

**MINUTES OF THE
NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD**

DATE: November 17, 2022
TIME: 1:00 P.M.
PLACE: Hampton Inn and Suites – Raleigh/Crabtree
3920 Arrow Dr.
Raleigh, NC 27609

**SUBMITTED
BY:** Paul Sherwin, Director

MEMBERS PRESENT
Stephen Wheeler (virtual)
Jim Crabtree
Mack Donaldson
Mary Wood
Caroline Brown

MEMBERS ABSENT
Larry Proctor
Robert Graham

STAFF PRESENT
Director Paul Sherwin
Attorney Jeff Gray
Field Services Supervisor Kim Odom
ASLB Board Secretary Syconda Marrow (virtual)
Deputy Secretary Caroline Valand
Gary Bullard
George Daniels
Darla Cole
Lee Kelly
Daniel Cheatham

STAFF ABSENT

VISITORS
Dwayne Guerrero
Jennifer Baratta
William Moore

The November 17, 2022, meeting of the North Carolina Alarm Systems Licensing Board was called to order by Vice-Chair Jim Crabtree at 1:00 P.M.

Attorney Jeff Gray read the following statement:

"In accordance with the State Ethics Act, it is the duty of every Board member to avoid both conflicts of interest and the appearance of conflict. If any Member has any known conflict of interest or appearance of conflict with respect to any matter coming before this Board today, please identify the conflict or appearance of conflict and refrain from the deliberation and vote in that matter."

Vice-Chair Jim Crabtree welcomed all guests.

FINAL AGENCY DECISION

Attorney Jeff Gray recused himself as counsel to the Board and presented the Proposal for Decision written by Administrative Law Judge Stacey Bice Bawtinheimer in the case of James Bryan Talton v. North Carolina Alarm Systems Licensing Board.

CAROLINE BROWN MADE A MOTION TO ACCEPT JUDGE BAWTINHIMER'S RECOMMENDATION THAT JAMES TALTON BE ISSUED AN ALARM REGISTRATION. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

SEPTEMBER 2022 MEETING MINUTES

CAROLINE BROWN MADE A MOTION TO ACCEPT THE NOVEMBER 17, 2022, BOARD MEETING MINUTES. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

COMMITTEE REPORTS

Caroline Brown presented the Grievance Committee report. The Committee met on November 17, 2022, from 9:00 A.M. to 10:19 A.M. and heard a total of nine cases.

See attachment for the full Grievance Committee Report.

MACK DONALDSON MADE A MOTION TO APPROVE THE GRIEVANCE COMMITTEE REPORT. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

Jim Crabtree presented the Screening Committee report. The Committee met on November 17, 2022, from 11:05 A.M. to 11:59 A.M. to review a total of 10 license applications and one license reinstatement denial appeal.

See attachment for the full Screening Committee Report.

CAROLINE BROWN MADE A MOTION TO ACCEPT THE SCREENING COMMITTEE REPORT. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

Mack Donaldson presented the Training and Education Committee Report. The Committee evaluated five applications for new continuing education courses and recommended denying all

five due to three of the courses being too long (24 hours) and two courses lacking enough relevant information.

See attachment for the full Continuing Education Committee Report.

CAROLINE BROWN MADE A MOTION TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

OLD BUSINESS

None.

NEW BUSINESS

Mack Donaldson discussed attending the annual conference of the International Association of Security and Investigative Regulators (IASIR) in Huntsville, Alabama, October 12-14, 2022. Attorney Jeff Gray and Director Paul Sherwin also attended. Mr. Donaldson explained that the conference included valuable information and topics from various speakers and presented a unique networking opportunity for regulators and industry members.

DIRECTOR'S REPORT

Director Paul Sherwin presented the Director's Report. The report included information about personnel changes, the status of the Board's active licensees and registrants, and a Board finances update.

See attachment for the full Director's Report.

MARY WOOD MADE A MOTION TO ACCEPT THE DIRECTOR'S REPORT. SECONDED BY MACK DONALDSON. MOTION CARRIED. NONE OPPOSED.

ATTORNEY'S REPORT

Attorney Jeff Gray delivered his Attorney's Report, which included updates about the status of consent agreements, pending administrative rules changes, and legislative updates.

See attachment for the full Attorney's Report.

CAROLINE BROWN MADE A MOTION TO ACCEPT THE ATTORNEY'S REPORT. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

GOOD OF THE ORDER

None.

CLOSED SESSION

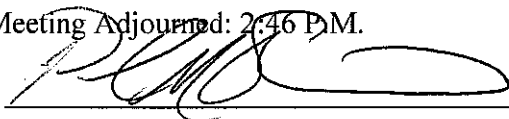
STEPHEN WHEELER MADE A MOTION TO GO INTO CLOSED SESSION TO CONSIDER A MATTER DEFERRED FROM THE JULY 21, 2022, GRIEVANCE COMMITTEE TO THE FULL BOARD AT THE REQUEST OF FLOCK SAFETY, THE SUBJECT OF THE INVESTIGATION. JIM CRABTREE SECONDED THE MOTION. MOTION CARRIED. NONE OPPOSED.

CAROLINE BROWN MADE A MOTION TO RETURN TO OPEN SESSION. MARY WOOD SECONDED THE MOTION. MOTION CARRIED. NONE OPPOSED.

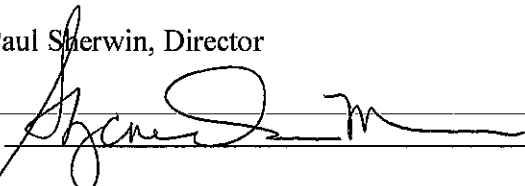
MOTION BY STEVEN WHEELER TO FIND FLOCK SAFETY IN VIOLATION OF G.S. 74D-2(a)(2) FOR INSTALLING CAMERAS USED TO DETECT CRIMES OR OTHER UNAUTHORIZED OR ILLEGAL ACTIVITY WITHOUT A LICENSE. CEASE AND DESIST TO BE CONTINUED. MARY WOOD SECONDED THE MOTION. MOTION CARRIED. NONE OPPOSED.

JIM CRABTREE MADE A MOTION TO ADJOURN. SECONDED BY MARY WOOD. MOTION CARRIED. NONE OPPOSED.

Meeting Adjourned: 2:46 P.M.



Paul Sherwin, Director



Syconda Marrow, Board Secretary

**MINUTES OF THE
NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD**

CLOSED SESSION

DATE: November 17, 2022
TIME: 1:48 P.M.
PLACE: Hampton Inn and Suites – Raleigh/Crabtree
3920 Arrow Dr.
Raleigh, NC 27609

**SUBMITTED
BY:** Paul Sherwin, Director

MEMBERS PRESENT

Stephen Wheeler (virtual)
Jim Crabtree
Mack Donaldson
Mary Wood
Caroline Brown

MEMBERS ABSENT

Larry Proctor
Robert Graham

STAFF PRESENT

Director Paul Sherwin
Attorney Jeff Gray
Board Secretary Syconda Marrow (virtual)
Field Services Supervisor Kim Odom
Investigator George Daniels

THE FULL BOARD ENTERED A CLOSED SESSION ON THURSDAY, NOVEMBER 17, 2022 AT 1:48 P.M. TO CONSIDER A MATTER OF FLOCK SAFETY SINCE THE ISSUE INVOLVED A FACTUAL DETERMINATION UNDER G.S. 74D-2(a)(2).

PRESENT FOR FLOCK SAFETY WERE MIKE MOLINA, GENERAL COUNSEL, AND RYAN L. BEAVER, A PARTNER WITH THE LAW FIRM BRADLEY ARANT BOULT CUMMINGS, LLP, CHARLOTTE, NC.

PRESENT, IN ADDITION TO THE BOARD MEMBERS, WERE DIRECTOR PAUL SHERWIN, FIELD SERVICES SUPERVISOR KIM ODOM, INVESTIGATOR GEORGE DANIELS, BOARD SECRETARY SYCONDA MORROW, AND BOARD LEGAL COUNSEL JEFF GRAY.

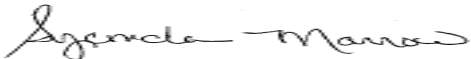
FLOCK SAFETY EXPLAINED ITS BUSINESS MODEL AND THE APPLICATION OF, AND USES FOR, ITS PRODUCT, AND EXPLAINED ITS VIEW OF THE BOARD'S LAW AND WHY IT DID NOT APPLY TO THEM. THE SCOPE OF G.S. 74D-2(a)(2) WAS DISCUSSED AND DEBATED AT

LENGTH. THE BOARD MEMBERS VIEWED FLOCK SAFETY'S WEBSITE AND ITS ASSERTIONS REGARDING THE SYSTEM IT SELLS AND HOW IT CAN BE USED.

Closed Session Adjourned: 2:40 P.M



Paul Sherwin, Director



Syconda Marrow, Board Secretary



North Carolina Alarm Systems Licensing Board Continuing Education Committee Report - November 2022

Item #	Course Sponsor	Course Title	New or Renewal	# CEU's	Course Format	Committee Recommends	Comments
1	Aiden Gonzalez-IPVM	Access Control Fundamentals	New	24 Hours	Online	Denied	Course can be no more than six hours.
2	Roy Pollack - Stay Safe Enterprises, LLC	Level 1 Alarm Professional Course	New	24 Hours	Online	Denied	Course can be no more than six hours.
3	Roy Pollack - Stay Safe Enterprises, LLC	Level 1 Alarm Professional Course	New	24 Hours	Classroom	Denied	Course can be no more than six hours.
4	Julian Cardona-Speco Technologies	IP Video Overview	New	1 Hour	Classroom/Online	Denied	Lack of information to approve course
5	Julian Cardona-Speco Technologies	IP Video Compression	New	1 Hour	Classroom/Online	Denied	Lack of information to approve course

ASLB Grievance After Report for November 17, 2022 9:00 am

Case Number	Complaint Against	Allegation(s)	Grievance Committee Recommendation	Board Action
1. 2022-ASLB-001	Garrett Langley Flock Safety 2870 Peachtree Road #708 Atlanta, GA 30305-2918	NCGS 74D-2	Defer to the November 2022 Board meeting and refer this matter to the full Board for consideration.	Accepted Find a violation of NCGS 74D-2. Continue the cease and desist previously issued to Garrett Langley and Flock Safety.
2. 2022-ASLB-008	Garrett Langley Flock Safety 1170 Howell Mill Rd NW UNIT 210 Atlanta, GA 30318	NCGS 74D-2	Defer to the November 2022 Board meeting and refer this matter to the full Board for consideration.	Accepted Find a violation of NCGS 74D-2. Continue the cease and desist previously issued to Garrett Langley and Flock Safety.
3. 2022-ASLB-010	Nathan Orion Taylor Taylored Control Systems 3059 N. Main St Ste 19 PMB104 Hope Mills, NC 28348	NCGS 74D-8 14B NCAC 17 .0206(b)	Find violation of NCGS 74D-8 & 14B NCAC 17 .0206(b). Enter into a consent agreement with Nathan Taylor and Taylored Control Systems, LLC in the amount of \$3,672.00 for 18 registration violations. Staff is to conduct a follow-up registration audit for Q1 of 2023.	Accepted
4. 2022-ASLB-012	Bennie Lane Robinson Creekside Electronics Inc. PO Box 3708 Boone, NC 28607	NCGS 74D-2	Find violation of NCGS 74D-8. Enter into a consent agreement with Bennie Robinson and Creekside Electronics, Inc. in the amount of \$4,080.00 for 20 registration violations.	Accepted

