

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Application of

STEPHEN J. MATTEO

DECISION

For a License as a Private Investigator

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on July 2, 1996 at the office of the Department of State located at 270 Broadway, New York, New York.

The applicant, of 1784 Flatbush Avenue, Brooklyn, New York 11220, was represented by John W. Russell, Esq., 60 East 12th Street, New York, New York 10003.

The Division of Licensing Services (hereinafter "DLS") was represented by Supervising License Investigator William Schmitz.

ISSUE

The proceedings involved a re-opening of a matter previously heard by the Hon. Felix Neals on August 17 and November 26, 1995, which had resulted in a decision dated March 4, 1996. In that decision, Judge Neals found that the applicant had failed to prove that he had the 36 months of qualifying experience required for the issuance of a license as a private investigator. He granted the applicant credit for 16 months, and allowed him 30 days to submit to DLS proof of additional qualifying experience obtained during the period of February, 1978 through April 20, 1994. The applicant submitted proof which did not satisfy DLS. Accordingly, pursuant to Judge Neals' decision, the applicant requested that the matter be re-opened.

FINDINGS OF FACT

In addition to the experience for which he has already been granted credit, the applicant has the following experience obtained during the period of February, 1978 through April 20, 1994 (App. Ex. L, State's Ex. 9):

1) January, 1979 to April, 1982. Employed full-time, 40 hours a week, 50 weeks a year, by licensed private investigator Benjamin

Briskin conducting investigations regarding matrimonial and custody matters, skip tracing, thefts, and integrity of employees.

2) April, 1982 to 1984. Employed full time, over 40 hours a week, by 1900 Special Services, Inc., a licensed private investigator in the State of Florida. Conducted investigations of various types, including background checks and locating missing persons, and supervised several other investigators.

3) 1986 to 1988, and 1989 to 1994. Employed by Metropolitan Protection Services, Inc., a licensed watch, guard or patrol agency in New York. Conducted background investigations of company employees and investigations upon responding to the scene of incidents on the premises of company clients.

OPINION

I- As the person who requested the hearing, the burden is on the applicant to prove, by substantial evidence, that he has acquired the required experience. State Administrative Procedure Act (SAPA), §306(1). Substantial evidence is that which a reasonable mind could accept as supporting a conclusion or ultimate fact. *Gray v Adduci*, 73 N.Y.2d 741, 536 N.Y.S.2d 40 (1988). "The question...is whether a conclusion or ultimate fact may be extracted reasonably--probatively and logically." *City of Utica Board of Water Supply v New York State Health Department*, 96 A.D.2d 710, 465 N.Y.S.2d 365, 366 (1983)(citations omitted).

II- General Business Law (GBL) §72 establishes certain experience requirements which must be met by an applicant before a license as a private investigator may be issued:

"Every such applicant for a license as a private investigator shall establish to the satisfaction of the secretary of state...(that he) has been regularly employed , for a period of not less than three years, undertaking such investigations as those described as performed by a private investigator in subdivision one of section seventy-one of this article, as a sheriff, police officer in a city or county police department, or the division of state police, investigator in an agency of the state, county or United States government, or employee of a licensed private investigator, or has had an equivalent position and experience."

GBL §71(1) defines "private investigator" to

"mean and include the business of private investigator and shall also mean and include, separately or collectively, the making for hire, reward or for any consideration whatsoever, of any investigation for the

purpose of obtaining information with reference to any of the following matters...; crime or wrongs done or threatened against the government of the United States of America or any state or territory of the United States of America; the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person, group of persons, association, organization, society, other groups of persons, firm or corporation; the credibility of witnesses or other persons; the whereabouts of missing persons; the location or recovery of lost or stolen property; the causes and origin of, or responsibility for fires, or libels, or losses, or accidents, or damage or injuries to real property; or the affiliation, connection or relation of any person, firm or corporation with any union, organization, society or association, or with any official, member or representative thereof; or with reference to any person or persons seeking employment in the place of any person or persons who have quit work by reason of any strike; or with reference to the conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors, and sub-contractors; or the securing of evidence to be used before any authorized investigation committee, board of award, board of arbitration, or in the trial of civil or criminal cases."

The applicant has previously been granted credit for 16 months of qualifying experience. His experience with Benjamin Briskin, which meets the above stated requirements, by itself constitutes an additional 38 months. His experience with 1900 Special Services, Inc. provides at least an additional 20 months of qualifying experience.¹

CONCLUSIONS OF LAW

The applicant has established by substantial evidence that he has the experience necessary to qualify for a license as a private investigator. GBL §72[1]; SAPA §306[1].

¹ The applicant's experience conducting background investigations of employees of Metropolitan Protection Services, Inc. was previously disallowed by Judge Neals. The additional experience of which he has now offered proof, i.e. on site investigations on the premises of clients, cannot be used for credit as those investigations were performed as an employee of a watch, guard or patrol agency, not as an employee of a licensed private investigator.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT the application of Stephen J. Matteo for a license as a private investigator is granted.

Roger Schneier
Administrative Law Judge

Dated: