

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

IN THE MATTER OF:

KENNETH R. NORIGIAN,

RESPONDENT.

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DBR No. 16CN001

**EMERGENCY ORDER SUMMARILY SUSPENDING LICENSE, ORDER TO SHOW
CAUSE WHY LICENSE SHOULD NOT BE REVOKED OR OTHERWISE
SANCTIONED, APPOINTMENT OF HEARING OFFICER AND NOTICE OF PRE-
HEARING CONFERENCE**

The Director of the Rhode Island Department of Business Regulation (“Department”), hereby issues this Emergency Order Summarily Suspending License, Order to Show Cause Why License Should Not Be Revoked or Otherwise Sanctioned, Appointment of Hearing Officer and Notice of Pre-Hearing Conference (“Order”) to Kenneth R. Norigian (“Respondent”), pursuant to R.I. Gen. Laws §§ 9-5-10.1 to -10.6, the Administrative Procedures Act (“APA”) R.I. Gen. Laws §§ 42-35-1 to -18, specifically R.I. Gen. Laws § 42-35-14(c), and Central Management Regulation *2 Rules of Procedures for Administrative Hearings* (“CMR 2”). This Order is effective upon issuance.

The Director issues this Order for the following reasons:

FACTS

1. Respondent is licensed as a Certified Constable (License No. 6091) in accordance with R.I. Gen. Laws §§ 9-5-10.1 to -10.6.

2. On October 17, 2016, the Department issued an Order to Show Cause in this matter as a result of the Bristol Police Department charging Respondent, on or about October 5, 2016, with misdemeanor larceny at a residence prior to serving process at that same location. Because the misdemeanor charges related to the performance of Respondent's work as a Certified Constable, the Department contacted Respondent regarding the voluntary suspension of his Certified Constable License. At the time, Respondent agreed to a voluntary suspension of his license pending the resolution of the misdemeanor charges in Rhode Island District Court ("District Court"). Subsequently, on November 18, 2016, the charge of misdemeanor larceny was dismissed.

3. On November 23, 2016, Respondent and his legal counsel executed a Consent Order with the Department, which was approved and issued by the Director on December 1, 2016. (See attached Exhibit A.) Therein, Respondent agreed to the following terms:

- a. A forty (40) day suspension of his Certified Constable License No. 6091, which had already been served;
- b. For forty-five (45) consecutive days from the signing of this Consent Order by Respondent and his Counsel, Respondent shall only serve process under the supervision of a Certified Constable, who has been approved by the Department as someone who would qualify as a training constable under § 9-5-10.1(b)(3) and who does not have a familial or business relationship with Respondent. The training constable shall submit a written report to the Department by February 1, 2017, that reflects the dates and times of supervision and comments on the aptitude and professionalism of Respondent.
- c. Respondent shall submit to the Department a detailed log of every service of process performed since his license was returned to him on November 22, 2016, until February 28, 2017. Respondent shall submit a log on the first of each month, starting on December 1, 2016, with the last log due on March 1, 2017. If the first of the month is a holiday or weekend, the log is due the following business day. For every act requiring certification, the log must record the name and address of every person/business served, the date and time of the service, and the nature of the service.

- d. Respondent acknowledges that he cannot remove any object from any location where he was assigned to serve process without the express consent of the owner of any such object.
4. Respondent's first log was due on Thursday, December 1, 2016. However, Respondent did not submit it until Wednesday December 7, 2016.
5. Respondent's second log was due on Tuesday January 3, 2016, the first business day after New Year's Day. However, Respondent did not submit it until January 9, 2017, via email sent after regular business hours.
6. Respondent's 45 days of supervision by another Certified Constable pursuant to the Consent Order ended on January 7, 2017.
7. Respondent is still required by the Consent Order to submit a report from the training constable who supervised him, as well as two more logs for all services performed through February 28, 2017.
8. The Department has since learned that in the eight days between Respondent's execution of the Consent Order (November 23, 2016) and the Director's issuance of the Consent Order (December 1, 2016), Respondent was arrested by the Warwick Police Department and charged with another misdemeanor.
9. A report from the Warwick Police Department indicates that on or about November 30, 2016, Respondent was arrested by the Warwick Police Department and charged with: (1) a violation of R.I. Gen. Laws § 31-26-2 by failing to stop for an accident that resulted in damage to a vehicle, a misdemeanor; and (2) a violation of R.I. Gen. Laws § 31-11-18 for driving on a suspended license 2nd offense, a civil violation. The Warwick Police Department also cited Respondent for the operation of an unregistered motor vehicle in violation of R.I. Gen. Laws § 31-3-1, a civil traffic violation.