Case Number	Complaint Against	Allegation(s)	Grievance Committee Recommendation	Board Action
5. 2022-ASLB-014	Larry Alan Hendrix Safewatch Security, LLC 3336 Quarry Drive Fayetteville, NC 28303	14B NCAC 17.0206(b)	Find violation of 14B NCAC 17 .0206(b). Enter into a consent agreement with Larry Hendrix and Safewatch Security, LLC in the amount of \$612.00 for 3 registration violations.	Accepted
6. 2022-ASLB-022	Steve Brooks Brooks Network Services LLC 403 Burlington Ave Gibsonville, NC 27249	NCGS 74D-2	Find violation of NCGS 74D-2. Rescind cease and desist order previously issued to Steve Brooks and Brooks Network Services LLC. Staff is to conduct a follow-up registration audit form Q1 of 2023.	Accepted
7. 2022-ASLB-025	Carl Eugene Loye Sentry Watch Inc PO Box 10362 Greensboro, NC 274040000	NCGS 74D-8 14B NCAC 17 .0207	Find violation of 74D-8 & 14B NCAC 17 .0206(b). Enter into a consent agreement with Carl Loye and Sentry Watch Inc. in the amount of \$204.00 for one registration violation.	Accepted
8. 2022-ASLB-026	Charles Marvin White Howard Industries, Inc. 36 Howard Drive Ellisville, MS 39437	NCGS 74D-2(a) NCGS 74D-2(c)(3)	Find violation of NCGS 74D-2(a), NCGS 74D-2(c)(3), and NCGS 74D-8. Enter into a consent agreement with Charles White and Howard Industries, Inc. in the amount of \$1,224.00 for twelve months of unlicensed activity and one registration violation.	Accepted

Board Meeting Report

Board Date 11/17/2022

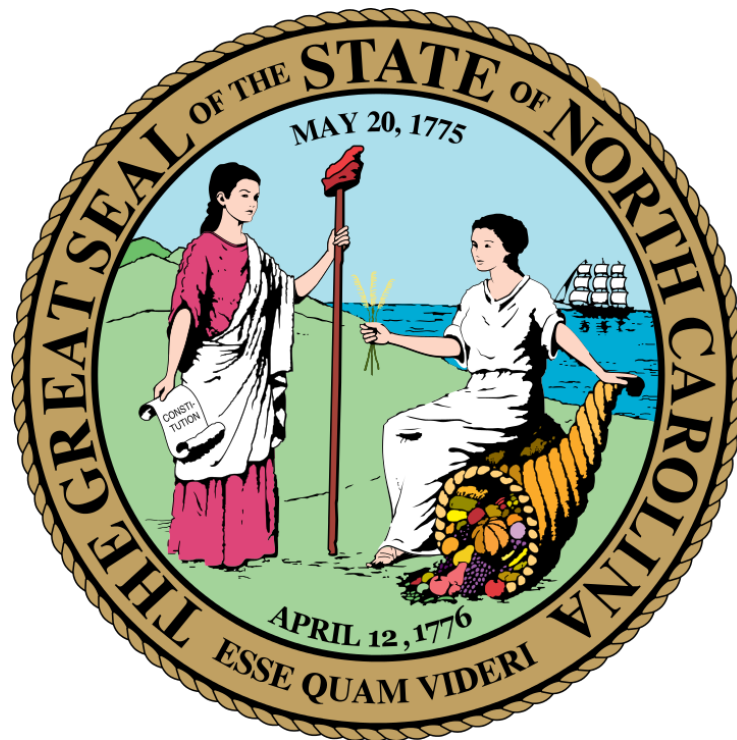
	Name Company Address	License	Committee Recommendation	Board Action
1.	Davis Benson Top Tier Security Solutions LLC 1530 Center Park Drive Charlotte, NC 28217	Alarm	Approve	Accepted
2.	Robert William Dwyer Jr. Southern Bank Equipment & ATMS P.O. Box 938 Duluth, GA 30096	Alarm	Approve	Accepted
3.	Mark Andrew Grossman IntraLogic Solutions LLC 511 Ocean Avenue Massapequa, NY 11758	Alarm	Approve	Accepted
4.	Joshua Michael Hope Catawba Burglar And Fire Alarms 1900 Davis Park Rd. Gastonia, NC 28052	Alarm	Approve	Accepted
5.	Patrick Bernard Moore Skyline Security Management, Inc. 8015 Creedmoor Road Raleigh, NC 27613	New Branch Office	Approve	Accepted
6.	DIRK STEPHEN SAMPLES COASTAL SECURITY & AUTOMATION, LLC 5040 Sunburst LANE CHARLOTTE, NC 28213	Alarm	Approve	Accepted
7.	Shelby Catherine Singer Outsource Telecom LLC 701 Campus Square West, Suite 305 El Segundo, CA 90245	Alarm	Approve	Accepted
8.	Charles Marvin White Howard Industries 36 Howard Dr Ellisville, MS 39437	Alarm	Approve	Accepted

	Name Company Address	License	Committee Recommendation	Board Action
9.	Robert Wayne Wilkins II Sentry Watch 1705 Holbrook st Greensboro, NC 27403	Alarm	Approve	Accepted

NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

November 17, 2022

DIRECTOR'S REPORT



Paul Sherwin, Director

DIRECTOR'S REPORT

- I. PPS information and updates, page 3**
- II. Registration and licensing summary, page 5**
- III. FY22 budget summary, page 6**
- IV. FY22 budget graphics, page 7**

PPS INFORMATION AND UPDATES

Personnel

Private Protective Services currently has four vacant positions:

- Administrative Assistant
- Registration Processor (2) – Recruitment in progress for one position
- PPS Deputy Director – Recruitment in progress

Operations

Registration Unit

- Registration applications received year-to-date: 3,754
 - Same period in 2021: 3,854

Licensing Unit

- Licensing applications received year-to-date: 404
 - Same period in 2021: 489

Investigations Unit

- License applicant background investigations completed year-to-date: 52
 - Same period in 2021: 44
- Complaint investigations completed year-to-date: 31
 - Same period in 2021: 28
- Proactive audit: Investigator Danny Cheatham completed in September 2022 a proactive compliance audit of Action Systems, of Swannanoa, NC, for the third quarter of 2021. He found that the company, under the supervision of qualifying agent Robert Jackson (1917-CSA), is in compliance with the Board's laws and rules regarding electrical license contracting and employee registration requirements. No violations were found.
- Proactive audit: Investigator Danny Cheatham completed in September 2022 a proactive compliance audit of B&L Security Service, of Hickory, NC, for the second quarter of 2021. He found that the company, under the supervision of qualifying agent Robert Clark (947-CSA), is in compliance with the Board's laws and rules regarding electrical license contracting and employee registration requirements. No violations were found.
- Proactive audit: Investigator George Daniels completed in October 2022 a proactive compliance audit of Leonine Protection Systems, LLC, of Durham, NC, for the third quarter of 2021. He found that the company, under the supervision of qualifying agent Timothy Cooke (1727-CSA), is in compliance with the Board's laws and rules regarding electrical license contracting and employee registration requirements.

- Proactive audit: Investigator George Daniels completed in September 2022 a proactive compliance audit of Alarm Tech, LLC, of Jacksonville, NC, for the fourth quarter of 2021. He found that the company, under the supervision of qualifying agent Phillip Clinton (1772-CSA), is in compliance with the Board's laws and rules regarding electrical license contracting and employee registration requirements.
- Proactive audit: Investigator George Daniels completed in October 2022 a proactive compliance audit of Port City Sound & Security, Inc., of Wilmington, NC, for the first quarter of 2021. He found that the company, under the supervision of qualifying agent Bradley Stich (1957-CSA), is in compliance with the Board's laws and rules regarding electrical license contracting and employee registration requirements.

Other

None

REGISTRATION AND LICENSING SUMMARY

Total active in Permitium: 7,871
(+2.4% from September 2022 meeting)

Registration		
	Alarm Registrant	6811
Registration Total		6811
License		
	Burglar Alarm Business	1040
License Total		1040

Alarm Systems Licensing Board Financial Report
Fiscal Year-to-Date 2023
(July 1, 2022 - October 31, 2022)

ASLB Operating Fund Revenue and Expenditures

FY23 Revenue	\$ 150,794.97
FY23 Expenditures	\$ (128,207.25)
<hr/>	
FY23 Fund Balance Increase/(Decrease)	\$ 22,587.72

ASLB Operating Fund Cash Flow

Beginning Balance (July 1, 2022)	\$ 835,930.70
FY23 Revenue	\$ 150,794.97
FY23 Expenditures	\$ (128,207.25)
<hr/>	
Current Fund Balance	\$ 858,518.42

