



North Carolina Department of Public Safety

Private Protective Services Board

Roy Cooper, Governor
Erik Hooks, Secretary

Pamela Cashwell, Chief Deputy Secretary
Brian Jones, Director

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
JUNE 20, 2019
HOLIDAY INN NORTH
2805 HIGHWOOD BOULEVARD
RALEIGH, NC 27604**

BOARD MEMBERS PRESENT

David Arndt
Ed Cobbler
Nada Lawrimore
Gerry Stickl
Clyde Cook
Debra Duncan
Steve Johnson
William MacRae
Jerry Pitman
Stacy Buff
Eric Weaver
Bud Cesena

BOARD MEMBERS ABSENT

Ron Burris
Tammy Owens

STAFF PRESENT

Brian Jones - Director
Phillip Stephenson – Deputy Director
Jeff Gray – Attorney
Kim Odom – Field Services Supervisor
Ray Bullard – Training Officer/Investigator
Scott Moller- Investigator
Garcia Graham – PPS Board Secretary

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GUESTS PRESENT

Kathy Broom
Tom Barnette
Don Miller
Gregory Hatten
Margaret Bell
Anne Johnson
Bob Dunn
Melvin Scott
Dorian Dehnel
Gregory Bentley

Sam Russell
Lanisha Lilly
Patrick Mitchell
Jeffrey Kiker
Carolyn Bentley
Tamara Rabenold
Marcus Lawing
Jeff Clark
Melissa Richardson

Pamela Mayfield
John Taylor
W.A. Wilke
Suzanne Creech
Craig Hope
Gary Pastor
Scott Snide
Archie Bryant
Morris Moye Jr.

CALL TO ORDER

Mr. Arndt called the June 20, 2019, Private Protective Services Board meeting to order at 8:00 a.m. Mr. Cook led the group in the Pledge of Allegiance followed by Chairman Arndt welcoming all guests.

STATE ETHICS LAW

Attorney Jeff Gray explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

MINUTES

APPROVAL OF THE APRIL 25, 2019 BOARD MEETING MINUTES.

MOTION BY MR. CESENA TO ACCEPT THE APRIL 25, 2019 MINUTES; SECONDED BY MR. COBBLER; MOTION CARRIED.

SCREENING COMMITTEE REPORT

Mr. Cobbler stated that the Screening Committee met on Wednesday, June 19, 2019 from 1:30 p.m. to 3:35 p.m. to review a total of sixty (61) applications and three (3) addendum items. The Committee members included Mr. Cobbler, Mr. Buff, Ms. Owens, Mr. MacRae and Ms. Duncan. Mr. Cobbler read the report for the record.

MOTION BY MR. CESENA TO ACCEPT THE SCREENING REPORT WITH THE EXCEPTION OF #11 AND #39; SECONDED BY MR. PITMAN; MOTION CARRIED.

MOTION BY MR. BUFF TO ACCEPT #11 OF THE SCREENING REPORT; SECONDED BY MS. DUNCAN; MOTION CARRIED.

MOTION BY MR. BUFF TO ACCEPT #39 OF THE SCREENING REPORT; SECONDED BY MS. DUNCAN; MOTION CARRIED.

Mr. Arndt recused himself from #11 of the screening report.
Mr. MacRae recused himself from #39 of the screening report.

GRIEVANCE COMMITTEE REPORT

Mr. Cesena reported that the Grievance Committee met on Tuesday, June 18, 2019 from 9:00 a.m. to 12:00 p.m. and heard a total of 17 cases. The Committee members included Mr. Cesena, Mr. Cook, Mr. Johnson, Mr. Stickl and Mr. Pitman. Mr. Cesena read the report for the record.

MOTION BY MS. DUNCAN TO ACCEPT THE GRIEVANCE COMMITTEE REPORT WITH THE EXCEPTION OF CASE NUMBERS 2019-PPS-033 AND CASE NUMBER 2019-PPS-034 GARY PASTOR; SECONDED BY MR. COBBLER; MOTION CARRIED.

MOTION BY MR. CESENA TO ACCEPT THE GRIEVANCE COMMITTEE RECOMMENDATION REGARDING GARY PASTOR'S CASES # 2019-PPS-033 AND 2019-PPS-034; SECONDED BY MS. DUNCAN; MOTION CARRIED.

Mr. MacRae recused himself from voting on Gary Pastor's cases #2019-PPS-033 and #2019-PPS-034.

TRAINING & EDUCATION COMMITTEE

Mr. Cesena reported that the Training & Education Committee met on Wednesday, June 19, 2019 from 9:00 a.m. until 10:30 a.m. The Committee members included, Mr. Cesena,

Mr. Johnson, Mr. Cobbler, Mr. Cook, Mr. Buff, Mr. Arndt and Mr. MacRae.