a. The police report states that Respondent rear ended another vehicle and initially stopped at the scene and spoke to the driver of that vehicle (hereinafter “Driver”), but that Respondent drove off after the Driver insisted on contacting the police.

b. The police report states that Respondent drove away into an adjacent apartment complex and he was pulled over by a police officer upon attempting to exit the apartment complex. The Officer noted in his report that Respondent’s car had a buckled hood and had no visible license plates on it. The Officer reported finding two RI registration plates in the Respondent’s vehicle that were registered to Respondent for a different vehicle and which had expired in September 2016.

10. Subsequently, according to the Rhode Island Judiciary Public Portal, Respondent entered a plea of not guilty in District Court to the misdemeanor charge of failing to stop for an accident that resulted in damage to a vehicle on December 15, 2016.¹ This matter is scheduled for a pretrial conference on January 18, 2017. Respondent did not appear at the Rhode Island Traffic Tribunal (“RITT”) for his December 12, 2016, court date relative to the citation for the operation of an unregistered vehicle. As a result of his failure to appear, the RITT found Respondent guilty in absentia and suspended his driver’s license for an unspecified term.

11. On January 12, 2017, the Department received a Complaint from a resident (“Complainant”) in a multi-family home where Respondent attempted to execute an eviction on January 10, 2017, only three days after his period of supervision ended under the Consent Order. Complainant states that upon receiving a call from her nephew that a man was walking in and out of her apartment around 10:00 a.m., she quickly came home and encountered Respondent. Complainant states that Respondent advised her that he realized that her name did not match the

¹ On that same date, the charge of driving on a suspended license 2nd offense appears to have been dismissed.

name on his Execution Order after looking at her mail within the confines of her apartment. Complainant further states that Respondent would not tell her his name and was very unprofessional. Complainant called the police to report that Respondent had entered her apartment without permission. The Providence Police Department responded to the scene and spoke with Complainant and Respondent, as noted in a January 10, 2017, Providence Police Incident Report. Providence Police took no further action beyond filing the incident report.

12. The investigation further revealed that, according to the Rhode Island Judiciary Public Portal, since December 2015 Respondent was charged with driving on a suspended license on two occasions and was given at least six traffic citations, not including the citation related to the November 30, 2016, accident in Warwick.

- a. On or about December 23, 2015, Respondent was cited with operation of an unregistered vehicle. RITT found Respondent guilty in absentia on January 26, 2016, and suspended his driver's license for an unspecified term.²
- b. On or about April 22, 2016, Respondent was cited with speeding 1 to 10 MPH in excess of posted speed limit, 1st offense. RITT found Respondent guilty in absentia on May 20, 2016, and suspended his driver's license for an unspecified term.
- c. On or about July 3, 2016, the Portsmouth Police Department charged Respondent with driving with a suspended license, 1st offense. The District Court found Respondent to be guilty in absentia on July 18, 2016, and assessed a fine, however the judgment was not entered until December 3, 2016.
- d. On or about August 1, 2016, Respondent was cited with operating an unregistered vehicle. RITT found Respondent guilty in absentia on September 12, 2016, and suspended his driver's license for an unspecified term.
- e. On or about October 26, 2016, Respondent was cited with failure to have required inspection sticker. RITT found Respondent guilty in absentia on November 28, 2016, and suspended his driver's license for an unspecified term.
- f. On or about November 22, 2016, Respondent was cited with: (1) violation of inspection laws; and (2) operation of a vehicle when registration is suspended. RITT found Respondent guilty in absentia on December 16, 2016, and suspended

² In absentia means Respondent failed to appear before the court for his scheduled hearing.

his driver's license for two months. A motion has be filed in that matter, which is schedule to be heard at the RITT on January 12, 2017.

