

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

IN THE MATTER OF:

Case No. PI-18-9-APP

Phillip Leatherman,

License No. 1SG46240

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 Phillip Leatherman (“Respondent”); such evidence served as the basis for a Notice of Contemplated Action issued to Respondent by the Board.

FINDINGS

1. Respondent applied to renew a security guard III 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: 11001 McKnight Ave., Albuquerque, NM 87112.
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 6/6/2018 (*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 6/6/2018.
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: 12.18.2018

By:


FOR:
**ROBERT ("MIKE") UNTHANK,
SUPERINTENDENT
REGULATION & LICENSING
DEPARTMENT**

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

IN THE MATTER OF:)	CASE NO. PI-18-9-APP
PHILLIP LEATHERMAN)	
LICENSE #: 1SG46240)	
RENEWAL APPLICANT.)	
)	

NOTICE OF CONTEMPLATED ACTION

1. **Phillip Leatherman** submitted a renewal application for Security Guard Registration as a Level 3 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 Leatherman** 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 renewal application or taking other disciplinary action as permitted under the Act and Section 61-1-4 of the ULA.
3. **Applicant Leatherman** has failed to satisfy the Board that he is of good moral character. A background investigation revealed:

2016 Criminal Trespass, Aggravated Assault with Deadly Weapon; 2017 Attempted Aggravated Assault with Deadly Weapon.
4. **Applicant Leatherman** bears the burden of satisfying the Department of Applicant’s qualifications.
5. **Unless Applicant Leatherman 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: _____

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 Phillip Leatherman at 11001 McKnight Avenue, Albuquerque, NM 87112 on this 5th day of June 2018, via certified mail, return receipt requested and emailed to Rebecca Branch, AAG, P.O. Box 1508, Santa Fe, NM 87501-1508 at rbranch@nmag.gov.

Vanessa Montoya
Vanessa Montoya

Certified Mail Return Receipt Tracking Number: 9171 9690 0935 0079 1645 49



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