

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF SECURITY AND INVESTIGATIVE SERVICES
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	No. IA96 9688
JOHN GROGAN)	
dba Gold Star Investigations)	OAH No. L-1998050163
P.O. Box 9065)	
Canoga Park, CA 91309,)	
)	
<u>Respondent.</u>)	

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Director, Department of Consumer Affairs as his Decision in the above-entitled matter.

This Decision shall become effective October 21, 2002
IT IS SO ORDERED September 16, 2002.

By Denise Brown
DENISE BROWN
Chief Deputy Director
Department of Consumer Affairs

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BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

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Canoga Park, CA 91309,)	
)	
Respondent.)	
)	
)	

PROPOSED DECISION

This case was tried before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on May 24, 2002.

Glynda B. Gomez, Deputy Attorney General, represented complainant. John Grogan, respondent, appeared personally without legal counsel, and participated throughout the trial.

The parties presented oral and documentary evidence. Submission of the matter for decision was deferred until June 3, 2002 to permit respondent to offer proof of timely service by mail of a written demand for cross-examination of certain witnesses' testimony which complainant wished to present solely by way of declaration pursuant to Government Code Section 11514. Such proof was made, the parties were allowed ten days in which to object, move to strike, or argue, and the issue of the declarations was submitted for decision. The court finds the demand to have been timely made in accordance with law, and therefore sustains respondent's objection to receipt in evidence of the declarations offered, Exhibit 5 for identification. The general issue was submitted on June 3, 2002.

Findings of Fact

1. Sherrie Moffet, complainant, is the Program Manager of the above-entitled Bureau, and caused the accusatory pleadings in this matter to be filed and served while acting solely in her official capacity.

2. The Bureau has issued the following licenses to respondent, which are now in full force and effect:

<u>Type</u>	<u>Number</u>	<u>Date issued</u>
Private patrol operator	PPO 10093	2/19/88
Private investigator	PI 15057	9/3/91
Baton permit	BAT 473426	3/1/86
Firearm permit	FQ87293	5/29/85

3. The parties have timely filed and served on one another all pleadings, notices and other papers as required by law.

4. During the periods of time specified below, respondent acted, and/or omitted to act, in such a way as to subject his Bureau-issued licenses to discipline as more fully described in the Conclusions of Law hereinafter following.

5. In or about December 1997, respondent agreed to serve as a qualifying manager for C.M. in connection with C.M.'s application for licensure by the Bureau, and accepted \$3,000.00 from C.M. for this service. Respondent failed to be available to C.M. in connection with his application and C.M.'s questions thereon, and misled C.M. as to the nature of the charges pending against respondent in this case, and as to the likelihood of early and favorable resolution of such charges.

6. When C.M. thereafter had to obtain a new qualifying manager, respondent repeatedly failed and refused to refund any part of the \$3,000.00 fee he had taken.

7. Respondent fraudulently and dishonestly insisted he was entitled to retain all of the \$3,000.00.

8. In or about February 1998, respondent entered into a similar arrangement with one C.R. wherein, for a \$4,000.00 cash payment, respondent agreed to falsely state and certify, as part of an application to the Bureau by C.R. for licensure, that respondent had served as a

"Qualified Manager" for the performance of hours required for licensure as a private investigator as part of respondent's "sponsorship program", but told C.R. he would do all this for only \$2,000.00 because he "liked" C.R.

9. At a subsequent meeting, after C.R. paid respondent \$700., respondent told C.R. that his work experience was, in fact, probably insufficient but that he, respondent, would falsely certify that C.R. had worked with him for one year. C.R. decided not to complete the application under respondent's "sponsorship."

10. Respondent did the above for the purpose of benefiting himself and, by allowing C.R. to produce false evidence of his qualifications for licensure as a private investigator, for the purpose of benefiting C.R.

11. The conduct set out hereinabove constituted fraud and dishonest conduct and was deceitful.

12. The Bureau has incurred reasonable costs of investigation and prosecution of this matter in the aggregate sum of \$21,810.00.

13. Respondent testified as to his opinions regarding "sponsorship" and argued his cause. His testimony was overbroad and vague, and failed to indicate just what legal authority permitted the kind of "earn while you learn" program envisioned by him. In sum, respondent's testimony neither explained his position nor mitigated his conduct.

14. All evidence and argument tendered by respondent in his defense has been considered.

15. All allegations contained in the accusatory pleadings upon which no specific findings have been made hereinabove have not been proved by competent, relevant evidence.

Conclusions of Law

By reason of the foregoing findings of fact, respondent's licenses and permits are subject to discipline pursuant to Business and Professions Code sections 490, 7561.1(a), 7561.1(b) (for violation of Business and Professions Code sections 7539(a), 7561.2 and 7561.4), 7561.1(c)(taken in conjunction with Title 16, California Code of Regulations, section 660) 7561.1(g), and 7561.1(l)(taken in conjunction with Business and Professions Code Code sections 480(a)(2), 7538(b) and (c).

The Bureau is entitled to recover its reasonable costs of investigation and prosecution in the sum of \$21,810.00 pursuant to section 125.3 of the Business and Professions Code.

Order

All licenses and permits heretofore issued to respondent by the Bureau, together with incidental licensing rights, and specifically described in Finding 2 above are hereby revoked.

Respondent is hereby ordered to pay the Bureau its costs of investigation and prosecution in the sum of \$21,810.00 on or before the thirtieth day following the effective date of this decision.

No application by respondent for reinstatement of the said licenses and permits, or for issuance of an initial license shall be granted absent proof of payment of the Bureau's said costs as a condition precedent to the filing of such application or applications.

June 19, 2002



Paul M. Hogan
Administrative Law Judge
Office of Administrative Hearings