- g. On or about November 30, 2016, the State Police cited Respondent for failure to carry his license or exhibit it on demand. RITT found Respondent guilty in absentia on December 21, 2016, and suspended his driver's license for one month.
- h. On or about December 4, 2016, the Gloucester Police Department charged Respondent with driving with a suspended/revoked/cancelled license, 1st offense. The District Court found Respondent to be guilty in absentia and assessed a fine on December 9, 2016.

RELEVANT LAW

13. R.I. Gen. Laws § 9-5-10.5-(a)(2)(i) provides that the Department may suspend or revoke a constable's certification for the failure to report to the Department within thirty days of the occurrence of "[a]ny criminal prosecution taken in any jurisdiction. The constable shall provide the initial complaint filed and any other relevant legal documents."

14. R.I. Gen. Laws § 9-5-10.5(a)(2)(iii) provides that the Department may suspend or revoke a constable's certification for the failure to report to the Department within thirty days of the occurrence of "[a]ny administrative action taken against the constable in any jurisdiction by any government agency within or outside of this state. The report shall include a copy of all relevant legal documents."

15. R.I. Gen. Laws § 9-5-10.5(a)(4) provides that the Department may suspend or revoke a constable's certification "[w]here a certified constable, in performing or attempting to perform any of the acts mentioned in this section, is found to have committed any of the following:

- a. Inappropriate conduct that fails to promote public confidence, including failure to maintain impartiality, equity, and fairness in the conduct of his or her duties;
- b. Neglect, misfeasance, or malfeasance of his or her duties;
- c. Failure to adhere to court policies, rules, procedures, or regulations;
- d. Failure to maintain the highest standards of personal integrity, honesty, and truthfulness, including misrepresentation, bad faith, dishonesty, incompetence, or an arrest or conviction of a crime.

16. R.I. Gen. Laws § 42-35-14(c) provides that if the Department “finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of license may be ordered pending proceedings for revocation or other action.”

CONCLUSION & BASIS FOR EMERGENCY ACTION

At this time, the Director has cause to believe that Respondent is in violation of R.I. Gen. Laws § 9-5-10.5. Respondent failed to notify the Department within 30 days of being charged with a misdemeanor by the Warwick Police Department. Respondent failed to notify the Department within 30 days of each suspension of his Rhode Island driver’s license, each of which constituted an administrative action of the RITT. Most recently, Respondent allegedly entered a 2nd floor apartment to execute an eviction with the wrong paperwork and he refused to identify himself to the tenant. Respondent failed to timely file his first two logs required by the Consent Order. Accordingly, Respondent’s pattern of conduct set forth herein demonstrates that he has a flagrant disregard for the laws of this state and, as such, he is unfit to continue to be licensed as a Certified Constable. For all of these reasons, the Director finds that the public welfare imperatively requires that Respondent’s Certified Constable License be summarily suspended pursuant to Rhode Island General Laws § 42-35-14(c).

ORDER

Accordingly, it is hereby ORDERED:

1. That, pursuant to R.I. Gen. Laws § 42-35-14(c), Respondent’s Certified Constable License No. 6091 is immediately suspended;

2. That, Respondent shall turn in his Constable badge and license to the Department by 4:00 p.m. on the business day immediately following the execution of this Order, or at another time agreed to by the parties.

3. That, Respondent shall cease and desist from any and all activity requiring licensure as a Certified Constable.

4. That, Respondent shall notify all parties for whom he has outstanding service of process to complete or perform that his License has been suspended pursuant to this Order.

5. That, Respondent shall appear before a Hearing Officer at the Department for a **Pre-Hearing Conference on January 26, 2017, at 9:00 a.m.** at the Department's offices located at **1511 Pontiac Avenue, Bldg. 68-69, Cranston, RI 02920**, in accordance with CMR 2 § 6.

Pursuant to R.I. Gen. Laws § 42-6-8, the Director hereby appoints Catherine Warren, Esq., as Hearing Officer for the purpose of conducting the hearing and rendering a decision in this matter. The proceedings shall be conducted in conformity with the APA and CMR 2. It shall be Respondent's sole responsibility or his representative to present his defense to the Hearing Officer. CMR 2 § 5. Respondent may be represented by legal counsel admitted in the State of Rhode Island. CMR 2 § 7. If Respondent fails to appear at the Pre-Hearing Conference, and has not otherwise notified the Department of his inability to attend, the Hearing Officer may enter a default judgment against Respondent. CMR 2 § 21.