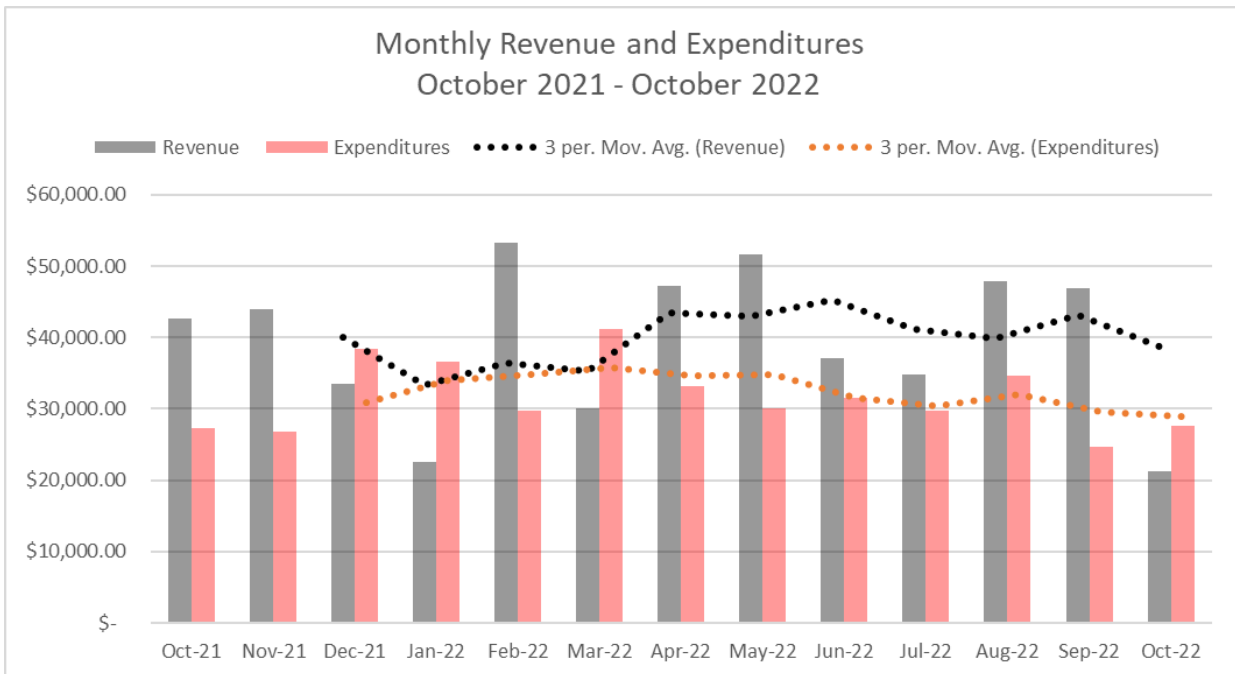
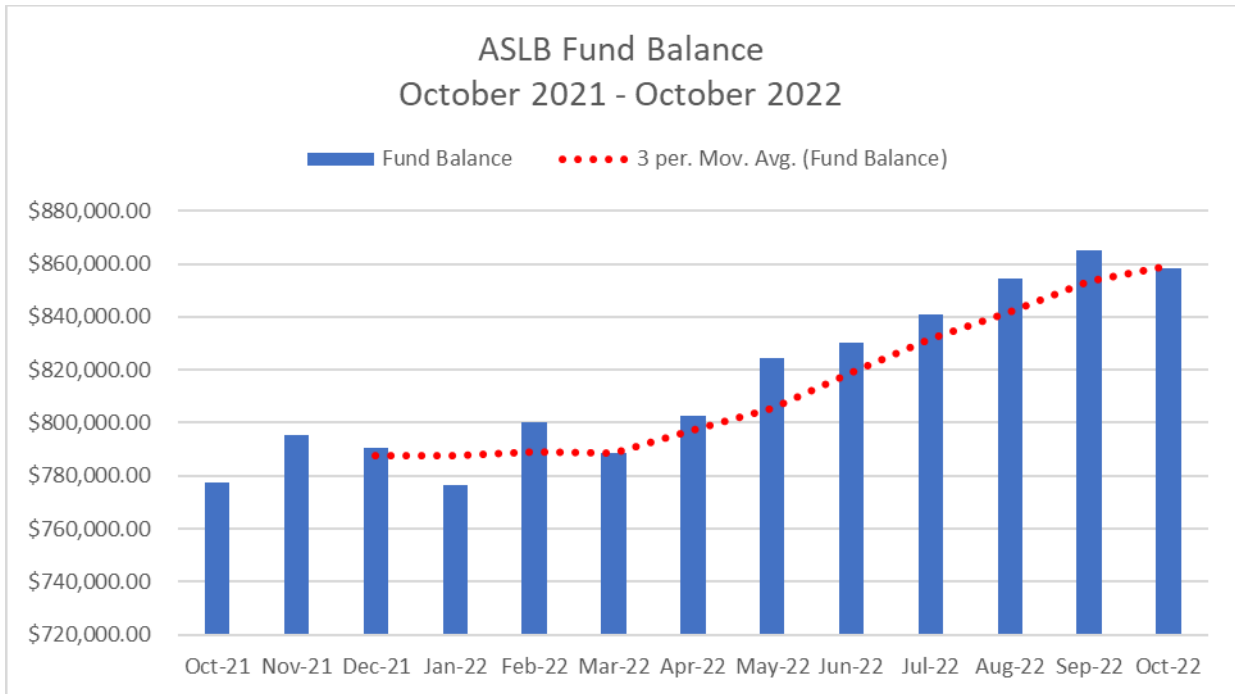
ASLB Education Fund Revenue and Expenditures

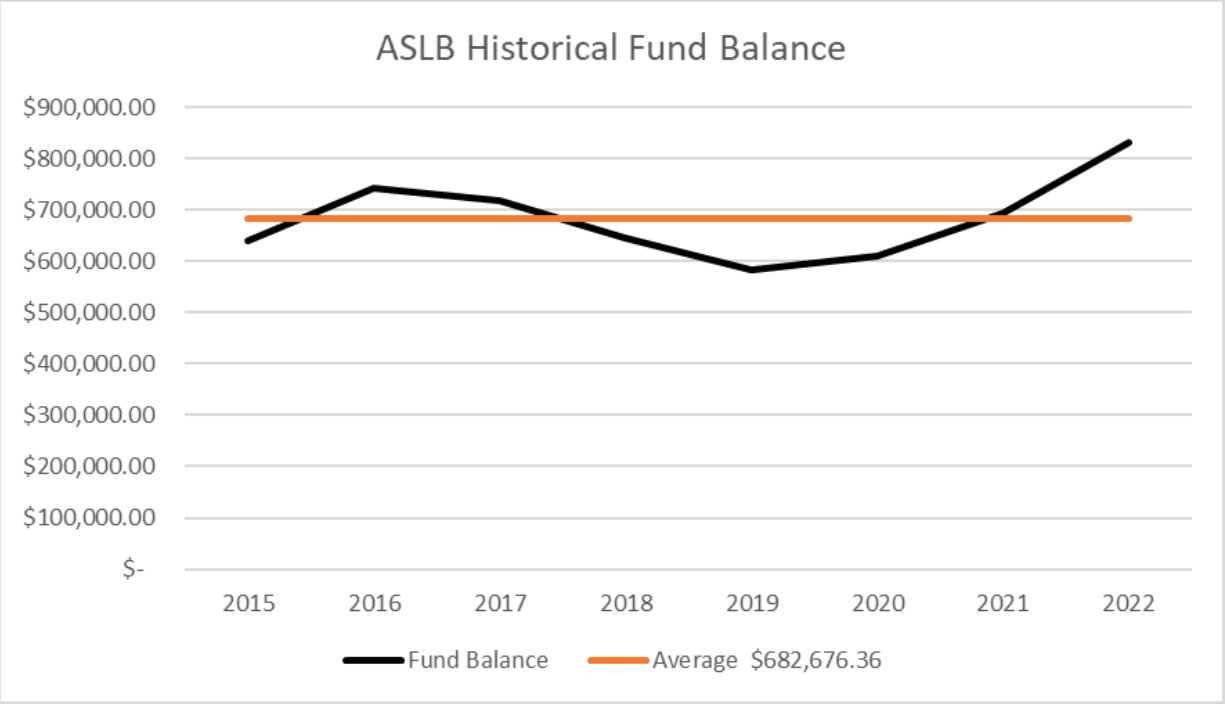
FY23 Revenue	\$ 906.54
FY23 Expenditures	\$ -
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FY23 Fund Balance Increase/(Decrease)	\$ 906.54

ASLB Education Fund Cash Flow

Beginning Balance (July 1, 2022)	\$ 94,767.41
FY23 Revenue	\$ 906.54
FY23 Expenditures	\$ -
<hr/>	
Current Fund Balance	\$ 95,673.95

BUDGET GRAPHICS





ALARM SYSTEMS LICENSING BOARD

Raleigh, North Carolina

November 17, 2022

ATTORNEY'S REPORT



ALARM SYSTEMS LICENSING BOARD

Raleigh, North Carolina

November 17, 2022

I. CONSENT AGREEMENTS & CIVIL PENALTIES

On September 15, 2022 Robert Bowlin and Quantum Security entered into a Consent Agreement in the amount of \$4,488.00 for registration violations. Payment has been received. (PAID IN FULL)

On September 15, 2022 John Ottati and Tech Guy, LLC entered into a Consent Agreement in the amount of \$170.00 for registration violations. Payment has been received. (PAID IN FULL)

II. OFFICE OF ADMINISTRATIVE HEARINGS

See, Hearings List (attachment 1.)

III. RULES

At its November Board meeting I was asked to prepare an amendment to 14B NCAC 17 .0204 regarding renewal and reinstatement of a license to provide for a reinstatement application, a criminal history record check for reinstatement, and other requirements.

The Board voted to approve this rule amendment at its January 20, 2022 Board meeting.

The Notice of Text was filed March 10, 2022. The Public Hearing was held on Tuesday, April 26, 2022 at 2:00 p.m. at the Board's office. The Public Comment Period expired May 31, 2022. There were no comments written or oral. The Board voted to approve these rule amendments at its July 21, 2022 meeting.

The Submission for Permanent Rule form was filed on September 7, 2022 and the Rules Review Commission approved it at their October meeting. A copy is attached as Attachment 2.

IV. FINAL AGENCY DECISIONS

James Bryan Talton (*see*, attachment 3.)

1.

ASLB
MASTER HEARINGS LIST
as of July 21, 2022

OAH HEARING DATE	PETITIONER	TYPE OF APPLICATION	FAD HEARING DATE
November 28, 2017	Daniel Carl Hagerty / Guardian Eagle Security, LLC d/b/a AVSX Technologies 17 DOJ 06331	Letter of Reprimand (business license)	FAD served April 12, 2018. Petition for Judicial Review filed in Wake County Superior Court May 25, 2018.
August 23, 2022	James Bryan Talton 22 DOJ 02695	Denial Of Burglar Alarm Registration	

2.

14B NCAC 17 .0204 RENEWAL OR REINSTATEMENT OF LICENSE

(a) Each applicant for a license renewal shall submit an online renewal application on the website provided by the Board. This online application shall be submitted not less than 30 days prior to expiration of the applicant's current license and shall be accompanied by:

- (1) statements of the result of a local statewide criminal history records search by the reporting services service designated by the Board pursuant to G.S. 74D-2.1 for any state where the applicant has resided within the preceding 24 months;
- (2) the applicant's renewal fee as set forth in .0203(a)(2); and
- (3) proof of liability insurance pursuant to G.S. 74D-9.

(b) No renewal shall be granted more than 90 days after the date of expiration of a license.

(c) Applications for renewal submitted after the expiration date of the license shall be accompanied by the late renewal fee established by Rule .0203 of this Section and shall be submitted not later than 90 days after the expiration date of the license.

