORDER

THIS MATTER came before the Private Investigations Advisory Board (“Board”), under the directive of the Superintendent of the New Mexico Regulation and Licensing Department (“Department”), after evidence presented to the Board raised concerns regarding the qualification (for licensure/to be examined for licensure) of Daniel Zuni (“Respondent”); such evidence served as the basis for a Notice of Contemplated Action issued to Respondent by the Board.

FINDINGS

1. Respondent applied to obtain a security guard I registration pursuant to the Private Investigations Act (Article 27B of Chapter 61, NMSA 1978).
2. The Board issued a Notice of Contemplated Action (NCA) to Respondent, *attached*, stating that the Board contemplated taking an action against Respondent that would result in the denial of the Respondent’s application.
3. The NCA advised the Respondent of the right to request a hearing by certified mail, return receipt requested, in a letter directed to the Board and mailed within 20 days after the service of the NCA.

4. The NCA was served via certified mail, return receipt requested, directed to the Respondent's last known address on file with the Department of Regulation and Licensing: 329 ½ East Jefferson Ave, Gallup, NM 87301.
5. The date borne by the return receipt reflects the delivery or the last attempted delivery or refusal by the addressee to accept delivery of the NCA on 9/15/2015 (*attached*).
6. Respondent's request for hearing was not received.

CONCLUSIONS OF LAW

1. Pursuant to the Uniform Licensing Act (NMSA 1978, Sections 61-1-1 through 61-1-34) and the Private Investigations Act (Chapter 61, Article 27B NMSA 1978), the Department has jurisdiction over Respondent and Respondent's application.
2. In accordance with Section 5 of the Uniform Licensing Act, Respondent is deemed to have been served with the Notice of Contemplated Action (NCA) on the date borne by the return receipt, showing delivery or last attempted delivery or refusal of the addressee to accept delivery of the notice on 09/15/2015.
3. Respondent failed to timely request a hearing in the manner required by the Uniform Licensing Act, therefore, the Department "may take the action contemplated in the notice and such action shall be final and not subject to judicial review". *See* Section 4E of the Uniform Licensing Act.

Based on the above Findings of Fact and Conclusions of Law, the Department takes the following default action:

FINAL ORDER


IT IS THEREFORE ORDERED ...

That, by default, Respondent's application for licensure is hereby denied.

IT IS SO ORDERED.

**NEW MEXICO REGULATION
& LICENSING DEPARTMENT**

Date: 3/26/19

By: 
**MARGUERITE SALAZAR,
SUPERINTENDENT
REGULATION & LICENSING
DEPARTMENT**

BEFORE THE NEW MEXICO PRIVATE INVESTIGATIONS ADVISORY BOARD

IN THE MATTER OF,
DANIEL ZUNI,
License No. (Pending).

Case No. PI-15-28-APP

Respondent.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Regulation and Licensing Department (“Department”) has sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department’s denial of your application for Level One Security Guard Registration.

APPLICABLE LAW

The Department has the authority to enforce and administer the Private Investigations Act (“Act”), and to adopt rules for registering security guards. NMSA 1978, § 61-27B-5. The Private Investigations Advisory Board (“Board”) is authorized, in pertinent part, to assist the department “as requested by the superintendent [of the department] or [as] provided for in [the] rules of the department.” Section 61-27B-6.

Under the Act, “every individual seeking employment or employed as a level one security guard shall file an application for registration.” NMSA 1978, § 61-27B-16(A). The Act also states that an applicant must provide “satisfactory evidence that [he] has not been convicted of a felony or an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon.” Section 61-27B-16(B)(4).

The Department is authorized to deny an application because the applicant "made a false statement or gave false information in connection with an application for a license or registration or renewal or reinstatement of a license or registration." NMSA 1978, § 61-27B-26(A).

The Department is also authorized to deny an application because the applicant "has been convicted of a felony or any crime involving dishonesty or the illegal using, carrying or possessing of a deadly weapon." NMSA 1978, Section 61-27B-26(D). Also, the Department may deny a application if the applicant "committed assault, battery or kidnapping or used force or violence on a person without justification." Section 61-27B-26(H).