All interested parties with questions regarding this Order please contact the prosecuting attorney, Amy Stewart, Esq., at (401) 462-9619 or amy.stewart@dbr.ri.gov and reference the case name and number. Please refrain from contacting the Hearing Officer on any matters related to the subject of the Complaint unless all parties are notified of and participate in the communication.

Notice to Court: In accordance with R.I. Gen. Laws § 9-5-10.5(a)(5), upon issuance, a copy of this Order will be forwarded to the Chief Judge of the Rhode Island District Court.

Entered this 13 day of January, 2017



Scottye Lindsey
Director

All are welcome at the Rhode Island Department of Business Regulation (“DBR”). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at (401) 462-9551, RI Relay at 7-1-1, or email DBR.dirofficeinq@dbr.ri.gov at least three (3) business days prior to the hearing.

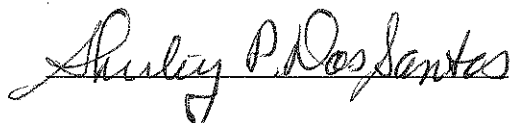
CERTIFICATION

I hereby certify on this 13th day of January 2017, that a copy of the within Order was sent by first class mail, postage prepaid, and also by certified mail to:

Kenneth R. Norigian 32 Waterman Ave Johnston, RI 02919	Joseph J. Altieri, Esq. 350 South Main St. Providence, RI 02903
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AND BY E-MAIL TO:

1. Joseph J. Altieri, Esq., Joe@AltieriLawRI.com
2. Catherine Warren, Esq., Hearing Officer
3. Donna DiPalma, RI District Court, DDiPalma@courts.ri.gov
4. Maria D’Alessandro, Esq., DBR Deputy Director, Securities, Commercial Licensing, Gaming & Athletics
5. Donna Costantino, DBR Associate Director, Securities Commercial Licensing, Gaming & Athletics
6. John Mancone, DBR Chief Public Protection Inspector
7. Kim Precious, DBR Implementation Aid
8. Amy Stewart, Esq., DBR Legal Counsel



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920

RECEIVED BY

NOV 23 2016

DIVISION OF LEGAL SERV.

IN THE MATTER OF: :
: :
KENNETH R. NORIGIAN, :
: :
Respondent. :
_____ :

DBR No.: 16CN001

CONSENT ORDER

The Department of Business Regulation (“Department”) and Kenneth R. Norigian (“Respondent”) hereby agree to the following:

1. Respondent is licensed as a Certified Constable (License No. 6091) by the Department in accordance with R.I. Gen. Laws §§ 9-5-10.1 to -10.6.

2. R.I. Gen. Laws § 9-5-10.5(a)(4) provides that the Department may suspend or revoke a constable’s certification “[w]here a certified constable, in performing or attempting to perform any of the acts mentioned in this section, is found to have committed any of the following:

- (i) Inappropriate conduct that fails to promote public confidence, including failure to maintain impartiality, equity, and fairness in the conduct of his or her duties;
- (ii) Neglect, misfeasance, or malfeasance of his or her duties;
- (iii) Failure to adhere to court policies, rules, procedures, or regulations;
- (iv) Failure to maintain the highest standards of personal integrity, honesty, and truthfulness, including misrepresentation, bad faith, dishonesty, incompetence, or an arrest or conviction of a crime.

3. The Department was provided with evidence that on or about October 5, 2016, Respondent was charged with misdemeanor larceny (<\$1500) in Rhode Island District Court, 6th District. The police report from the arresting agency, the Bristol Police Department, stated that

Respondent committed the alleged larceny at a residence prior to serving process as a Certified Constable at the same property.

4. Because the charges against Respondent related to the performance of his work as a Certified Constable, the Department contacted Respondent regarding the voluntary suspension of his Certified Constable License.

5. Respondent cooperated with the Department and agreed to a voluntary 30-day suspension of his Certified Constable License on October 14, 2016. On November 10, 2016, the Hearing Officer continued the suspension until November 22, 2016, based upon Respondent's representations that the criminal proceedings would be resolved by that date.

6. On November 18, 2016, the charges of misdemeanor larceny were dismissed by the Bristol Police Department for the following reasons: Respondent had no prior criminal record; restitution had been paid; and Respondent completed 40 hours of community service.