(d) If a licensee has maintained a license at least two years and fails to renew the license within 90 days of the expiration date, the license may be re-issued if an online reinstatement application is submitted within one year of the expiration date. The reinstatement application must include the items required in Subparagraphs (a)(1) through (3) of this Rule, the late fee required by Paragraph (c) of this Rule, evidence of compliance with the electrical licensing requirements of Rule .0210 of this Section, and documentation of completion within the previous two years of continuing education as required by Section .0500 of this Chapter. If the license reinstatement is approved, the license period shall be prorated to expire on the date the previous license would have expired, had the license been renewed on time. The licensee shall remain responsible for compliance with the Board's law and the rules of this Chapter during the period of lapse.

(e) The Director shall review and approve or recommend denial of an application for renewal or reinstatement. All recommendations of denial shall be submitted to the Board for a final Board decision.

(f) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted the same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

*History Note: Authority G.S. 74D- 2; 74D-2.1; 74D-5; 74D-5.1; 74D-6; 74D-7; 93B-15;
Eff. January 1, 1995;
Temporary Adoption Eff. May 18, 1995;
Amended Eff. February 1, 2012; July 1, 2010; May 1, 1999; October 1, 1995;
Transferred and Recodified from 12 NCAC 11 .0204 Eff. July 1, 2015;
Amended Eff. April 1, 2018;
Readopted Eff. June 1, 2018;
Amended Eff. November 1, 2022; August 1, 2020; September 1, 2019.*

3.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DOJ 02695

James Bryan Talton Petitioner, v. North Carolina Alarm Systems Licensing Board Respondent.	PROPOSAL FOR DECISION
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On August 23, 2022, Administrative Law Judge Stacey B. Bawtinheimer called this case for hearing in Raleigh, North Carolina.

APPEARANCES

For Petitioner: James Bryan Talton, *pro se*
741 NC Highway 581 South
Goldsboro, North Carolina 27530

For Respondent: Jeffrey P. Gray
Bailey & Dixon, LLP
jgray@bdixon.com

ISSUE

Whether Petitioner should be denied a Burglar Alarm registration based on Petitioner's conviction of one (1) count of Forgery, a Class I felony, within 15 years of the date of his application?

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:

N.C. Gen. Stat. §§ 74D-2; 74D-6; 93B-8.1; 150B-38, *et seq.*

WITNESSES AND EXHIBITS

For Petitioner: James Bryan Talton, Petitioner
Michael R. Lane, Employer and Owner of Lane
Communications and Services, LLC

No Exhibits

For Respondent: Paul Sherwin, Director of Board

Resp't Exs. 1 and 2

PROPOSED FINDINGS OF FACT

1. The North Carolina Alarm Systems Licensing Board ("Respondent" or "Board") is established pursuant to N.C. Gen. Stat. § 74D-2, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems installation business.

2. James Bryan Talton ("Petitioner") applied to the Respondent Board for an alarm installation registration.

3. Respondent denied the alarm installation registration due to Petitioner's criminal record which showed the following:

A conviction in Wayne County, State of North Carolina, on July 22, 2012 for one (1) count of felony Forgery of notes, checks, and other securities; counterfeiting of instruments.

4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.

5. By Notice of Hearing dated July 15, 2022, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration application would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on August 23, 2022. Petitioner appeared at the hearing.

6. Petitioner's Criminal History Record Check which showed the above was admitted into evidence as part of Petitioner's application. Resp't Ex. 1.

7. Paul Sherwin, Director of Respondent Board, testified that Petitioner applied for an alarm installation registration on December 13, 2021. His criminal history record check submitted with his application indicated that he had been convicted of the crime in paragraph 3, above, which is a Class I felony. Pursuant to the Board's denial guidelines (found at <http://www.ncdps.gov/asl> and click on "Forms"), which was not provided as evidence during the hearing of this matter and is not a rule, an applicant who has been convicted of one or more Class I felonies within 15 years of the date of application shall be denied by staff.

8. Petitioner's conviction occurred seven (7) years and five (5) months prior to the date of application and, therefore, it would no longer be considered grounds for denial after July 22, 2029.

9. Petitioner's application was denied. He requested an internal appeal which was considered by Director Sherwin. During his internal appeal, Petitioner provided Director Sherwin with a written explanation of the charge and conviction.

10. Petitioner's written explanation stated:

These convictions took place in 2014, two years after the offenses in 2012. These actions are ones that I deeply regret and do not take lightly, however, ones that took place during a hardship within our family when my wife became unemployed and I became the sole income source while working for a purely commissions-based insurance company, AFLAC. This turn of events, and the need to support my family, led me to utilize a loophole in the company's policy writing which did not require a phone number or social security number in order to write an insurance policy and receive payment to keep my family afloat. While I admit wrongdoing, own up to my mistakes, and have served my time on supervised probation and repaid the company through restitution, I want to ensure the Private Protective Services (PPS) board that this is in no way a true reflection of my character and that I have completely changed my life since these offenses happened, 10 years ago.

11. Director Sherwin upheld the denial and Petitioner requested that his application be considered by the Respondent Board's Screening Committee. Petitioner's application was considered at the May 19, 2022 meeting of the Committee at which Petitioner appeared and Petitioner offered an explanation and answered questions.

12. Before a licensing board can deny an applicant's license based on a criminal conviction, the board must consider ten (10) factors per N.C. Gen. Stat. § 93B-8.1(b1). During the internal appeal process, the Board did not consider all 10 factors.

13. A memorandum prepared by Director Sherwin, for the Screening Committee for the registration denial appeal set forth eight (8) of the factors the Committee was required to consider pursuant to N.C. Gen. Stat. § 93B-8.1(b1) when considering Petitioner's conviction:

- (1) The level and seriousness of the crime: Class I felony
- (2) The date of the crime: February 22, 2012
- (3) The age of the person at the time of the crime: 32
- ...
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed: Sentenced to 6-10 months of community punishment, 60 months supervised probation and ordered to pay \$869.50 in court costs and \$51,377.46 in restitution.
- (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment: N/A
- (6b) A Certificate of Relief granted pursuant to G.S. 15A-173.2: N/A
- (7) The subsequent commission of a crime by the applicant: No

(8) Any affidavits or other written documents, including character references: Yes (Michael R. Lane, owner of Lane Communications & Security, LLC)

14. Director Sherwin did not include for the Board's consideration factors 4 and 5 which are:

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.

15. The written memorandum was not provided to Petitioner nor introduced as evidence at the hearing. Director Sherwin testified from memory as to its contents.

16. Without full information, the Screening Committee improperly recommended denial of the application which was approved by the full Board at its meeting on May 20, 2022.

17. In addition to not considering all the factors, the Board did not make written findings, signed by the Board Chair, as required by N.C. Gen. Stat. § 93B-8.1(b2).

18. After completing the internal appeal process, Petitioner timely petitioned for this contested case hearing.

19. Petitioner credibly testified essentially to the same facts as in his written statement to Director Sherwin (*see* paragraph 10, above.) He was writing policies for AFLAC and would be paid a commission upon submission of the application. He made up some of the applicant names and other pertinent information.

20. Prior to his arrest, Petitioner left AFLAC and was hired as a Correctional Officer with the North Carolina Department of Corrections and was employed there as a Correctional Officer. After his arrest, Petitioner had to resign this position.

21. Since his conviction, Petitioner has completed all his community service, all conditions of probation, and paid all restitution. Petitioner was required to pay restitution, but it is much higher than the amount he fraudulently took. The restitution was based on the entire amount he had been paid by AFLAC and not just the commissions on the falsified application.

22. He was 32 years of age when he committed the crimes and 35 when convicted.

23. Prior to this 2014 charge, Petitioner had three traffic related charges (2006, 1999, and 1998). Otherwise, Petitioner has had no other criminal charges or convictions.

24. Since his conviction, Petitioner has obtained three (3) Bachelor of Arts degrees from North Carolina Wesleyan University, one in Religious Studies, one in Criminal Justice, and one in Psychology.

25. He has been an ordained Minister since 2017 and is currently serving as Youth Pastor at Pikes Cross Roads Pentecostal Holiness Church in Pikeville, NC.

26. Michael Ray Lane, owner of Lane Communications & Security, LLC, and Petitioner's current employer, testified to Petitioner's good character. Mr. Lane has known Petitioner since 2014 both personally and professionally. He said Petitioner knows he made a stupid mistake, but Mr. Lane has seen how he turned his life around. Petitioner is the only convicted felon that Mr. Lane would "go to bat for" and the Board should issue his alarm installation registration.

PROPOSED CONCLUSIONS OF LAW

1. The Parties are properly before the Office of Administrative Hearings.
2. Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has been convicted of a crime involving fraud. N.C. Gen. Stat. § 74D-6(2).
3. In doing so, however, Respondent Board must specifically consider certain factors prior to denying an application for a criminal conviction. N.C. Gen. Stat. § 93B-8.1(b1).
4. Respondent Board presented evidence that Petitioner has a conviction for fraud in violation of N.C. Gen. Stat. § 74D-6(3). Although the Board was required to consider all 10 factors as required by N.C. Gen. Stat. § 98B-8.1(b1), it did not during the internal appeal process. That defect has been remedied by this hearing.
5. During the hearing, Petitioner presented credible evidence to explain the factual basis for the charge, his conduct since the conviction, and his character.
6. Based on a preponderance of the evidence, there is no nexus between the criminal conduct of 2014 and the prospective duties of Petitioner in the installation of alarm systems. Petitioner has completed all the requirements of his conviction and has rehabilitated himself.
7. A weighing of the factors in N.C. Gen. Stat. § 93B-8.1(b1) deemed relevant to this application indicate that Petitioner is fit to be licensed.

PROPOSED FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Undersigned hereby recommends that Petitioner be issued an alarm installation registration.

NOTICE AND ORDER

The **North Carolina Alarm Systems Licensing Board** will make the Final Decision in this contested case. As the Final Decision maker, that agency is required to give each party an

opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C. Gen. Stat. § 150B-40(e).

The undersigned hereby orders that agency serve a copy of its Final Agency Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

IT IS SO ORDERED.

This the 12th day of September, 2022.

A handwritten signature in cursive script, reading "Stacey Bice Bawtinheimer", written over a solid horizontal line.

Stacey Bice Bawtinheimer
Administrative Law Judge


CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

James Bryan Talton
741 NC Hwy 581 South
Goldsboro NC 27530
Petitioner

Jeffrey P Gray
Bailey & Dixon, LLP
jgray@bdixon.com (served electronically on September 12, 2022)
Attorney For Respondent

This the 13th day of September, 2022.



