

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Complaint of

**DEPARTMENT OF STATE
DIVISION OF LICENSING SERVICES,**

Complainant,

DECISION

-against-

**ACTION CRIME TEAM PROTECTIVE SERVICES
and LONNIE JOHNSON,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on July 29, 1997 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent, of 58-25 Campelton Highway, Fairburn, Georgia 30213 did not appear.

The complainant was represented by Assistant Litigation Counsel Scott L. NeJame, Esq.

COMPLAINT

The complaint alleges that the respondent availed his license to operate as a watch, guard, or patrol agency to an unlicensed person and enabled that person to operate under the unlicensed name of "Community Strike Force aka Action Crime Team" in violation of General Business Law (GBL) §70, that he failed to register employees of Community Strike Force (hereinafter "Community") in violation of GBL §89-g, and that he failed to supervise employees of Community in violation of 19 NYCRR 170.13.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered to him at his last known business address on March 20, 1997 (State's Ex. 1 and 3).

2) From May 4, 1989 until May 11, 1997 Action Crime Team Protective Service Inc. (hereinafter "Action") was a licensed watch, guard, or patrol agency with Lonnie Johnson registered as its qualifying officer (State's Ex. 2).

3) On October 23, 1995 License Investigator Paul Mathews interviewed Mr. Johnson, who told him that he was the "absent qualifier" of Action, which was formed to allow Isa Kareem to

operate Community, and that he received approximately \$32,000 per year from Community as a "license consultant." According to Mr. Johnson he had no day to day knowledge of the operations of his company or of any contracts to provide guard services held by his company. He stated that Mr. Kareem used Action's office and kept all of the business records in his own possession (State's Ex. 6). At the time of the interview Mr. Johnson was employed by the State of Virginia Probation Department in Arlington, Virginia.

On the same day Investigator Mathews interview Dr. Will Singleton, Superintendent of Schools of the Roosevelt Union Free School District. According to Dr. Singleton, on August 21, 1995 he met with Mr. Kareem and discussed the possibility of having Community provide security services to the school district, and Mr. Kareem advised him that Community was licensed and employed registered guards. As a result, commencing on September 7, 1995 Community provided twelve guards, none of whom were registered with the Department of State, to render security services at the Roosevelt Junior-Senior High School, for which Community was paid (State's Ex. 6). The school district ceased using Community's services on or about October 30, 1995.

On November 17, 1995 Investigator Mathews interviewed Mr. Kareem, who confirmed that he had been paying Mr. Johnson \$600.00 a week since 1992 for the use of Action's license. Mr. Kareem stated that in addition to the school in Roosevelt, Community had previously provided security services to the Glen Cove Housing Authority, Viron Company, Inc., and TJAC Realty Corporation. In all of his security contracts Mr. Kareem did business through Community, a duly filed corporation which was not a licensed watch, guard, or patrol agency (State's Ex.6).

OPINION AND CONCLUSIONS OF LAW

I- Pursuant to GBL §79[2], before holding a hearing seeking the revocation or suspension of a license as a watch, guard, or patrol agency notice of hearing must be served on the respondent. Included in the permissible forms of service is that used by the complainant in this proceeding: Certified mailing to the respondent's last known business address. Therefore, there being evidence that notice of the place, time and purpose of the hearing was properly served, the holding of an ex parte quasi-judicial administrative hearing was permissible. *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- Pursuant to the statutory scheme established by GBL Article 7, in order for a corporation to be licensed as a watch, guard, or patrol agency at least one officer must meet all of the requirements for individual licensure. GBL §72. GBL §81 then sets forth a requirement that the holder of any license be "legally responsible for the good conduct in the business of each and every person...employed." That requirement is further detailed in 19 NYCRR 170.13. Thus, the qualifying officer of a corporate watch, guard, or patrol agency is responsible for the supervision of the activities of that corporation. *Department of State v Greenberg*, 32

DOS 87, conf'd. *Greenberg v Shaffer*, 139 AD2d 648, 527 NYS2d 287 (1988).

Contrary to the above noted duties, Mr. Johnson availed, in effect rented, Action's license to Mr. Kareem. In so doing he enabled Mr. Kareem to do business under an unlicensed corporation acting under an unlicensed name in violation of GBL §70, and thereby demonstrated incompetence and untrustworthiness. He also enabled Mr. Kareem, acting under the color of Action's license, to employ unregistered security guards in violation of GBL §89-g, which security guards he did not supervise, in violation of 19 NYCRR 170.13.

III- Being an artificial entity created by law, Action can only act through its officers, agents, and employees, and it is, therefore, bound by the knowledge acquired by and is responsible for the acts committed by its qualifying officer, Mr. Johnson. Cf., *Roberts Real Estate, Inc. v Department of State*, 80 NY2d 116, 589 NYS2d 392 (1992); *A-1 Realty Corporation v State Division of Human Rights*, 35 A.D.2d 843, 318 N.Y.S.2d 120 (1970); *Division of Licensing Services v First Atlantic Realty Inc.*, 64 DOS 88; RPL §442-c.

IV- The expiration of the respondents' license does not divest this tribunal of jurisdiction to revoke that license for acts which occurred prior to that expiration, particularly since the acts of misconduct occurred, and the proceedings were commenced, while the respondents were licensed. *Brooklyn Audit Co., Inc. v Department of Taxation and Finance*, 275 NY 284 (1937); *Senise v Corcoran*, 146 Misc.2d 598, 552 NYS2d 483 (Supreme Ct., NY County 1989).. *Albert Mendel & Sons, Inc. v N.Y. State Department of Agriculture and Markets*, 90 AD2d 567, 455 NYS2d 867 (1982); *Main Sugar of Montezuma, Inc. v Wickham*, 37 AD2d 381, 325 NYS2d 858 (1971).

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Lonnie Johnson and Action Crime Team Protective Services Inc. have violated General Business Law §89-g and 19 NYCRR 170.13, and have demonstrated incompetence and untrustworthiness, and accordingly, pursuant to General Business Law §79, their license as a watch, guard, or patrol agency is revoked, effective immediately.

Roger Schneier
Administrative Law Judge

Dated: August 14, 1997