

**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
OFFICE OF THE SUPERINTENDENT**

IN THE MATTER OF:)		
)		
JOAQUIN LUCERO)		CASE NO. PI-18-55-APP
)		
Applicant.)		

**FINAL ORDER DENYING
SECURITY GUARD REGISTRATION**

THIS MATTER received a hearing on the merits on 3/19/2019, before Hearing Officer Jeff Burke, who recommended to the Superintendent that the Respondent’s Level Two Security Guard Registration be approved. The Superintendent, having familiarized herself with the record of the proceedings, including the Hearing Officer’s Report (“Report”), hereby issues the following:

FINDINGS OF FACT

The attached Report is accepted and the Proposed Findings of Facts (Numbers 1 through 3) are hereby adopted and incorporated by reference in this Order. In addition, the following finding of fact is issued:

4. Applicant Lucero, following a request made to him by the Department, submitted two separate training certificates, one dated 11/26/2018 for Level 1 (labeled Ex. A, PI APP 0009) and one dated 11/27/2018 for Level 2 (labeled Ex. A, PI APP 0010). The Applicant testified that he completed four (4) hours of Level 1 training, and an unconfirmed amount of Level 2 training hours. Based upon the dates and discrepancies of the certificates’ issuance, and the Applicant’s testimony, Applicant Lucero has not received the required twenty-four (24) hours of training in order to obtain a Level 2 Security Guard license.

Any other factual findings or recommendations in the Report, including those stated in the “Conclusion” and “Analysis and Discussion” are not accepted and are expressly rejected. All exhibits referenced therein are accepted for the purposes stated in the Findings of Fact.

CONCLUSIONS OF LAW

Pursuant to the Private Investigations Act (“Act”), at Section 61-27B-18 (B)(2), a level two security guard registration requires that an individual meet the requirements of a level one security guard and maintain those requirements in good standing. *See* Section 61-27B-17(B)(1). These requirements include “good moral character.” *See*, Section 61-27B-16(B)(2).

The New Mexico Legislature has specifically defined the criminal activities that are disqualifying for purposes of issuing a security guard registration: conviction of a felony or an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a weapon. *See*, Section 61-27B-16(B)(4). Furthermore, any assault or battery or use of force or violence on a person without justification is grounds for denial of a license. *See*, Section 61-27B-26(H).

The Applicant’s criminal background, as noted in the findings, does not rise to a level of disqualification him from receiving a license as a level-two security guard, as determined by the Legislature. He was convicted of two misdemeanors, first in 1997 and then in 2010. He has no record of any criminal activity since that time.

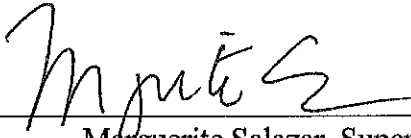
Moreover, the factors noted in the Report regarding the mitigating circumstances surrounding his convictions warrant a finding that the Applicant is of good moral character.

However, a preponderance of the evidence supports the conclusion of law that the Applicant has not completed the training for a level two security guard as set forth at NMAC 16.48.2.18(D).

FINAL ORDER

BASED ON THE FORGOING, IT IS HEREBY ORDERED that Respondent Joaquin Lucero's Level Two Security Guard Registration be DENIED without prejudice to Respondent filing a second application for a Level Two Security Guard that reflects correct and verified training hours as required by Department rule.

Date: 4/24/19



Marguerite Salazar, Superintendent
N.M. Regulation & Licensing Department

NOTICE OF RIGHTS

Following a hearing, a person aggrieved by the adverse final order of the Superintendent may appeal to the District Court pursuant to the provisions of Sections 12-8-16 and 39-3-1.1 NMSA 1978.

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of April, 2019, I mailed a true and correct copy of the foregoing, *Final Order Denying Security Guard Registration* to the following party at the address listed below.

Joaquin Lucero


Kathleen Royce
Hearing Clerk

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Certified Mail Number

**BEFORE THE PRIVATE INVESTIGATIONS ADVISORY BOARD
OF THE REGULATION & LICENSING DEPARTMENT**

IN THE MATTER OF:)	CASE NO. PI-18-55-APP
JOAQUIN A. LUCERO)	
)	
APPLICANT.)	
)	

NOTICE OF CONTEMPLATED ACTION

1. **Joaquin A. Lucero** is an applicant for Security Guard Registration as a Level 2 as provided in the Private Investigations Act (Act), NMSA 1978, § 61-27B-1 et seq., and is therefore subject to the jurisdiction of the Regulation and Licensing Department (“Department”) and of the Uniform Licensing Act (ULA), NMSA 1978, § 61-1-3.

2. **Applicant Lucero** is hereby notified that the Board has before it sufficient evidence, that Applicant has failed to satisfy the requirements for registration which, unless rebutted or satisfactorily explained at a formal hearing, will justify the Department in denying the application or taking other disciplinary action as permitted under the Act and Section 61-1-4 of the ULA.

3. **Applicant Lucero** has failed to satisfy the Board that he has not been convicted of a disqualifying offense and is of good moral character, a requirement for registration pursuant to NMSA 1978, Sections 61-27B-16B (2) and (4). A background investigation of Applicant Johnson revealed that:

On June 8, 1997, Applicant Lucero was arrested for Driving While Intoxicated (misdemeanor) with a final adjudication of guilty. On July 5, 2010, Applicant Lucero was charged with Battery on a Household Member (misdemeanor) with a final adjudication of guilty.

4. **Applicant Lucero** bears the burden of satisfying the Department that Applicant meets the requirements for registration requirements.

5. **Unless Applicant Lucero within 20 days after service of this Notice of Contemplated Action mails a letter Certified, Return Receipt Requested, addressed to the Private Investigations Advisory Board, at P.O. Box 25101, Santa Fe, New Mexico 87504 and containing a request for a hearing, the Department shall take the contemplated action by default.**

6. The ULA in section 61-1-8 affords an applicant entitled to a hearing the following rights:

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 therefore to the board or the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or hearing officer.

B. Upon written request to another party, any party is entitled to:

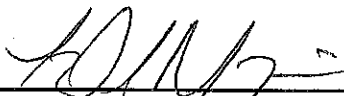
- (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
- (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

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 such 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.

**REGULATION & LICENSING
DEPARTMENT**

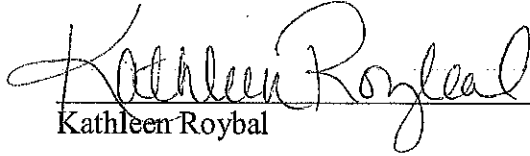
Date: 1/15/19

By: 
**LAWRENCE MOQUINO
PRIVATE INVESTIGATIONS
ADVISORY BOARD**

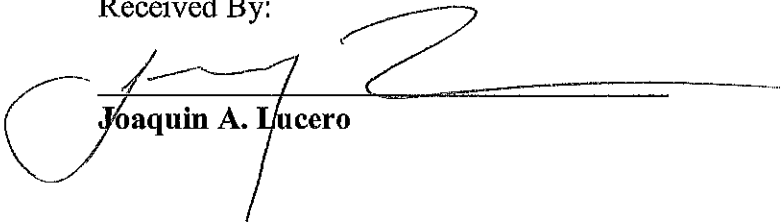
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Contemplated Action was hand delivered to **Joaquin A. Lucero** n this 15th day of January 2019, and emailed to Rebecca Branch at rbranch@nmag.gov.

Joaquin A. Lucero
3226 Rufina Street, #13
Santa Fe, NM 87507


Kathleen Roybal

Received By:


Joaquin A. Lucero