

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

IN THE MATTER OF:  
**RICARDO MARTINEZ**  
(Applicant)

CASE NUMBER:  
**PI-19-37-APP**

**FINAL DEFAULT ORDER DENYING  
SECURITY GUARD APPLICATION**

**THIS MATTER** was scheduled for a hearing on the merits on 1/23/2020, before Hearing Officer Jeff Burke. The Superintendent, having familiarized herself with the administrative record in this case, including the Hearing Officer's Report dated January 24, 2020 ("the Report"), hereby finds, concludes, and orders as follows:

**FINDINGS OF FACT**

1. Except as noted in (a) through (c) below, the attached Hearing Officer's Report is accepted and is hereby adopted and incorporated by reference in this Order:
  - (a) The statement in the Report that "No findings could be made due to the Applicant failing to appear" is rejected.
  - (b) The statement in the report that "[t]his NCA hearing could not proceed due to the Applicant being absent" is rejected.
2. The Superintendent finds that the applicant failed to appear for the scheduled hearing.
3. The Superintendent finds that the allegations in the Notice of Contemplated Action ("NCA") are accepted as true by default.
4. The Superintendent, upon review of the administrative file maintained by Department staff, finds the following additional facts:

(a) the NCA was served on, and received by, the applicant by certified U.S. Mail, return receipt requested, on October 29, 2019, as reflected by the applicant's signature on the return receipt;

(b) the aforementioned signed receipt reflected the applicant's current address as 2560 Primavera Street, Las Cruces New Mexico 88007;

(c) by hand-written envelope dated November 12, 2019 reflecting the same current address, the applicant mailed a request for hearing;

(d) on November 25, 2019, hearing clerk Kathleen Roybal mailed the applicant a notice for a hearing on January 23, 2020, by certified mail, return receipt requested, to the same address of 2560 Primavera Street, which was unclaimed by the applicant; and

(e) Ms. Roybal again sent the notice of hearing by certified mail, return receipt requested, on December 23, 2019, which also was unclaimed by the applicant.

### **CONCLUSIONS OF LAW**

1. Pursuant to Sections 61-1-4 and -5 of the Uniform Licensing Act ("ULA"), the applicant must receive notice of hearing by certified mail, return receipt requested, directed to the applicant at his last known address.

2. The notice of hearing provided to the applicant satisfies the requirements of Sections 61-1-4 and -5 of the ULA.

3. Pursuant to Section 61-1-15 of the ULA, if a person who has requested a hearing does not appear and no continuance is granted, the Superintendent "may proceed to consider the matter and dispose of it on the basis of the evidence before [her]."

4. Pursuant to the Private Investigations Act ("Act"), at Section 61-27B-16 and the rules promulgated thereunder at NMAC 16.48.2, a level one security guard license requires that

an individual compete all the requirements in the aforementioned section and rule. An applicant must also demonstrate “good moral character” pursuant to Section 61-27B-16(B)(2).

5. The New Mexico Legislature has specifically defined the criminal activities that are disqualifying for purposes of issuing a level one security guard license: 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). The Act defines “conviction” as “any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise and whether or not the sentence is deferred or suspended.” *See* Section 61-27B-2(E).

6. Pursuant to Section 61-1-4(C) of the ULA, if an NCA issues on the basis that an applicant is not qualified for a license, the applicant bears the burden of proving his or her qualifications, including but not limited to, good moral character.

7. Pursuant to Section 61-1-4(C) of the ULA, the applicant has failed to satisfy his burden of proving his qualifications as a level one security guard.

8. Independent of the grounds for denial of the application stated above, the Respondent’s criminal background, as alleged in the NCA and taken as true by default, disqualifies him from licensure as a security guard pursuant to both Sections 61-27-16(B)(2) and (4), either of which are grounds for denial of this application. Specifically, applicant was convicted of second-degree murder, a felony, as a juvenile in 1999, and arrested in 2008 for battery against a household member.

**FINAL ORDER**

**IT IS THEREFORE ORDERED** that Respondent **RICARDO MARTINEZ**'s application be DENIED.

**SO ORDERED.**

Date: 2/13/20



\_\_\_\_\_  
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 17 day of February 2020, I mailed a true and correct copy of the foregoing, *Final Order DENYING application* to the following party at the address listed below.

**RICARDO MARTINEZ**



\_\_\_\_\_  
Hearing Clerk

7018 1130 0001 5733 9546  
Certified Mail Number