

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

IN THE MATTER OF:

CASE No. PI-2014-007

HENRY CADENA/AAA SECURITY,

Respondent.

SUPERINTENDENT'S FINAL ORDER

THIS MATTER came before Chris Martinez, Hearing Officer, for a hearing on the merits on August 4, 2016, and the Hearing Officer having filed a Hearing Officer's Report containing findings of fact and recommendations on December 27, 2016; and the Superintendent, being otherwise fully apprised, accepts the Hearing Officer's Report in its entirety and finds that Respondent Henry Cadena/AAA Security's actions has resulted in violations of the Private Investigations Act.

THEREFORE, IT IS ORDERED that:

Respondent shall pay a fine of two thousand dollars (\$2,000.00), to the board within thirty (30) days of the date this Final Order is signed; and

Respondent shall take four hours of continuing education from an approved source, not to be counted toward renewal of his license, within sixty (60) days of the date this Final Order is signed

Failure to comply with the terms of this Order may result in further discipline.

IT IS SO ORDERED.

Date:

March 01, 2017

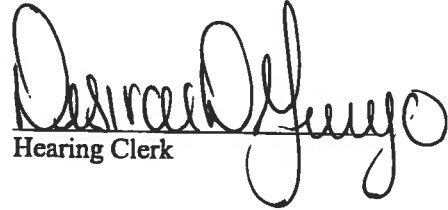


**ROBERT "Mike" UNTHANK, Superintendent
NM Regulation & Licensing Department**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order has be sent via Certified Mail, with Return Receipt Requested to Henry Cadena/AAA Security, 1025 Solar NW, Albuquerque, NM 87107 on this 2nd day of March, 2017

Certified Mail No. 9171 9690 0935 0076 8830 16


Hearing Clerk

BEFORE THE NEW MEXICO PRIVATE INVESTIGATIONS ADVISORY BOARD

IN THE MATTER OF:
OSCAR LOPEZ,
License No. 44087 & 47748, and

Case No(s). 2014-006 and
2014-007

HENRY CADENA/AAA SECURITY,
License No. 1421,

Respondents.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Regulation and Licensing Department (“Department”) has sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department’s imposing a civil penalty against Oscar Lopez and Henry Cadena/AAA Security, which could total up to one thousand dollars (\$1,000). *See* NMSA 1978, § 61-27B-27(B)(1).

APPLICABLE LAW

The Department has the authority to enforce and administer the Private Investigations Act (“the Act”), and to adopt rules regarding private patrol companies. NMSA 1978, § 61-27B-1 to -36. The Private Investigations Advisory Board (“the Board”) is authorized, to “assist the department...as requested by the superintendent [of the department] or [as] provided for in rules of the department.” NMSA 1978, § 61-27B-6(B).

It is unlawful for an individual to act as a security guard unless that person currently possesses an active license for the State of New Mexico. NMSA 1978, § 61-27B-3. (“It is unlawful for an individual to: (A) act as a...security guard...unless the individual is licensed by the department...[or] (C) act as a...security guard...if the individual’s license issued...has expired”). Also, “[a] licensee or registrant with an expired license or registration shall not perform

an activity for which a license or registration is required pursuant to the Private Investigations Act until the license or registration has been renewed or reinstated.” Section 61-27B-21(B). “A security guard shall wear the registration card on the outside of the guard’s uniform so that the card is visible to others” *See* Section 61-27B-22(D).

The Department is authorized to impose “a civil penalty not to exceed one thousand dollars (\$1,000) for each violation” of the Act. *See* NMSA 1978, § 61-27B-27(B)(1). Under the Act, “[a] private patrol company is liable for the conduct of the company’s employees, including the conduct of its private patrol operations manager.” Section 61-27B-23(E).

Also, if a hearing is requested, “Licensees shall bear all costs of disciplinary proceedings unless they are excused by the board from paying all or part of the fees or if they prevail at the hearing....” NMSA 1978, 61-1-4(G).

NATURE OF THE EVIDENCE AGAINST THE RESPONDENT

On July 24, 2014, a complaint was filed against Mr. Lopez and AAA Security alleging that Mr. Lopez was unlicensed to act as a security guard in New Mexico. On September 8, 2014, Henry Cadena, CEO of AAA Security responded to the complaint and stated that “Our officer Oscar Lopez does have a Security Guard Level 3 guard card...it was valid at the time the incident was reported and still is valid.” A security guard registration level card was included with Mr. Cadena’s response; the card purported to be a “Level 3” registration card for Oscar Lopez, “License/Registration No. 44087,” issued on “04/11/2013” and expiring on “11/30/2014.”

Reviewing the records of the Department, License/Registration No. 44087 corresponds to a Security Guard Registration Level 1 for Oscar Lopez, issued on 4/11/2012, expiry on 6/30/2013. And, License/Registration No. 44748 corresponds to a Security Guard Registration Level 3 for Oscar Lopez-Garcia, issued on 8/26/2014 (after the date of the incident). Thus, it appears that

Oscar Lopez was unlicensed at the time of the incident—his Level 1 card having expired in 2013 and his Level 3 card not issued until about a month after the incident.

Also, Oscar Lopez responded to the complaint on September 4, 2014 with a sworn statement that stated “I did work for AAA Security Company as a Level 2 security guard...” Department records do not reflect that Oscar Lopez was ever issued a Security Guard Registration Level 2.

RIGHTS OF THE RESPONDENT

You have a right to request a formal hearing in this matter. In order to exercise that right, **you must respond to this Notice of Contemplated Action with a request for a hearing within twenty (20) days of the service of this Notice.** NMSA 1978, Section 61-27B-27(A). The Uniform Licensing Act (“the ULA”), NMSA 1978, Sections 61-1-1 to -34, governs the procedures for conducting this hearing to the extent that those procedures do not conflict with the Act. *See* Section 61-27B-27(A). As such, **the hearing request must be made in writing, sent to the Board by certified receipt requested letter to the address provided below.** Section 61-1-4(B). Failure to respond in this prescribed manner (requesting a hearing) will result in the Board taking the contemplated action; and, such action shall be final, without any opportunity to appeal for judicial review. Please send any request for a formal hearing to:

John Francis, Board Administrator
Private Investigations Advisory Board
P.O. Box 25101
Santa Fe, NM 87504
(505) 476-4634

If that hearing is requested, it will be conducted in accordance with the ULA, to the extent that those procedures do not conflict with the Act. *See* Section 61-27B-27. With respect to any formal hearing, as the respondent you have the following rights under NMSA 1978, Section 61-1-8:

- 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 therefor to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
- 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 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.

Dated on this 5th day of October, 2015.

STATE OF NEW MEXICO PRIVATE INVESTIGATION ADVISORY BOARD

By: 

Superintendent

New Mexico Regulation and Licensing Department

Administrative Prosecutor

Brian Parrish, Assistant Attorney General

New Mexico Attorney General's Office

P.O. Drawer 1508

Santa Fe, NM 87504-1508

(505) 827-6624

Certification of Service

I, Sheila Harris, do hereby certify that a true and correct copy of the this Notice of Contemplated Action was mailed to Respondents, Henry Cadena/AAA Security and Oscar Lopez, at their last known addresses as shown by the records of the New Mexico Private Investigation Advisory Board on this 14th day of October, 2015.

Return Receipt Request No.: 7013 0600 0001 8695 6112
7013 0600 0001 8695 6129

Sheila Harris
Print the Name of Individual Certifying Service

Compliance Liaison
Title/Organization

Sheila Harris
Signature