7. Other than the allegations set forth in the instant matter, Respondent has had no other disciplinary history as a Certified Constable.

8. The Department's position is that, had a hearing been held in this matter, it would have demonstrated that Respondent had violated R.I. Gen. Laws § 9-5-10.5(a)(4).

9. No specific findings of fact or conclusions of law have been made by the Department or the Hearing Officer relative to the above cited statutory provisions.

10. Without admitting or denying any violations alleged herein, Respondent hereby agrees to the following:

- A. A forty (40) day suspension of his Certified Constable License No. 6091, which has already been served, as described in paragraphs 4 & 5 above;

- B. For forty-five (45) consecutive days from the signing of this Consent Order by Respondent and his Counsel, Respondent shall only serve process under the supervision of a Certified Constable, who has been approved by the Department as someone who would qualify as a training constable under § 9-5-10.1(b)(3) and who does not have a familial or business relationship with Respondent. The training constable shall submit a written report to the Department by February 1, 2017, that reflects the dates and times of supervision and comments on the aptitude and professionalism of Respondent.
- C. Respondent shall submit to the Department a detailed log of every service of process performed since his license was returned to him on November 22, 2016, until February 28, 2017. Respondent shall submit a log on the first of each month, starting on December 1, 2016, with the last log due on March 1, 2017. If the first of the month is a holiday or weekend, the log is due the following business day. For every act requiring certification, the log must record the name and address of every person/business served, the date and time of the service, and the nature of the service.
- D. Respondent acknowledges that he cannot remove any object from any location where he was assigned to serve process without the express consent of the owner of any such object.

11. The Department and Respondent agree that this Consent Order and its terms represent the final determination of this matter. However, if Respondent fails to satisfy all of the

requirements set forth in paragraph 10, the Department may initiate further administrative proceedings against Respondent.

12. By agreeing to resolve this matter through the execution of this Consent Order, Respondent voluntarily waives his right to the hearing process, and voluntarily waives his right to pursue an appeal to the Rhode Island Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq.

For the Division:

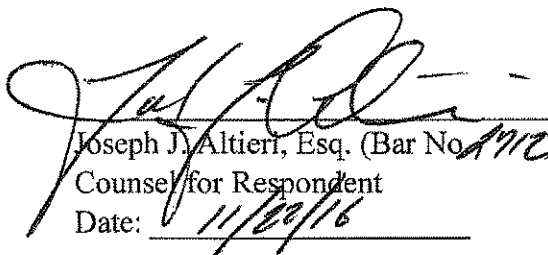


Maria D'Alessandro, Esq.
Deputy Director, Securities, Commercial
Licensing, and Gaming & Athletics
Date: 11/28/16

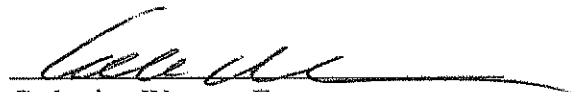
For the Respondent:



Kenneth R. Norigian
Respondent
Date: 11/29/16


Joseph J. Altieri, Esq. (Bar No. 1710)
Counsel for Respondent
Date: 11/29/16

RECOMMENDED BY:



Catherine Warren, Esq.
Hearing Officer
Date: 11/29/16

ORDER

I have read the Consent Order as agreed to by and between the parties in the above captioned matter and I hereby take the following action:

ADOPT REJECT

Date: 12/1/16

Scotty Lindsey
Scottye Lindsey
Director

CERTIFICATION

I hereby certify on this 1st day of December, 2016, that a copy of the within Consent Order was sent by first class mail, postage prepaid, to:

Kenneth R. Norigian 32 Waterman Ave Johnston, RI 02919	Joseph J. Altieri, Esq. 350 South Main St. Providence, RI 02903
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AND BY E-MAIL TO:

1. Joseph J. Altieri, Esq., Joe@AltieriLawRI.com
2. Donna DiPalma, R.I. District Court, DDiPalma@courts.ri.gov
3. Maria D'Alessandro, Esq., DBR Deputy Director, Securities, Commercial Licensing, Gaming & Athletics
4. Donna Costantino, DBR Associate Director Commercial Licensing, Gaming & Athletics
5. Kim Precious, DBR Implementation Aid
6. Amy C. Stewart, Esq., DBR Legal Counsel

Scotty Lindsey