Jerrod Godwin
Law Clerk
N.C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000

***State of North Carolina
Office of Administrative Hearings
Certification***

I hereby certify the attached (electronic file) to be a true copy of the Official Record as required by G.S. 150B-42 of the proceedings in the Office of Administrative Hearings, in case (s):

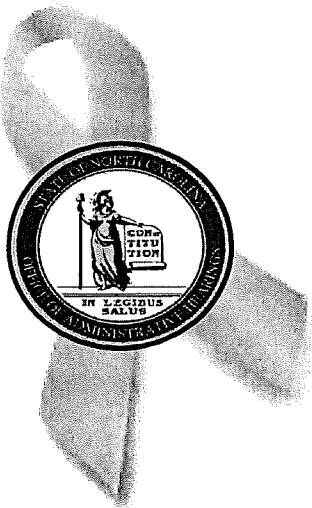
"22 DOJ 02695", "James Bryan Talton, Petitioner, v. North Carolina Alarm Systems Licensing Board, Respondent."

the original of which is filed in this office in conformance with Chapter 150B of the General Statutes of the State of North Carolina.

In witness whereof, I authorize this certification and affix the official seal of the North Carolina Office of Administrative Hearings at Raleigh this the 22nd day of September, 2022.

*Donald Robert van der Vaart
Chief Administrative Law Judge, Director*

By: *Courtney Westbit*



STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DOJ _____

JAMES BRYAN TALTON,)
)
 Petitioner,)
)
 c.)
)
 N.C. ALARM SYSTEMS)
 LICENSING BOARD,)
)
 Respondent.)
 _____)

NOTICE OF HEARING

FOR: James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

DATE: Tuesday, August 23, 2022

TIME: 2:00 p.m.

PLACE: Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609

RE: Denial of Burglar Alarm Registration application. The denial was for the following reason:

Petitioner was convicted of one (1) count of a Class 1 felony Forgery of notes, checks, and other securities; counterfeiting of instruments in Wayne County, North Carolina on July 22, 2014.

STATUTES: N.C.G.S. § 74D-6(3)

ADMINISTRATIVE
LAW JUDGE: Honorable Stacey B. Bawtinhimer

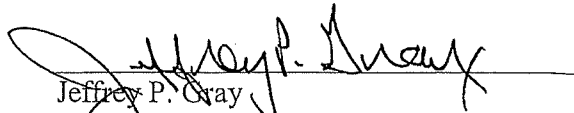
An administrative hearing has been scheduled by the N.C. Alarm Systems Licensing Board to examine formally the allegations specified above. This hearing will be held before the Office of Administrative Hearings for the Alarm Systems Licensing Board and will be conducted in accordance with the Administrative Procedures Act, North Carolina General Statute 150B.

This proceeding is a contested case hearing and will give you the opportunity to present evidence and cross-examine witnesses. The Board will be represented by Jeffrey P. Gray, Attorney at Law, Bailey & Dixon, LLP, P.O. Box 1351, Raleigh, North Carolina 27602, (919) 828-0731.

Please direct all correspondence to the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609, (919) 431-3000.

This the 15th of July, 2022.

Alarm Systems Licensing Board
Paul Sherwin, Director



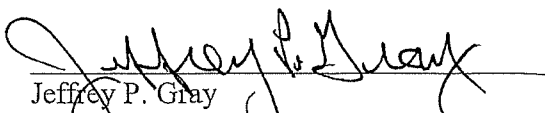
Jeffrey P. Gray
Bailey & Dixon, LLP
P.O. Box 1351
Raleigh, North Carolina 27602
(919) 828-0731 – telephone
(919) 828-6592 – facsimile

CERTIFICATE OF SERVICE

I, Jeffrey P. Gray, hereby certify that I have served a copy of the foregoing NOTICE OF HEARING by depositing a copy with the United States Postal Service, CERTIFIED MAIL/RETURN RECEIPT REQUESTED and addressed to the following:

James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

This the 15th day of July, 2022.



Jeffrey P. Gray
Bailey & Dixon, LLP
P.O. Box 1351
Raleigh, North Carolina 27602
(919) 828-0731 – telephone
(919) 828-6592 – facsimile

Date Received: 11/22/2021	Date Completed: 12/13/2021
Payment Received: 12/10/2021	Research Completed By: ID# 100823

Order Confirmation# C258957

Personal Information:

Name: James Bryan Talton
 Date of Birth: [REDACTED]
 SSN: [REDACTED]
 Driver's Licenses: [REDACTED]

Addresses for Places of Residence

1. [REDACTED] (12/2009 - 11/2021)

Addresses for Places of Employment

- 275 Wood Peck Rd, Goldsboro, NC, 27534 (11/2021 - 11/2021)
- Unemployed (9/2021 - 11/2021)
- 106 East Washington Street, La Grange, NC, 28551 (3/2021 - 9/2021)
- 426 East Jesse Jones Street, Covington, LA, 70433 (12/2015 - 3/2021)

Addresses for Schools Attended

Social Security Number Verifier Results:

State Issued: [REDACTED]
 Year Issued: [REDACTED]
 Death Index: NO ENTRY FOUND

Names on File: JAMES BRYAN TALTON
 JAMES E TALTON

Address Section:

JAMES B TALTON
 [REDACTED]
 02/01/2006 - 10/01/2021

JAMES BRYAN TALTON
 [REDACTED]
 08/21/2021 - 08/21/2021

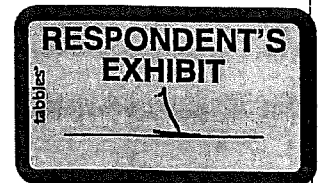
Jurisdiction(s) Searched:

Louisiana - St. Tammany Parish
 Louisiana - Tangipahoa Parish
 North Carolina Statewide Search

Criminal Background Check:

Louisiana - Tangipahoa Parish
 Clear

Louisiana - St. Tammany Parish
 Clear



North Carolina Statewide Search 6 record(s)

Record 1

Court: PITT DISTRICT
Case Number: 20CR 706714
File Severity: CRIMINAL TRAFFIC
Offense Dates: 06/13/2020
Charges: SPEEDING 080/80 (CRIMINAL TRAFFIC)
Disposition Dates: 10/27/2020
Dispositions: RESPONSIBLE TO LESSER - "IMPROPER EQUIP - SPEEDOMETER" (INFRACTION)
Sentence: COSTS: \$258.00
PAID: YES

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED

Record 2

Court: GREENE DISTRICT
Case Number: 15CR 700931
File Severity: CRIMINAL TRAFFIC
Offense Dates: 11/25/2015
Charges: SPEEDING 076/55 (CRIMINAL TRAFFIC)
Disposition Dates: 04/15/2016
Dispositions: RESPONSIBLE TO LESSER - "IMPROPER EQUIP - SPEEDOMETER" (INFRACTION)
Sentence: FINE/COSTS: \$263.00
PAID: YES

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED

Record 3

Court: WAYNE SUPERIOR
Case Number: 13CRS003034
File Severity: FELONY
Offense Dates: 1 - 4, 02/22/2012
Charges: 1 - 4, FORGERY OF INSTRUMENT (FELONY)
Disposition Dates: 1 - 4, 07/22/2014
Dispositions: 1 - 4, GUILTY



Sentence: 1. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
FINE/COSTS: \$869.50
RESTITUTION: \$51,377.46
PAID: NO
TO BE PAID DATE: 07/22/2019
2. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
3. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
4. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED

Record 4

Court: COLUMBUS DISTRICT
Case Number: 06CR 700384
File Severity: MISDEMEANOR
Offense Dates: 07/18/2006
Charges: EXCEED BRIDGE LOAD LIMIT (MISDEMEANOR)
Disposition Dates: 09/11/2006
Dispositions: PRAYER FOR JUDGMENT
Sentence: COSTS: \$110.00
PAID: YES

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED

Record 5

Court: WAYNE DISTRICT
Case Number: 99CR 010555
File Severity: MISDEMEANOR
Offense Dates: 08/14/1999
Charges: SECOND DEGREE TRESPASS (MISDEMEANOR)
Disposition Dates: 10/25/1999
Dispositions: PRAYER FOR JUDGMENT
Sentence: COSTS: \$86.00
PAID: YES

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED



Record 6

Court: WAYNE DISTRICT
Case Number: 98CR 017904
File Severity: MISDEMEANOR
Offense Dates: 11/01/1998
Charges: NOISE ORDINANCE VIOLATION LOCAL ORDINANCE (MISDEMEANOR)
Disposition Dates: 12/01/1998
Dispositions: GUILTY
Sentence: COSTS: \$80.00
PAID: YES

Identifiers on Record:

Name on File: TALTON, JAMES, BRYAN
DOB on File: DOB MATCH
Address on File: [REDACTED]
DL# on File: NOT LISTED
SSN on File: NOT LISTED



Please contact our offices directly if you wish to dispute any information returned within this Criminal Record Check.

By Mail
PO Box 90998
Raleigh, NC 27675-0998

By Phone
Local - 919-459-1029
Toll Free - (877) 272-0266



By Fax
Toll Free - (800) 650-5992


By Email
licensing@mycrc.com

Please locate the security token on your home page and copy it into the Permitium system to provide this report to the ASLB/PPSB.

Reports are archived after 60 days. If reports need to be accessed after 60 days, please contact us directly using one of the methods provided above.




Order Number
CTSUBWWG 
Product
Alarm (new)
Order Received
01/13/2022
Status
Pending Review 
Processor
paul.sherwin
Board
ASLB

Payment History
\$ 94.97 

Company Name
Lane Communications & Security LLC
Submitted By
Michael Ray Lane



Background
[View Report \(attachedFiles/CTSUBWWG/1642091541494\)](#)


Background
complete

SSN
[REDACTED]

CRC Token
59433f2857c7d605cfc3

Request Review:
cause

Request Date

Mon Feb 21 15:36:06 EST 2022

PPS Comment

Cause Reason: Due to the background investigation conducted on you, we are unable to administratively approve his/her application at this time.

Cause Reason: The applicant has been denied registration for a ASL registrant permit for a lack of good moral character or temperate habits pursuant to N.C.G.S. 74D-6(3). The underlying evidence for the denial of this application for registration is the following:

[WAYNE COUNTY, NC](07/22/2014)(F) Case Number: 13CRS003034 File Severity: FELONY Charges: 1 - 4. FORGERY OF INSTRUMENT (FELONY) . GUILTY Sentence: 1. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED FINE/COSTS: \$869.50 RESTITUTION: \$51,377.46 PAID: NO TO BE PAID DATE: 07/22/2019 2. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED 3. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED 4. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED

Contact Registration Processor Sheila Stokes should you have any questions regarding this letter. Her contact information is sheila.stokes@ncdps.gov ; (984)-220-8640.

Response Comment

Registrant's Office Location

Select Office Location for Registrant
275 Wood Peck Rd (008225P4M)

Is this a different BPN Number (with Same Company) for this employee since their last registration?

Yes No

Registrant Full Name

★ First Name

James

Middle Name

Bryan

★ Last Name

Talton

Suffix

Demographics

★ Gender

Male

★ Race

White

★ Hair

Brown

★ Eyes

Blue

★ Height (Feet)

6

★ Height (Inches)

3

★ Weight (Lbs)

250

Birth Info

★ Date of Birth

★ Place of Birth

[Redacted]

[Redacted]

Citizenship Info

- ★ Citizenship
- U.S. Citizen Resident Alien Other?

