

**REGULATION AND LICENSING DEPARTMENT
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

Case No. PI-19-27-COM

**ARTHUR S. APODACA
License No. 3SG39862,**

Respondent.

SETTLEMENT AGREEMENT

Early Resolution Proposed by the Regulation and Licensing Department

Whereas, Arthur S. Apodaca, hereafter, "Respondent" is licensed in New Mexico under the Private Investigations Act (the Act), and is subject to the jurisdiction of the Regulation and Licensing Department (Department);

Whereas, the Department has received information alleging that Respondent have violated the Act;

Whereas, the Department found sufficient evidence to refer the matter for administrative prosecution and may request that a Notice of Contemplated Action (NCA) be issued against Respondent;

Whereas, this Settlement Agreement (Agreement) is entered into voluntarily by the Department and the Respondent;

Whereas, if the Agreement is rejected by the Superintendent, the Department will process a formal complaint in this matter for further consideration, which may include the initiation of formal disciplinary action and the possible issuance of an NCA against Respondent;

Whereas, Respondent is willing to resolve this matter without the need for, and time and expense of, a formal hearing conducted; and

Whereas, the Department believes that this proposed Settlement Agreement (Agreement) is appropriate and in the best interest of the public:

THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Jurisdiction:** Respondent is registered as a level three security guard by the Department or otherwise subject to the Act and subject to the jurisdiction of the Department pursuant to NMSA 1978, Section 61-27B-5.
2. **Voluntary Agreement:** Respondent enters into this Agreement knowingly and voluntarily, without duress or coercion, and after a full opportunity to consult an attorney. Respondent understands that the Department has not, at this current time,

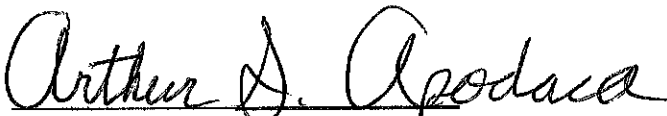
taken any formal disciplinary action against Respondent, and that if Respondent rejected this Agreement, the Department may not take any disciplinary action.

3. **Approval:** This Agreement is subject to Superintendent approval. If the Respondent rejects this Agreement, the matter may be further investigated, the Department may issue a NCA, which may lead to a full evidentiary hearing on the matter. If the Agreement is rejected by the Respondent or the Superintendent, the terms of this Agreement or statements made by Respondent in support of this Agreement shall not be used against Respondent in a subsequent hearing, nor shall any terms herein be used against Respondent in any subsequent proceeding as evidence or admission of any violation.
4. **Waivers:** If this Agreement is accepted by the Superintendent and the Respondent, Respondent agrees to waive any and all rights under the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2019), including but not limited to the right to an evidentiary hearing, the right to discovery, the right to confront and cross examine witnesses, and the right to judicial review.
5. **Violations:** Respondent admits to the following violation(s) of the Act and/or the Department's rules as reflected in exhibits and testimony given at the Hearing on Friday, October 4, 2019 and in the Hearing Officer's Report dated October 8, 2019:
 - a. On July 12, 2018, Respondent pleaded guilty to petty misdemeanor assault in case number CR 2018-1154, Second Judicial District Court, County of Bernalillo, State of New Mexico.
 - b. A petty misdemeanor assault is a violation of NMSA 1978, Sections 61-27B-26(H), which states that a registrant with a registration issued pursuant to the Act, shall not commit "assault" or use of "force or violence on a person without justification.
6. **Sanctions and Conditions:** Respondent agrees to the following disciplinary sanctions and conditions:
 - a. For a probationary period of six months, to begin on the date the Superintendent signs this Agreement, the Respondent will only work as a level one security guard;
 - b. After completion of the six-month probationary period, Respondent may apply for a level two and three registration provided he receives the training for these registrations and completes the application process, including paying all fees.
7. **Reportable Discipline:** Respondent understands that this Agreement constitutes formal disciplinary action by the Department and that the Department may report this Agreement to the applicable professional licensing national database, if any.

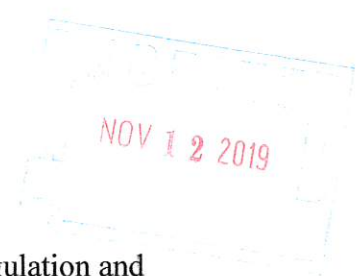
8. Respondent understands and agrees that failure to comply with the terms of this Agreement will result in further action by the Department to secure compliance. Any violation of this Agreement will result in the immediate, automatic filing of an administrative Notice of Non-Compliance by Department staff. Upon the filing of a Notice of Non-Compliance, Respondent shall have the opportunity to rebut the allegations or offer any other relevant argument or evidence. Such argument or evidence may be provided in writing to the Department. Any presentation regarding the Notice of Non-Compliance shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement. Upon finding such violation occurred, the suspend Respondent's license, provided that this suspension may only remain in effect until such time as the Respondent has complied with the terms of this Agreement or take other enforcement action as permitted by law.
9. Contact Information: Respondent shall notify the Department within ten (10) calendar days if there is a change in employment or home address during the term of discipline or prior to completion of any conditions stated herein.
10. Public Record: This Agreement and the original complaint are public records and may be provided for inspection if requested, pursuant to the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to 14-2-12 (1947, as amended through 2019). The Department may also publish this discipline to the public, which may include posting to the Department or Private Investigations Board website.
11. Final Disposition: Upon Respondent's satisfactory completion of the terms of this agreement, the case will be deemed closed for administrative purposes without the filing of an order by the Department. However, this matter will still constitute disciplinary action as provided herein.

Respondent understand and have read the above. Respondent hereby agree to the terms of this Agreement freely and voluntarily. Respondent understand that by entering into this Agreement Respondent are giving up rights available to them under the Uniform Licensing Act. Respondent understand Respondent are giving up rights to an evidentiary hearing on the merits of the alleged violations, the right to confront, cross-examine and compel the attendance of witnesses, and the right to present all relevant evidence by means of witnesses and books, papers, documents and other evidence.

Respondent understand that if the Superintendent accepts this Agreement, Respondent are subject to discipline as outlined herein in the event that Respondent violate any of the terms or conditions set forth.


11-7-19
 Respondent, Arthur S. Apodaca Date
 License No. 3SG39862

ORDER



This document is not valid unless it is accepted by Superintendent of the Regulation and Licensing Department.

IT IS SO ORDERED.



Marguerite Salazar
Superintendent



Date



Arthur Apodaca
4125 5th Street NW
Albuquerque, NM 87107

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