

LETTER OPINION
93-L-26

February 3, 1993

Ms. Phyl Plunkett
N.D. Private Investigative
& Security Board
P.O. Box 7026
Bismarck, ND 58507

Dear Ms. Plunkett:

Thank you for your December 28, 1992, letter requesting my opinion on whether persons engaged, for compensation, in the business of recovering pledged collateral are performing a private investigative service for which they are required to have a license under N.D.C.C. Ch. 43-30.

As defined by N.D.C.C. Ch. 43-30, "private investigative service" means "obtaining or furnishing information with reference to any act or individual." N.D.C.C. § 43-30-01(2). Although the definition of "private investigative service" is broad, it does not necessarily include the activity of persons engaged in the business of recovering pledged collateral.

An individual engaged in repossessing pledged collateral does not necessarily obtain or furnish information. If the reposessor is provided information as to where the collateral is located, the reposessor is required to do no more than reclaim the collateral. However, if the reposessor does not have information regarding the location of the collateral, the reposessor may be required to "investigate" to obtain that information. If the reposessor is required to investigate to determine the location of the collateral, the activity would constitute "private investigative service."

Whether an individual engaged in the business of recovering pledged collateral is performing a private investigative service is a factual determination dependant upon the facts of each repossession. If the individual is provided information about the location of the collateral, thus only requiring the individual to repossess the collateral, the activity does not constitute "private investigative service." However, if the individual is not provided information regarding the location of the collateral and must investigate to obtain such information, the activity constitutes a "private investigative service" and requires a license under N.D.C.C. Ch. 43-30, unless otherwise exempted. N.D.C.C. § 43-30-05.

N.D.C.C. § 43-40-02 lists several classes of persons who are exempt from the licensure requirements under N.D.C.C. Ch. 43-30. Whether any specific individual falls within the exemptions of N.D.C.C. § 43-30-02 is a factual question that cannot be addressed in this letter.

Therefore, it is my opinion that persons engaged in the business of recovering pledged collateral are not necessarily performing a private investigative service for which they are required to have a license under N.D.C.C. Ch. 43-30. Whether the activity constitutes a private investigative service is a factual question which must be determined on a case by case basis.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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