

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-

STARR SECURITY SERVICES INC., DONALD
CURRAN QUALIFYING OFFICER,

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on February 20, 1998 at the office of the Department of State located at 270 Broadway, New York, New York.

The respondent, of 50 Broad Street, New York, New York 10004, did not appear.

The complainant was represented by Legal Assistant Thomas Napierski.

COMPLAINT

The complaint alleges that the respondent failed to exercise due diligence in the identification, employment, and registration of a security guard, and subsequently registered the same person as a security guard under a different name knowing that he had previously registered under a false name and credentials, and failed to notify the complainant thereof, thereby resulting in the issuance of a second registration for the same individual, and has thereby demonstrated incompetence and untrustworthiness.

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered at its business address on November 24, 1997 (State's Ex. 1).

2) Starr Security Services Inc. is a duly licensed watch, guard or patrol agency with Donald F. Curran and Salvatore Sottile registered as its qualifying officers (State's Ex. 2).

3) On or about May 10, 1995 the respondent completed, and then subsequently submitted to the complainant, an application for registration as a security guard by Sessan Frank Morakinyo, who was employed by it in that capacity (State's Ex. 6).

4) The Morakinyo application was in fact made by Christophe Sam using an assumed name and false identification. Mr. Sam subsequently advised the respondent of his impersonation, and the respondent completed and submitted the respondent a new application for registration under the correct name while continuing to keep Mr. Sam in its employ (State's Ex. 6 and 8).

5) As a direct result of the respondent's submission of the two applications, two separate security guard registrations were issued to the same individual (State's Ex. 3, 4, and 7).

OPINION

I- Pursuant to General Business Law (GBL) §89-g[2], a security guard company¹ is required to exercise due diligence in verifying that the information contained in every application for registration which it files with the complainant is true. The minimum due diligence required is set forth in 19 NYCRR 174.6. Pursuant to 19 NYCRR 174.6[c][4], where a guard is new to the industry, as in the case of the Morakinyo application, verification of identity may be made by checking identifying documents such as a driver's license or other State-issued ID card with a photo, or a United States military card.

In the absence of an appearance by the respondent the only evidence as to the due diligence exercised in the hiring of Mr. Sam under the name Morakinyo is State's exhibit 8, a letter dated March 17, 1997 from the respondent's controller, Sue Ann Platt, in which she says "(u)pon hiring Mr. Morakinyo we saw proper identification. We used our best judgement when looking at the items produced." That purely conclusory, unsworn statement contains no details as to the identification examined and is of no evidentiary value whatsoever.

The fact that Mr. Sam was hired under an assumed identity is, under these circumstances, absent any valid explanation from the respondent, substantial evidence that the respondent failed to exercise due diligence in that hiring. *Division of Licensing Services v Command Security Corp.*, 18 DOS APP 97.

II- Upon learning of Mr. Sam's use of a false identity the respondent simply submitted a new application for registration for him under his real identity. It did not notify the complainant of the facts, as is implicitly required by question number 12 on the

¹ A security guard company includes any corporation employing one or more security guards. GBL §89-f[5]. The respondent falls under that definition.

registration application: "Have you ever applied for registration/license as a Security Guard, Watch Guard or Patrol, or Private Investigator in this state or elsewhere? *If YES, attach explanation.*"² The result was the issuance of a second registration to the same person. The respondent's conduct in this regard was a demonstration of both incompetence and untrustworthiness.

CONCLUSIONS OF LAW

1) By failing to exercise due diligence in the hiring of a security guard the respondent violated GBL §89-g[2] and 19 NYCRR 174.6.

2) By submitting a second application for registration as a security guard for a person already so registered and failing to indicate that such prior registration existed the respondent demonstrated incompetence and untrustworthiness.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Starr Security Services Inc. has violated General Business Law §89-g[2] and 19 NYCRR 174.6, and has demonstrated incompetence and untrustworthiness, and accordingly, pursuant to General Business Law §79[1], it shall pay a fine of \$2,000 (\$1,000 for the lack of due diligence in the initial hiring and \$1,000 for the incompetence and untrustworthiness in the submission of the second application) to the Department of State on or before March 31, 1998. Should the respondent fail to pay the fine, then its license as a watch, guard or patrol agency shall be suspended for a period commencing on April 1, 1998 and terminating two months after receipt by the Department of State of its license certificate. The respondent is directed to send the fine or its license certificate to Diane Ramundo, Customer Service Unit, Department of State, Division of Licensing Services, 84 Holland Avenue, Albany, NY 12208.

Roger Schneier
Administrative Law Judge

Dated: February 23, 1998

² Mr. Sam's application contains the answer "no" to question 12 (State's Ex. 5).