

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

IN THE MATTER OF:)	CASE NO. PI-18-8-APP
ANNA MARIE JOHNSON)	
)	
APPLICANT.)	
)	

NOTICE OF CONTEMPLATED ACTION

1. **Anna Marie Johnson** is an applicant for Security Guard Registration as a Level 1 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; and

2. **Applicant Johnson** 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 Johnson** has failed to satisfy the Board that she is of good moral character and has not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act. 61-17B-16(2) and (4). A background investigation revealed that:

On December 22, 2004, Applicant Johnson was arrested for Burglary, Second Degree Felony; Aggravated Assault with a Deadly Weapon; and Theft-Means of Transportation Felony. She was jailed for 180 days and placed on probation for five years. Applicant Johnson’s probation was revoked and she was sentenced to three and one half years in prison.

4. **Applicant Johnson** bears the burden of satisfying the Department of Applicant’s qualifications.

5. **Unless Applicant Johnson 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: 6/4/18

By: _____

TRM
**TONY GARLEY, CHAIR
PRIVATE INVESTIGATIONS
ADVISORY BOARD**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Contemplated Action was mailed to Anna Marie Johnson, 4732 Tennessee Street, Albuquerque, NM 87109 on this 5th day of June 2018, via certified mail, return receipt requested and emailed to Rebecca Branch, AAG, P.O. Drawer 1508, Santa Fe, NM 87501-1508 at rbranch@nmag.gov

Vanessa Montoya
Vanessa Montoya

Certified Mail Return Receipt Tracking Number: 9171 9690 0935 0079 1644 64

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

IN THE MATTER OF:)
)
ANNA MARIE JOHNSON) **CASE NO. PI-18-8-APP**
)
Respondent.)

**FINAL ORDER DENYING
SECURITY GUARD REGISTRATION**

THIS MATTER received a hearing on the merits on 8/28/2018, before Hearing Officer Tony C. Garley, who recommended to the Superintendent that the Respondent's Level One Security Guard Registration be denied. The Superintendent, having familiarized himself with the record of the proceedings, including the Hearing Officer's Report (attached), hereby issues the following:

FINDINGS OF FACT

The attached Hearing Officer's Proposed Findings of Fact (Number 1) is hereby adopted and incorporated by reference in this Order. In addition, the following findings of facts are issued:

2. The Notice of Contemplated Action ("NCA") provides the following grounds as its basis:

Applicant Johnson has failed to satisfy the Board that she is of good moral character and has not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act. 61-17B-16(2) and (4). A background investigation revealed that: On December 22, 2004, Applicant Johnson was arrested for Burglary, Second Degree Felony; Aggravated Assault with a Deadly Weapon; and Theft-Means of Transportation Felony. She was jailed for 180 days and placed on probation for five years. Applicant Johnson's probation was revoked and she was sentenced to three and one half years in prison.

The NCA does not mention an arrest for shoplifting (2004) and a charge of guilty; or drug paraphernalia possession (2004).

3. Respondent testified that she:
- A. has a twin sister, Alana, and that their records sometimes get mixed up. However, she doesn't think that her sister would have any idea about the charges either, since she hasn't been in trouble and is studying to be a nurse.

- B. does not remember being arrested or charged for shoplifting or drug paraphernalia or drug possession.
 - C. does not recall going to court or being represented on the charge of Theft-Means of Transportation Felony. She did recall an incident involving a car accident and borrowing a car from a woman who was living in her car.
 - D. does recall being arrested for aggravated assault in 2004, when she was 17 years old, and a conviction for "deadly means". She had argued with a gentleman and they were fighting. The man had his keys in the car, and she took his car. She was placed on probation, but about a year later her probation was revoked and she served three years. She was released in 2009.
 - E. has not been in any trouble since 2004, except for maybe a speeding ticket.
 - F. regarding the three charges that are identified in the NCA – burglary, assault and deadly means - she doesn't know anything about a burglary, and suspects that it is a mistake in the Arizona record. In addition, the 2017 charge in Arizona could not possibly be her because she moved to New Mexico in 2013 and has not returned to Arizona since.
4. Mr. Robard Johnson, Respondent's father, testified in support of Respondent's character. He said that she's been doing well since she moved to New Mexico in 2013. They have lived together since 2014, and he is not aware of any legal issues involving Respondent since that time.

CONCLUSIONS OF LAW

Pursuant to the Private Investigations Act ("Act"), a level one security guard registration requires the applicant to submit satisfactory evidence of their "good moral character." *See* Section 16B(2).

Neither the statute nor the rules (Title 16, Chapter 48 NMAC) provide a definition or any objective measure(s) of "good moral character". The determination of an applicant's good moral character, while not legally defined, is distinct in the statute from the determination of a disqualifying criminal background. 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 16B(4). The Act defines "conviction" as "any final adjudication of guilty." *See* Section 2E.

The Respondent's criminal background, as described in the Notice of Contemplated Action, rises to the level of disqualification, as determined by the Legislature, for registration as a security guard.

Respondent's criminal background involving her conviction of a felony is sufficient to support a determination that Respondent is statutorily disqualified from consideration for a security guard registration in New Mexico. Respondent's testimony supports that she was convicted and served time on the felony charge.

FINAL ORDER

IT IS THEREFORE ORDERED

That Respondent Anna Marie Johnson's Level One Security Guard Registration be DENIED.

IT IS SO ORDERED.

Date: 12/26/2018


ROBERT "Mike" UNTHANK, Superintendent
N.M. Regulation & Licensing Department

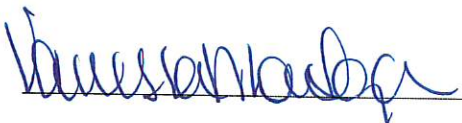
NOTICE OF RIGHTS

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 28th day of December, 2018, 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.

Anna Marie Johnson



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