NATURE OF THE EVIDENCE AGAINST THE RESPONDENT

On September 22, 2014, you submitted a Security Guard Registration Application—Level 1 to the New Mexico Regulation and Licensing Department. On page 3 of that application you indicated that you have been convicted of a felony or misdemeanor.

You were convicted in United States District Court for the District of New Mexico, case number 1:05CR02369-001JB, on one count of Crime in the Special Maritime and Territorial Jurisdiction of the United States, kidnapping, under 18 U.S.C. Sec. 7(3) and 18 U.S.C. 1201(a)(2), and the judgment was imposed on January 10, 2007.

Thus, the Department is authorized to deny your application based on the facts that (1) you have been convicted of a felony and (2) you committed kidnapping or used force or violence on a person without justification.

RIGHTS OF THE RESPONDENT

You have a right to request a formal hearing in this matter. In order to exercise that right, **you must respond to this Notice of Contemplated Action with a request for a hearing within twenty (20) days of the service of this Notice.** NMSA 1978, Section 61-27B-27(A). The

Uniform Licensing Act ("ULA"), NMSA 1978, Sections 61-1-1 through 61-1-34, governs the procedures for conducting this hearing to the extent that those procedures do not conflict with the Act. *See* Section 61-27B-27(A). As such, **the hearing request must be made in writing, sent to the Board by certified receipt requested letter to the address provided below.** *See* Section 61-1-4(B). Failure to respond in this prescribed manner (requesting a hearing) will result in the Board taking the contemplated action; and, such action shall be final, without any opportunity to appeal for judicial review. Please send any request for a formal hearing to:

John Francis
Board Administrator
Private Investigation Advisory Board
P. O. Box 25101
Santa Fe, NM 87504
(505) 476-4634

If that hearing is requested, it will be conducted in accordance with ULA, to the extent that those procedures do not conflict with the Act. *See* NMSA 1978, Section 61-27B-27. With respect to any formal hearing, as the respondent you have the following rights under NMSA 1978, Section 61-1-8:

- A. A person entitled to be heard under the Uniform Licensing Act shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

- B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

Dated on this 21st day of August, 2015.

STATE OF NEW MEXICO PRIVATE INVESTIGATION ADVISORY BOARD

By: 
Superintendent
New Mexico Regulation and Licensing Department

Administrative Prosecutor
Brian Parrish, Assistant Attorney General
New Mexico Attorney General's Office
P.O. Drawer 1508
Santa Fe, NM 87504-1508
(505) 827-6624
bparrish@nmag.gov

Certification of Service

I, Sheila Harris, do hereby certify that a true and correct copy of the this Notice of Contemplated Action was mailed to Respondent, Daniel Zuni, at his last known address as shown by the records of the New Mexico Private Investigation Advisory Board on this 27 day of August, 2015.

Return Receipt Request No.: 7010 1670 0000 8693 4646

Sheila Harris
Print the Name of Individual Certifying Service

Compliance Liaison
Title/Organization

Sheila Harris
Signature

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information, visit our website at www.usps.com

OFFICIAL USE

7010 1670 0000 8693 4646

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
Here

Total
Sent
Street
or PO
City

Daniel Zuni
 329 1/2 East Jefferson Avenue
 Gallup, NM 87301
 PI-15-28-APP

PS Form 3811, July 2013

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel Zuni
 329 1/2 East Jefferson Avenue
 Gallup, NM 87301
 PI-15-28-APP

2. Article Number
 (Transfer from service label)

7010 1670 0000 8693 4646

PS Form 3811, July 2013

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Agent
 Addressee

B. Received by (Printed Name)
 Daniel Zuni

C. Date of Delivery
 9/15/15

D. Is delivery address different from item 1? Yes
 if YES, enter delivery address below: No

SEP 21 2015

3. Service Type
 Certified Mail® Priority Mail Express™
 Registered Return Receipt for Merchandise
 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

Domestic Return Receipt

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