

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION



SUBJECT: Contracts and reports

SLED is required by state law to regulate the private investigation industry. Because a private investigation license entitles a licensee to solicit business from the public, an important part of our mission is to react to potential violations of law. We spend significant amounts of time investigating complaints by clients alleging fraud, dishonesty, substandard performance or dereliction by licensed private investigators. To help insure better service to the public and the industry, we will immediately begin more rigorous enforcement of the law. Initially, though, we want to insure that licensees clearly understand the law and its requirements.

The most prevalent complaints about private investigators are:

- \* failure to execute a written contract with a client;
- \* failure to timely perform investigation after accepting a fee;
- \* billing for work performed without client authorization;
- \* failure to provide a written report;
- \* including inaccurate information in reports.

There are three specific requirements in law:

- \*provide a written contract to clients outlining services to be provided and fees to be charged;
- \*render all client services as agreed upon in the contract;
- \*provide a written report detailing investigative hours worked and results of the investigation.

Most complaints would be avoided by use of a contract form which ensures that all parties understand the business arrangement; i.e., fees to be charged and services ordered. Contracts should contain clear and precise information. Based on our analysis of complaints, the following suggestions are offered for inclusion in contracts:

- \* identities of the parties;
- \* date of beginning of contracted services;
- \* precise goal of the investigation;
- \* amount of retainer fee to be paid;
- \* precise time and expenses covered by the retainer;
- \* what happens when the retainer fee is exhausted;
- \* client's responsibility for accurate and reliable leads (target addresses, phone numbers, whereabouts, work hours, etc.);
- \* agreement regarding licensee availability to respond to client calls and information;
- \* notification that additional work will be performed only under a written contract addendum;
- \* promise of a written report to client within \_\_\_\_\_ days of expiration of the contracted hours.



An Accredited Law Enforcement Agency

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A written contract must be provided to the client before work commences. However, to accommodate normally accepted business practices, SLED will accept, in lieu of a written contract, a signed written waiver of contract in which the client knowledgeably and clearly waives the right to a pre-performance contract. The waiver must be a signed document separate from the investigator's standard written contract. The waiver must specify the nature of the work to be performed for that individual client, must be held in the licensee's files and be available to a SLED agent upon request. Clients who repeatedly and regularly order work may include a "continuing waiver" in a letter from the client to the private investigator, stating clearly the terms of the waiver. Clients may, using the same procedure, waive receipt of a written report.

It is a violation of South Carolina law to conduct private investigation work, as defined in Title 40, for compensation, except pursuant to (1) a written and signed pre-performance contract or (2) a clearly stated and knowledgeable waiver of contract.

Many contract forms now in use contain a clause specifying that a retainer fee is considered "earned upon receipt". This clause does not protect against being charged by SLED for failing to deliver services ordered by a client.

Many contract forms now in use specify that a written report will be provided "after payment of all charges". Unless a client has, as detailed above, waived the right to a written report, failure to provide a written report is a violation, whether or not the client has paid for services.

If you have questions and comments concerning this information, please do not hesitate to contact us.