Social Security Number

★ Social Security Number

[Redacted]

Drivers License

Do you possess a valid motor vehicle operator's license?

- Yes No

★ Drivers License #

[Redacted]

★ State Issued

[Redacted]

Address

Current Address

★ Address Line 1

Address Line 2

[Redacted]

[Redacted]

★ City

[Redacted]

[Redacted]

★ State

★ Zip

[Redacted]

[Redacted]

★ Country

★ Country

[Redacted]

Mailing is same address as home.

Period of residence at this address, to the present

★ From Year

2009

★ From Month

December

Previous Addresses A 48 month history is required

Address

From

To

Edit

Delete

Add Previous Address

Phone Number

★ Primary Phone Number

[Redacted]

Secondary Phone Number

Enter Phone Number

Do not have Primary Phone Number.

Email

★ Email Address

[Redacted Email Address]

Do not have an email address.

Employment At Company

★ Position at Company

Technician

★ Supervisor

Michael Lane

★ Date began regular employment with current company

12/20/2021

★ Yes No Has the employee ever been registered with any company in North Carolina

Photo of Registrant

★ One (1) recent color head and shoulders JPEG digital photo. The photo must have been taken in the past five (5) years.

Browse	IMG_3053.jpg
--------	--------------

Course Attendance Certificate

★ Applicants for a new registration who have been registered for any period during the previous two years must submit ASLB CE course attendance certificate signed by Instructor or the CE course exemption form explaining exempt duties. Does this apply to the applicant?

- Yes
- No

Release of Information

★ Signed Release of Information form.

Browse	Talton Release of Info.pdf
--------	----------------------------

Affidavit of Consent and Public Notice Statement

Download Form (<https://www.nodps.gov/documents/alarm-registration-application-affidavit-and-public-notice-statement/>)

★ Signed Affidavit of Consent and Public Notice Statement forms.

Browse	Talton Affidavit.pdf
--------	----------------------

Additional Documentation Upload

If you need to provide additional documentation please upload all pages as one document and select the document type that best describes the documentation you are providing.

Browse Select file (.jpg, .jpeg, .png, .pdf)

Select Document Type ...

Background Questions

Yes No

Have you ever pled guilty or been convicted of any crime (Felony or Misdemeanor)?
★ Please explain

Court: WAYNE SUPERIOR
Case Number: 13CRS003034
File Severity: FELONY
Offense Dates: 1 - 4, 02/22/2012
Charges: 1 - 4, FORGERY OF INSTRUMENT (FELONY)
Disposition Dates: 1 - 4, 07/22/2014
Dispositions: 1 - 4, GUILTY
Page 2 of 5 • PPSB/ASLB Criminal Record Check Report • Confidential
Sentence: 1, SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
FINE/COSTS: \$869.50
RESTITUTION: \$51,377.46
PAID: NO
TO BE PAID DATE: 07/22/2019
2. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
3. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED
4. SENTENCE TYPE: COMMUNITY
SENTENCE LENGTH: 006 M - 017 M
PROBATION: 60 MONTHS SUPERVISED

Yes No

Have you ever pled guilty or been convicted of a traffic related offense?

* Please explain

Charges: EXCEED BRIDGE LOAD LIMIT (MISDEMEANOR) Disposition Dates: 09/11/2006
 Charges: SECOND DEGREE TRESPASS (MISDEMEANOR) Disposition Dates: 10/25/1999
 Charge: NOISE ORDINANCE VIOLATION LOCAL ORDINANCE (MISDEMEANOR) Disposition
 Dates: 12/01/1998

Background Check:

Process	Status	Initials	Date
CRC CHECK	Fail	sheila.stokes	1/21/2022
FP SENT	Pass	shonveal.harvey	1/25/2022
FP RESULTS	Fail	shonveal.harvey	2/21/2022

Process Status

Initials

Date

Comments:

SBI results 02/15/2022

The uploaded ASLB Application Affidavit has several items omitted: 01/21/22 ss
Received fp card. Sent to SBI. SH 1/25/22
Placed into SHT folder 03/09/22 ss
Provided the appeal file back to the processor to upload the appeal letters to the online order 3/29/2022.sht
CTSUSBWWG - appeal file provided to management.sht 3/29/2022

PHOTO

Pass

sheila.stokes

1/21/2022



AUTHORIZED
RELEASE



CE CREDITS



CE EXEMPT



Deputy Director



Process

Status

Initials

Date

Comments:

--	--	--	--

CWC

--



Date Received

--



TERMINATION DATE

--



Work Comments:

--



- Action Date:
- Action User:
- Action Type:
- Description / Notes:
 - 1/13/22 11:32 AM mr12123
 - InitialOrder
 - The application has been received for processing.
 - 1/13/22 11:32 AM system
 - BgStatusCheck
 - Status of background report checked.
 - 1/13/22 11:32 AM system
 - BgDownloaded
 - Background Report Downloaded and Attached.
 - 1/13/22 11:57 AM mr12123
 - StartPayment
 - Starting payment processing.
 - 1/20/22 9:21 AM shannon.thongkheuang
 - OwnerChange
 - The application was grabbed by user 'shannon.thongkheuang'.
 - 1/20/22 9:21 AM shannon.thongkheuang
 - OwnerChange
 - The application was moved to user 'sheila.stokes'.
 - 1/21/22 2:20 PM sheila.stokes
 - SaveProgress
 - The application data was updated.
 - 1/25/22 7:40 AM sheila.stokes
 - SaveProgress

The application data was updated.

1/25/22 7:45 AM

sheila.stokes

RequestReview

Correctable Reason: Fingerprint card omitted. Card submitted must be FD-258. One can be purchased from the vendor. Contact Registration Processor Sheila Stokes should you have any questions regarding this letter. Her contact information is sheila.stokes@ncdps.gov ; (984)-220-8640.

1/25/22 7:46 AM

sheila.stokes

OwnerChange

The application was moved to user 'sheila.stokes'.

1/25/22 11:48 AM

shonveal.harvey

SaveProgress

The application data was updated.

2/21/22 10:18 AM

shonveal.harvey

SaveProgress

The application data was updated.

2/21/22 3:33 PM

sheila.stokes

SaveProgress

The application data was updated.

2/21/22 3:36 PM

sheila.stokes

RequestReview

Cause Reason: Due to the background investigation conducted on you, we are unable to administratively approve his/her application at this time. Cause Reason: The applicant has been denied registration for a ASL registrant permit for a lack of good moral character or temperate habits pursuant to N.C.G.S. 74D-6(3). The underlying evidence for the denial of this application for registration is the following: [WAYNE COUNTY, NC] (07/22/2014)(F) Case Number: 13CRSS003034 File Severity: FELONY Charges: 1 - 4, FORGERY OF INSTRUMENT (FELONY) . GUILTY Sentence: 1. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED FINE/COSTS: \$869.50 RESTITUTION: \$61,377.46 PAID: NO TO BE PAID DATE: 07/22/2019 2. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED 3. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED 4. SENTENCE TYPE: COMMUNITY SENTENCE LENGTH: 006 M - 017 M PROBATION: 60 MONTHS SUPERVISED Contact Registration Processor Sheila Stokes should

7/14/22, 10:12 AM

Permitium

you have any questions regarding this letter. Her contact information is sheila.stokes@ncdps.gov ; (984)-220-

8640.

2/21/22 3:36 PM

sheila.stokes

OwnerChange

The application was moved to user 'sheila.stokes'.

3/9/22 7:36 AM

sheila.stokes

SaveProgress

The application data was updated.

3/9/22 3:36 PM

sheila.stokes

SaveProgress

The application data was updated.

3/9/22 3:43 PM

sheila.stokes

SaveProgress

The application data was updated.

3/9/22 3:51 PM

sheila.stokes

SaveProgress

The application data was updated.

3/29/22 9:47 AM

shannon.thongkheuang

SaveProgress

The application data was updated.

3/29/22 11:35 AM

sheila.stokes

SaveProgress

The application data was updated.

3/29/22 11:40 AM

shannon.thongkheuang

SaveProgress

The application data was updated.

3/29/22 11:40 AM

shannon.thongkheuang

ChangesStatus

Status changed to Pending Review (from Review Requested)

7/14/22, 10:12 AM

Permitium

5/6/22 11:13 AM

paul.sherwin

OwnerChange

The application was moved to user 'paul.sherwin'.

Request Review

Move Order

Assign Inv

Order Pending

Add Invoice (/dynamicapp/Invoice/new?associatedOrderId=C7SUSBWWG)

Approve Order

Withdraw Order

Deny Order

Assess Fine

Background Check

CRC CHECK



FP SENT



FP RESULTS



PHOTO



AUTHORIZED RELEASE



CE CREDITS



CE EXEMPT



Deputy Director



CWC



Date Received



TERMINATION DATE



7/14/22, 10:12 AM

Permitium

Save Progress

Print

Search Archive

BAILEY  DIXON

Jeffrey R Gray

July 15, 2022

jgray@bdixon.com

Certified Mail – Return Receipt Requested

James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

RE: *Administrative Hearing for James Talton*

Dear Mr. Talton:

I have received your request for an administrative hearing from the N.C. Alarm Systems Licensing Board regarding the denial of your application for Burglar Alarm Registration.

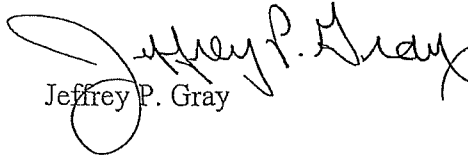
Enclosed is a copy of a Notice of Hearing, which I have filed with the Office of Administrative Hearings in this matter. As indicated on said Notice, the Board is requesting that your hearing be conducted by the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609, (919) 431-3000, on **Tuesday, August 23, 2022, at 2:00 p.m.**

Your failure to attend this court proceeding may result in dismissal of your case.

If you have any questions, you may call me at (919) 828-0731.

Sincerely,

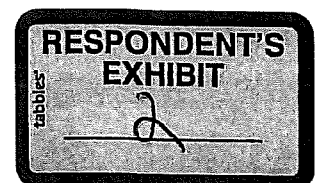
BAILEY & DIXON, LLP


Jeffrey P. Gray

Enclosure

cc: Paul Sherwin, Director
NC Alarm Systems Licensing Board

Michael Lane
Lane Communications & Security, LLC



STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DOJ 02695

JAMES BRYAN TALTON,)
)
Petitioner,)
)
c.)
)
N.C. ALARM SYSTEMS)
LICENSING BOARD,)
)
Respondent.)
_____)

NOTICE OF HEARING

FOR: James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

DATE: Tuesday, August 23, 2022

TIME: 2:00 p.m.