The following PPS Trainer courses are scheduled:

June 24-28, 2019 Unarmed Guard Trainer Course & Workshop at WTCC
July 8, 2019 Firearms Trainer Recertification/Prequalification at NCJA
September 4, 2019 Firearms Trainer Recertification/Prequalification at NCJA
September 9-12, 2019 Firearms Instructor Trainer Course at NCJA
September 23-27, 2019 Unarmed Guard Trainer Course & Workshop at WTCC
November 7, 2019 Firearms Trainer Recertification/Prequalification at NCJA
November 12-14, 2019 Long Gun Instructor Course at Camp Butner
November 14, 2019 Long Gun Instructor Recertification Course at Camp Butner
December 2-6, 2019 Unarmed Guard Trainer Course & Workshop at WTCC

The following PPS Trainer courses have been completed:

May 20, 2019 Firearms Trainer Recertification/Prequalification Course at NCJA

The following PPSB Training Courses for CEU Credit are scheduled:

June 20, 2019	1-5 p.m.	Raleigh, NC
August 22, 2019	1-5 p.m.	Raleigh, NC
December 19, 2019	1-5 p.m.	Raleigh, NC

Mr. Cesena stated that the Committee discussed several topics. One of the topics considered was allowing prospective trainers who are not affiliated with a licensed company to obtain certification. Mr. Cesena stated that the Committee voted to request Mr. Gray draft the rules allowing firearm and unarmed guard trainers to train independent of a licensed company. Further, the Committee requested that Director Jones evaluate potential costs with Permittium.

MOTION BY MR. CESENA TO REQUEST MR. GRAY TO DRAFT THE RULES THAT WILL ALLOW FIREARM AND UNARMED GUARD TRAINERS TO WORK INDEPENDENTLY OF A COMPANY AND ALSO, MR. JONES IS TO CONTACT PERMITTIUM TO DETERMINE THE COST; SECONDED BY MR. COBBLER; MOTION CARRIED.

Mr. MacRae reminded the audience that all individuals who currently served as firearm/unarmed guard trainers must be associated with a licensed company in order to renew their certification in the new Permittium system.

Mr. Cesena stated that the Committee also discussed the upcoming training that all law enforcement officers would receive and asked that Mr. Johnson elaborate. Mr. Johnson stated that the Board had requested that all law enforcement officers be made aware of the PPSB rules and regulations due to the amount of unlicensed activities. Mr. Johnson stated that the Criminal Justice Education & Training Standard and the North Carolina Sheriffs Education and Training Standard commissions reported that in 2020 all law enforcement officers would receive two (2) hours of mandatory training related to the Private Protective Services Board's rules and regulations during in-service training. He stated that this training is an endeavor to help North Carolina's law enforcement officers determine if an individual is properly licensed or registered with the PPSB.

Director Jones expressed concern about whether the district attorneys and their assistants were aware of the Private Protective Services Act. He expressed a desire to work with the North Carolina Conference of District Attorneys explore this as a training topic.

Weapon Discharge/Incident Reports:

Action Professional Security

On April 29, 2019 Investigator Bullard was contacted by Adam Tranum of Capitol Special Patrol. Tranum had been contacted by WNCN television in Charlotte about an accidental weapons discharge by a security guard. Tranum was forwarded a copy of a cell phone video that appeared to be recorded on April 18, 2019 at the Cookout restaurant located on Freedom Drive in Charlotte, North Carolina. The reporter was inquiring if the security guard in the video was an employee of Capital Special Patrol. Tranum advised that the security guard was not an employee of Capital Special Patrol. Tranum forwarded a copy of the video to Investigator Bullard.

On May 2, 2019 Investigator Bullard contacted the corporate offices of Cookout and spoke with Rich McCormick. McCormick advised Investigator Bullard that Action Professional Security was contracted to provide security at that particular Cookout restaurant. Investigator Bullard queried PPSM (Permitium) and discovered that Action Professional Security is a licensed company with PPSB and that Devan Fernandez is the Qualifying Agent.

On May 8, 2019 Devan Fernandez called Investigator Bullard and reported the accidental weapons discharge. Fernandez advised that Anthony Luke Otis was the security guard in the video whose weapon was discharged. Fernandez advised that Anthony Otis, Shawron Ollison and Brian Holmass were on duty the night of April 18, 2019 at the Cookout located on Freedom Drive in Charlotte. Fernandez advised Investigator Bullard that he questioned Ollison about the incident. Ollison advised that he had questioned Otis about his weapon discharging. Otis advised that his weapon did not discharge. Otis went to his vehicle and counted the rounds of ammunition in his weapon. Otis returned to the Cookout and advised Ollison that he still had all

of his rounds of ammunition and did not discharge his weapon. Fernandez explained that Ollison was a senior officer with Action Professional Security and was the supervisor on April 18, 2019.

