

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

IN THE MATTER OF:

Case No. 15-43-APP

Franky Mendoza,

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 Fr(“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: 2331 Menaul Blvd NE, Albuquerque, NM 87107.
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 8/25/2016 (*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 8/25/2019.
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,
FRANKY MENDOZA,
Applicant.

Case No. PI-15-43-APP

Respondent.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of NMSA 1978, Section 61-1-4 of the Uniform Licensing Act ("ULA") the New Mexico Private Investigations Advisory Board ("NMPIAB") has sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the NMPIAB's denying the application for Franky Mendoza ("Respondent").

APPLICABLE LAW

The Department has the authority to enforce and administer the Private Investigations Act ("the Act"), and to adopt rules regarding registering security guards. NMSA 1978, § 61-27B-5D(1). The Private Investigations Advisory Board ("the Board") is authorized, to "assist the department...as requested by the superintendent of the department or as provided by the rules of the department." NMSA 1978, § 61-27B-6.

The department may deny a license or registration held or applied for under the Act upon the grounds that the registrant or applicant has been convicted of a felony or any crime involving dishonesty or illegally using, carrying or possessing a deadly weapon. See NMSA 1978, § 61-27B-26D.

NATURE OF THE EVIDENCE AGAINST THE RESPONDENT

On March 3, 2015, Respondent, applied to the Board for a Level 1 Security Guard Registration. On his application, Respondent checked the box indicating that he had been previously convicted of a felony or misdemeanor offence. In particular, Respondent indicated that he had been convicted of Possession with Intent to Distribute 100 Grams or More of Heroin on or about June 27, 2013. On July 31, 2015, the Board, at a regular scheduled meeting, voted to deny the Respondent's application pursuant to NMSA 1978, § 61-27B-26(D), based on the belief that the Respondent has been convicted of a felony or any crime involving dishonesty or illegally using, carrying or possessing a deadly weapon.

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 ("the 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* NMSA 1978, § 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* NMSA 1978, § 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:

Marcus Erickson
Compliance Officer
Private Investigations Advisory Board
P.O. Box 25101
Santa Fe, NM 87504

(505) 476-4667

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 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 th25 day of August, 2016.

STATE OF NEW MEXICO PRIVATE INVESTIGATION ADVISORY BOARD

By: 

Superintendent

New Mexico Regulation and Licensing Department

Prepared by:

/s/ Regina Ryanczak

Assistant Attorney General

Administrative Prosecutor

P.O. Box 1508

Santa Fe, NM 87504

Telephone: (505) 827-6920

Facsimile: (505) 827-6036

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

Return Receipt Request No:

9171 9690 0935 0079 1631 77

I, **Marcus Erickson**, do hereby certify that I mailed a true and correct copy of the above provided Notice of Contemplated Action in **Case No. PI-15-43-APP** before the New Mexico Board of Private Investigations Advisory Board to the Respondent at his last known address of record, this 24th day of August, 2016.

Marcus Erickson

Print the Name of Individual Certifying Service

Compliance officer / RLD

Title/Organization

[Signature]

Signature

ORIGINAL



Susana Martinez
GOVERNOR

Robert "Mike" Unthank
SUPERINTENDENT

David Jablonski
DEPUTY
SUPERINTENDENT

Claudia Armijo
DEPUTY GENERAL
COUNSEL

Enrique C Knell
DIRECTOR

New Mexico Regulation and Licensing Department
BOARDS AND COMMISSIONS DIVISION

P.O. Box 25101 • Santa Fe, New Mexico 87504
(505) 476-4622 • Fax (505) 476-4620 • www.rld.state.nm.us

August 29th, 2016

Certified Mail # 9171 9690 0935 0079 1631 77

Franky Mendoza
2331 Menaul Blvd NE
Albuquerque, NM 87107

Re: New Mexico Private Investigations Advisory Board
Complaint # PI-15-43-APP
Complainant – Application/PI Board

Dear Franky:

On 07/31/2015 the Board of Private Investigations ("Board") voted to take disciplinary action against you in the matter of the complaint referenced above. Enclosed please find a Notice of Contemplated Action ("NCA") from the Attorney General's Office on behalf of the Board. The NCA explains the penalties the Board will impose on you or your license. *If you do not request a hearing within twenty (20) days, the Board may take this contemplated action by default.*

If you are exercising your right to a hearing, please mail your request for a hearing to the above address by certified mail, return receipt requested, *within twenty days* of receipt of this letter. *Please direct your request to my attention and include the name of the Board.*

If you want to discuss the allegations in the NCA, please contact the Board's Prosecuting Attorney, named in the NCA.

Sincerely,

Marcus Erickson
Compliance Officer
New Mexico Board Private Investigations
Regulation and Licensing Department
Boards and Commissions
Ph: 505-476-4622
Marcus.Erickson@state.nm.us

Enclosure: Notice of Contemplated Action

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

BEFORE THE NEW MEXICO PRIVATE INVESTIGATIONS ADVISORY BOARD

IN THE MATTER OF,
FRANKY MENDOZA,
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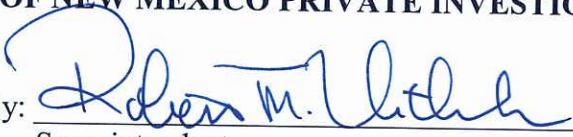
(505) 476-4667

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- 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 25 day of August, 2016.

STATE OF NEW MEXICO PRIVATE INVESTIGATION ADVISORY BOARD

By: 
Superintendent
New Mexico Regulation and Licensing Department

Prepared by:

/s/ Regina Ryanczak
Assistant Attorney General
Administrative Prosecutor
P.O. Box 1508
Santa Fe, NM 87504
Telephone: (505) 827-6920
Facsimile: (505) 827-6036

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

Return Receipt Request No: 9171 9690 0935 0079 1631 77

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Marcus Erickson

Print the Name of Individual Certifying Service

COMPLIANCE OFFICER / RLD

Title/Organization

Marcus Erickson

Signature