PLACE: Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609

RE: Denial of Burglar Alarm Registration application. The denial was for the following reason:

Petitioner was convicted of one (1) count of a Class 1 felony Forgery of notes, checks, and other securities; counterfeiting of instruments in Wayne County, North Carolina on July 22, 2014.

STATUTES: N.C.G.S. § 74D-6(3)

ADMINISTRATIVE
LAW JUDGE: Honorable Stacey B. Bawtinheimer

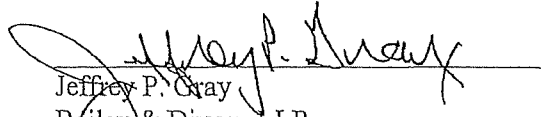
An administrative hearing has been scheduled by the N.C. Alarm Systems Licensing Board to examine formally the allegations specified above. This hearing will be held before the Office of Administrative Hearings for the Alarm Systems Licensing Board and will be conducted in accordance with the Administrative Procedures Act, North Carolina General Statute 150B.

This proceeding is a contested case hearing and will give you the opportunity to present evidence and cross-examine witnesses. The Board will be represented by Jeffrey P. Gray, Attorney at Law, Bailey & Dixon, LLP, P.O. Box 1351, Raleigh, North Carolina 27602, (919) 828-0731.

Please direct all correspondence to the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609, (919) 431-3000.

This the 5th of July, 2022.

Alarm Systems Licensing Board
Paul Sherwin, Director



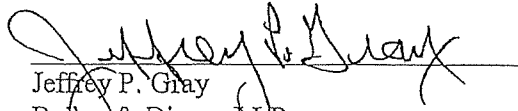
Jeffrey P. Gray
Bailey & Dixon, LLP
P.O. Box 1351
Raleigh, North Carolina 27602
(919) 828-0731 – telephone
(919) 828-6592 – facsimile

CERTIFICATE OF SERVICE

I, Jeffrey P. Gray, hereby certify that I have served a copy of the foregoing NOTICE OF HEARING by depositing a copy with the United States Postal Service, CERTIFIED MAIL/RETURN RECEIPT REQUESTED and addressed to the following:

James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

This the 15th day of July, 2022.



Jeffrey P. Gray
Bailey & Dixon, LLP
P.O. Box 1351
Raleigh, North Carolina 27602
(919) 828-0731 – telephone
(919) 828-6592 – facsimile

7020 3160 0000 3518 8150

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CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

7-15-22

Postmark
Here

Postage	
\$	
To	7.82

James Bryan Talton
 741 NC Highway 581 South
 Goldsboro, NC 27530
 1220.000002 NOH dbc

Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

 James Bryan Talton
 741 NC Highway 581 South
 Goldsboro, NC 27530
 1220.000002 NOH dbc

COMPLETE THIS SECTION ON DELIVERY

A. Signature	
X	<u>SLD, JR 27019</u> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name)	C. Date of Delivery
<u>J. Talton</u>	<u>7.20.22</u>
D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If YES, enter delivery address below:	

3. Service Type

<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Priority Mail Express™
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label)

7020 3160 0000 3518 8150

Gray, Jeffrey

From: Michael Lane <lanecomm1@gmail.com>
Sent: Tuesday, July 5, 2022 6:04 PM
To: Sherwin, Paul
Subject: Re: [External] Re: James Talton Registration Appeal
Attachments: James Talton ASLB Registration Denial Appeal 5.19.22.pdf

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.

Good afternoon, Mr Talton would like to move forward with his appeal. Please advise further instructions.

Michael Lane, Owner
Lane Communications & Security
Cell: 252-286-4069

On May 13, 2022, at 2:09 PM, Sherwin, Paul <paul.sherwin@ncdps.gov> wrote:

Mr. Lane,

Please find attached the memorandum the ASLB Screening Committee has been given for Talton's appeal.

You should have received an invitation to the meeting next Thursday.

Thanks and please let me know if you have any questions.

Paul Sherwin

*Director
NCDPS Private Protective Services
Alarm Systems Licensing Board
Private Protective Services Board*

Main Office: 919-788-5320
Direct: 984-220-8625
Cell: 919-218-1549
E-mail: paul.sherwin@ncdps.gov

3101 Industrial Dr, Suite 104
Raleigh, NC 27609

From: Sherwin, Paul
Sent: Friday, May 6, 2022 12:55 PM
To: Michael Lane <lanecomm1@gmail.com>
Subject: RE: [External] Re: James Talton Registration Appeal

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DOJ 02695

JAMES BRYAN TALTON,)
)
Petitioner,)
v.)
)
N.C. ALARM SYSTEMS)
LICENSING BOARD,)
)
Respondent.)
_____)

**PROPOSED
PROPOSED
FINAL DECISION**

On August 23, 2022, Administrative Law Judge Stacey B. Bawtinheimer called this case for hearing in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

Respondent was represented by attorney Jeffrey P. Gray, Bailey & Dixon, LLP, P.O. Box 1351, Raleigh, North Carolina 27602.

ISSUE

Whether Petitioner should be denied a Burglar Alarm registration based on Petitioner's conviction of one (1) count of Forgery, a Class I felony, within 15 years of the date of his application.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:
N.C.G.S. §§ 74D-2; 74D-6; 93B-8.1

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. § 74D-2, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems installation business.
2. Petitioner applied to Respondent Board for an alarm installation registration.
3. Respondent denied the alarm installation registration due to Petitioner's criminal record which showed the following:

A conviction in Wayne County, State of North Carolina, on July 22, 2012 for one (1) count of felony Forgery of notes, checks, and other securities; counterfeiting of instruments.

4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.
5. By Notice of Hearing dated July 15, 2022, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration application would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on August 23, 2022. Petitioner appeared at the hearing.
6. Petitioner's Criminal History Record Check which showed the above was admitted into evidence as part of Respondent's Exhibit 1, Petitioner's application.
7. Paul Sherwin, Director of Respondent Board, testified that Petitioner applied for an alarm installation registration on December 13, 2021. His criminal history record check submitted with his application indicated that he had been convicted of the crime in paragraph 3., above, which is a Class I felony. Pursuant to the Board's denial guidelines published in its Criminals Manual (found at <http://www.ncdps.gov/asl> and click on "Forms") an applicant who has been convicted of one or more Class I felonies within 15 years of the date of application shall be denied by staff. Petitioner's conviction occurred seven (7) years and five (5) months prior to the date of application therefore it would no longer be considered grounds for denial after July 22, 2029.
8. Petitioner's application was denied. He requested an internal appeal which was considered by Director Sherwin. Petitioner provided Director Sherwin with a written explanation of the charge and conviction.
9. Petition's written explanation stated:

"These convictions took place in 2014, two years after the offenses in 2012. These actions are ones that I deeply regret and do not take lightly, however, ones that took place during a hardship within our family when my wife became unemployed and I became the sole income source while working for a purely commissions based insurance company, AFLAC. This turn of events, and the need to support my family, led me to utilize a loophole in the company's policy writing which did not require a phone number or social security number in order to write an insurance policy and receive payment to keep my family afloat. While I admit wrong doing, own up to my mistakes, and have served my time on supervised probation and repayed the company through restitution, I want to ensure the Private Protective Services (PPS) board that this is in no way is a true

reflection of my character and that I have completely changed my life since these offenses happened, 10 years ago.”

10. Director Sherwin upheld the denial and Petitioner requested that his application be considered by the Respondent Board’s Screening Committee. Petitioner’s application was considered at the May 19, 2022 meeting of the Committee at which Petitioner appeared, offered an explanation and answered questions.
11. A memorandum prepared for the Screening Committee for the registration denial appeal set forth each of the factors the Committee was required to consider pursuant to N.C. Gen. Stat. § 93B-8.1(b1) when considering Petitioner’s conviction:
 - (1) The level and seriousness of the crime: Class I felony
 - (2) The date of the crime: February 22, 2012
 - (3) The age of the person at the time of the crime: 32
 - (4) The circumstances surrounding the commission of the crime, if known: (As in paragraph 9., above)
 - (5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee: A conviction of a crime involving fraud is a statutory grounds for denial (N.C. Gen. Stat. § 74D-6(2))
 - (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed: Sentenced to 6-10 months of community punishment, 60 months supervised probation and ordered to pay \$869.50 in court costs and \$51,377.46 in restitution.
 - (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment: N/A
 - (6b) A Certificate of Relief granted pursuant to G.S. 15A-173.2: N/A
 - (7) The subsequent commission of a crime by the applicant: No
 - (8) Any affidavits or other written documents, including character references: Yes (Michael R. Lane, owner of Lane Communications & Security, LLC)
12. The Screening Committee recommended denial of the application which was approved by the full Board at its meeting on May 20, 2022.
13. The Board did not make written findings, signed by the Board Chair, as required by N.C. Gen. Stat. § 93B-8.1(b2).
14. Petitioner petitioned for this contested case hearing.
15. Petitioner testified essentially to the same facts as in his written statement to Director Sherwin (*see*, paragraph 9, above.) He was writing policies for AFLAC and would be paid a commission upon submission of the application. He made up all the applicant names and other pertinent information.
16. He was later hired as a Correctional Officer with the North Carolina Department of Correction and was employed there as a Correctional Officer at the time of his arrest.

He had to resign.

17. Petitioner was required to pay restitution, but it is much higher than the amount he fraudulently took. The restitution was based on the entire amount he had been paid by AFLAC and not just the commissions on the falsified application.
18. He was 32 years of age when he committed the crimes and 35 when convicted.
19. Since his conviction Petitioner has obtained three (3) Bachelor of Arts degrees from North Carolina Wesleyan University, one in Religious Studies, one in Criminal Justice and one in Psychology.
20. He has been an ordained Minister since 2017, and is currently serving as Youth Pastor at Pikes Cross Roads Pentecostal Holiness Church in Pikeville, NC.
21. Michael Ray Lane, owner of Lane Communications & Security, LLC, and Petitioner's employer, testified to Petitioner's good character. He said Petitioner knows he made a stupid mistake but Mr. Lane has seen how he turned his life around.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under N.C. Gen. Stat. § 74D-6(2), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has been convicted of a crime involving fraud.
3. Under N.C. Gen. Stat. § 93B-8.1(b1), Respondent Board must specifically consider certain factors prior to denying an application for a criminal conviction.
4. Respondent Board presented evidence that Petitioner has a conviction for fraud in violation of N.C. Gen. Stat. § 74D-6(3) and considered the factors in N.C. Gen. Stat. § 98B-8.1(b1).
5. Petitioner presented evidence to explain the factual basis for the charge, his conduct since the conviction, and his character.
6. A weighing of the factors in N.C. Gen. Stat. § 93B-8.1(b1) deemed relevant to this application indicate that Petitioner is fit to be licensed.

Based on the foregoing, the undersigned makes the following:

PROPOSED FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be issued an alarm installation registration.

NOTICE AND ORDER

The North Carolina Alarm Systems Licensing Board will make the Final Decision in this contested case. As the Final Decision maker, that agency is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C. Gen. Stat. § 150B-40(e).

The undersigned hereby orders that agency serve a copy of its Final Agency Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

This the _____ day of September, 2022.

Honorable Stacey B. Bawtinheimer
Administrative Law Judge

Submitted this the _____ day of September, 2022.

BAILEY & DIXON, LLP

By: _____

Jeffrey P. Gray

Attorney for Respondent

P.O. Box 1351

Raleigh, NC 27602-1351

Telephone: (919) 828-0731

Fax: (919) 828-6592

CERTIFICATE OF SERVICE

The undersigned attorney for Respondent certifies that on this day the foregoing Proposed Final Decision was served upon the Petitioner in this action by depositing a copy of the Proposed Final Decision in the United States mail, postage prepaid, and addressed as follows:

James Bryan Talton
741 NC Highway 581 South
Goldsboro, NC 27530

This the ____ day of September, 2022.

Jeffrey P. Gray
Bailey & Dixon, LLP
P.O. Box 1351
Raleigh, North Carolina 27602
(919) 828-0731 – telephone
(919) 828-6592 – facsimile

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 DOJ 02695

<p>James Bryan Talton Petitioner,</p> <p>v.</p> <p>North Carolina Alarm Systems Licensing Board Respondent.</p>	<p>PROPOSAL FOR DECISION</p>
---	-------------------------------------

On August 23, 2022, Administrative Law Judge Stacey B. Bawtinhimer called this case for hearing in Raleigh, North Carolina.

APPEARANCES

For Petitioner: James Bryan Talton, *pro se*
741 NC Highway 581 South
Goldsboro, North Carolina 27530

For Respondent: Jeffrey P. Gray
Bailey & Dixon, LLP
jgray@bdixon.com

ISSUE

Whether Petitioner should be denied a Burglar Alarm registration based on Petitioner's conviction of one (1) count of Forgery, a Class I felony, within 15 years of the date of his application?

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:

N.C. Gen. Stat. §§ 74D-2; 74D-6; 93B-8.1; 150B-38, *et seq.*

WITNESSES AND EXHIBITS

For Petitioner: James Bryan Talton, Petitioner
Michael R. Lane, Employer and Owner of Lane
Communications and Services, LLC

No Exhibits

For Respondent: Paul Sherwin, Director of Board

Resp't Exs. 1 and 2

PROPOSED FINDINGS OF FACT

1. The North Carolina Alarm Systems Licensing Board (“Respondent” or “Board”) is established pursuant to N.C. Gen. Stat. § 74D-2, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems installation business.

2. James Bryan Talton (“Petitioner”) applied to the Respondent Board for an alarm installation registration.

3. Respondent denied the alarm installation registration due to Petitioner’s criminal record which showed the following:

A conviction in Wayne County, State of North Carolina, on July 22, 2012 for one (1) count of felony Forgery of notes, checks, and other securities; counterfeiting of instruments.

4. Petitioner requested a hearing on Respondent’s denial of the alarm installation registration.

5. By Notice of Hearing dated July 15, 2022, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration application would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on August 23, 2022. Petitioner appeared at the hearing.

6. Petitioner’s Criminal History Record Check which showed the above was admitted into evidence as part of Petitioner’s application. Resp’t Ex. 1.

7. Paul Sherwin, Director of Respondent Board, testified that Petitioner applied for an alarm installation registration on December 13, 2021. His criminal history record check submitted with his application indicated that he had been convicted of the crime in paragraph 3, above, which is a Class I felony. Pursuant to the Board’s denial guidelines (found at <http://www.ncdps.gov/asl> and click on “Forms”), which was not provided as evidence during the hearing of this matter and is not a rule, an applicant who has been convicted of one or more Class I felonies within 15 years of the date of application shall be denied by staff.

8. Petitioner’s conviction occurred seven (7) years and five (5) months prior to the date of application and, therefore, it would no longer be considered grounds for denial after July 22, 2029.

9. Petitioner's application was denied. He requested an internal appeal which was considered by Director Sherwin. During his internal appeal, Petitioner provided Director Sherwin with a written explanation of the charge and conviction.

10. Petitioner's written explanation stated:

These convictions took place in 2014, two years after the offenses in 2012. These actions are ones that I deeply regret and do not take lightly, however, ones that took place during a hardship within our family when my wife became unemployed and I became the sole income source while working for a purely commissions-based insurance company, AFLAC. This turn of events, and the need to support my family, led me to utilize a loophole in the company's policy writing which did not require a phone number or social security number in order to write an insurance policy and receive payment to keep my family afloat. While I admit wrongdoing, own up to my mistakes, and have served my time on supervised probation and repaid the company through restitution, I want to ensure the Private Protective Services (PPS) board that this is in no way is a true reflection of my character and that I have completely changed my life since these offenses happened, 10 years ago.

11. Director Sherwin upheld the denial and Petitioner requested that his application be considered by the Respondent Board's Screening Committee. Petitioner's application was considered at the May 19, 2022 meeting of the Committee at which Petitioner appeared and Petitioner offered an explanation and answered questions.

12. Before a licensing board can deny an applicant's license based on a criminal conviction, the board must consider ten (10) factors per N.C. Gen. Stat. § 93B-8.1(b1). During the internal appeal process, the Board did not consider all 10 factors.

13. A memorandum prepared by Director Sherwin, for the Screening Committee for the registration denial appeal set forth eight (8) of the factors the Committee was required to consider pursuant to N.C. Gen. Stat. § 93B-8.1(b1) when considering Petitioner's conviction:

- (1) The level and seriousness of the crime: Class I felony
- (2) The date of the crime: February 22, 2012
- (3) The age of the person at the time of the crime: 32
- ...
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed: Sentenced to 6-10 months of community punishment, 60 months supervised probation and ordered to pay \$869.50 in court costs and \$51,377.46 in restitution.
- (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment: N/A
- (6b) A Certificate of Relief granted pursuant to G.S. 15A-173.2: N/A
- (7) The subsequent commission of a crime by the applicant: No

(8) Any affidavits or other written documents, including character references: Yes (Michael R. Lane, owner of Lane Communications & Security, LLC)

14. Director Sherwin did not include for the Board's consideration factors 4 and 5 which are:

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.

15. The written memorandum was not provided to Petitioner nor introduced as evidence at the hearing. Director Sherwin testified from memory as to its contents.

16. Without full information, the Screening Committee improperly recommended denial of the application which was approved by the full Board at its meeting on May 20, 2022.

17. In addition to not considering all the factors, the Board did not make written findings, signed by the Board Chair, as required by N.C. Gen. Stat. § 93B-8.1(b2).

18. After completing the internal appeal process, Petitioner timely petitioned for this contested case hearing.

19. Petitioner credibly testified essentially to the same facts as in his written statement to Director Sherwin (*see* paragraph 10, above.) He was writing policies for AFLAC and would be paid a commission upon submission of the application. He made up some of the applicant names and other pertinent information.

20. Prior to his arrest, Petitioner left AFLAC and was hired as a Correctional Officer with the North Carolina Department of Corrections and was employed there as a Correctional Officer. After his arrest, Petitioner had to resign this position.

21. Since his conviction, Petitioner has completed all his community service, all conditions of probation, and paid all restitution. Petitioner was required to pay restitution, but it is much higher than the amount he fraudulently took. The restitution was based on the entire amount he had been paid by AFLAC and not just the commissions on the falsified application.

22. He was 32 years of age when he committed the crimes and 35 when convicted.

23. Prior to this 2014 charge, Petitioner had three traffic related charges (2006, 1999, and 1998). Otherwise, Petitioner has had no other criminal charges or convictions.

24. Since his conviction, Petitioner has obtained three (3) Bachelor of Arts degrees from North Carolina Wesleyan University, one in Religious Studies, one in Criminal Justice, and one in Psychology.

25. He has been an ordained Minister since 2017 and is currently serving as Youth Pastor at Pikes Cross Roads Pentecostal Holiness Church in Pikeville, NC.

26. Michael Ray Lane, owner of Lane Communications & Security, LLC, and Petitioner's current employer, testified to Petitioner's good character. Mr. Lane has known Petitioner since 2014 both personally and professionally. He said Petitioner knows he made a stupid mistake, but Mr. Lane has seen how he turned his life around. Petitioner is the only convicted felon that Mr. Lane would "go to bat for" and the Board should issue his alarm installation registration.

PROPOSED CONCLUSIONS OF LAW

1. The Parties are properly before the Office of Administrative Hearings.
2. Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has been convicted of a crime involving fraud. N.C. Gen. Stat. § 74D-6(2).
3. In doing so, however, Respondent Board must specifically consider certain factors prior to denying an application for a criminal conviction. N.C. Gen. Stat. § 93B-8.1(b1).
4. Respondent Board presented evidence that Petitioner has a conviction for fraud in violation of N.C. Gen. Stat. § 74D-6(3). Although the Board was required to consider all 10 factors as required by N.C. Gen. Stat. § 98B-8.1(b1), it did not during the internal appeal process. That defect has been remedied by this hearing.
5. During the hearing, Petitioner presented credible evidence to explain the factual basis for the charge, his conduct since the conviction, and his character.
6. Based on a preponderance of the evidence, there is no nexus between the criminal conduct of 2014 and the prospective duties of Petitioner in the installation of alarm systems. Petitioner has completed all the requirements of his conviction and has rehabilitated himself.
7. A weighing of the factors in N.C. Gen. Stat. § 93B-8.1(b1) deemed relevant to this application indicate that Petitioner is fit to be licensed.

PROPOSED FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Undersigned hereby recommends that Petitioner be issued an alarm installation registration.

NOTICE AND ORDER

The North Carolina Alarm Systems Licensing Board will make the Final Decision in this contested case. As the Final Decision maker, that agency is required to give each party an

opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C. Gen. Stat. § 150B-40(e).

The undersigned hereby orders that agency serve a copy of its Final Agency Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

IT IS SO ORDERED.

This the 12th day of September, 2022.

A handwritten signature in black ink, reading "Stacey Bice Bawtinheimer", written over a solid black horizontal line.

Stacey Bice Bawtinheimer
Administrative Law Judge

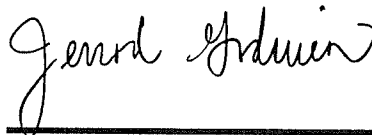
CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

James Bryan Talton
741 NC Hwy 581 South
Goldsboro NC 27530
Petitioner

Jeffrey P Gray
Bailey & Dixon, LLP
jgray@bdixon.com (served electronically on September 12, 2022)
Attorney For Respondent

This the 13th day of September, 2022.



Jerrod Godwin
Law Clerk
N.C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000