On May 14, 2019 Devan Fernandez forwarded Investigator Bullard an email describing the events. Officer Otis advised Fernandez that he was adjusting his holster when his weapon discharged. The incident was not reported to the Charlotte Mecklenburg Police Department. Fernandez advised that Otis' employment with Action Professional Security has been terminated. Investigator Bullard queried PPSM (Permitium) and discovered that Ollison and Otis were properly registered armed guards. Brian Holmass was not registered and was working unarmed.

AIA Arcade, Charlotte

On May 9, 2019 Charlotte Mecklenburg Police Department responded to the AIA Arcade located at 5622 E. Independence Blvd., Charlotte, North Carolina in reference to an armed robbery. Upon arrival to the scene officers discovered that three black males had conducted an armed robbery of the business and patrons. During the robbery, one patron attempted to flee the business. One robber followed the fleeing patron. The robber ordered the patron onto the ground. The patron complied. The robber then discharged his weapon one time into an unknown direction. The security guard, later identified as Christopher Antwan Bass, ran out of the business and fired his weapon several times at the fleeing suspect. The suspects left the scene in a vehicle before police arrived. Police discovered two vehicles in the parking lot of the business that were struck by bullets. Christopher Antwan Bass gave the responding officers a copy of a Firearms Training Certificate. The Certificate indicates that Bass was trained by Christopher Lewis in June 2018.

A preliminary investigation revealed that Bass was not a properly registered guard and was not working for a licensed company. That part of the investigation is ongoing. Investigator Bullard is unable to contact either Bass or the AIA Arcade at this time.

According to news outlets the three suspects have been arrested. One of the suspects was possibly struck by Bass' gunfire and was transported to a nearby hospital with what was described as a "non-life threatening" gunshot wound.

East Coast Protective Services

On June 12, 2109 Tracy Burke, the Qualifying Agent for East Coast Protective Services, emailed PPSB advising that officer Brandon Izzard had accidentally discharged his firearm while working. Izzard was charged with discharging a firearm within the city limits by the Greensboro Police Department, which investigated the incident. Burke did not disclose the circumstances surrounding the incident, but indicated a full report would be forwarded to PPSB. A follow up report will be made in August about this incident

Mr. Cesena reported there were ten courses submitted to the T&E Committee:

Introduction to Defense Investigation (three hours)

Managing Your Time - Reducing Your Stress (two hours)

Behavioral Observation Skills for Private Investigators and Private Security Personnel (four hours)

Financial Crimes 101-10 Most Common Fraud Schemes for Employees (six hours)

Financial Crimes 102- Induction to White Collar Crime for the Investigator and Employer (six hours)

How to Run a Private Investigator Business (six hours)

Investigating Sexual Assault Allegations (six hours)

Introduction of Elicitation (eight hours)

Introduction of Surveillance Operations (eight hours)

Statement Analysis (eight hours)

MOTION BY MR. CESENA TO APPROVE THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING; SECONDED BY MR. WEAVER; MOTION CARRIED.

MOTION BY MR. COBBLER TO ACCEPT THE REPORT BY THE TRAINING AND EDUCATION COMMITTEE; SECONDED BY MR. COOK; MOTION CARRIED.

LAW AND RULES COMMITTEE

Ms. Lawrimore stated that she was unable to attend the Law and Rules Committee meeting and requested that Mr. MacRae temporarily serve as chair in her place. She stated the committee discussed Robert's Rules of Order and that Mr. Gray was gracious enough pass out a copy of a synopsis of the most commonly utilized rules to Board members. Ms. Lawrimore also stated that she purchased a copy of Robert Rules of Order and it would be available to anyone who would like to review it.

Ms. Lawrimore offered her personal apology to members of the industry and North Carolina Association of Private Investigators (NCAPI). In particular, she apologized to those stakeholders, who she asserted have had a difficult time dealing with the Board's proposed changes to the Private Protective Services Act, which had been formally adopted by the Board. Ms. Lawrimore expressed her belief that the NCAPI's actions led to a greater familiarity of the NCAPI among legislators.

MOTION BY MR. COBBLER TO ACCEPT THE LAW AND RULES COMMITTEE'S REPORT; SECONDED BY MR. WEAVER; MOTION CARRIED.

FINANCE REPORT

Mr. Weaver stated that the Finance Committee met and reviewed financial data and no issue(s) were raised.

MOTION BY MR. JOHNSON TO ACCEPT THE FINANCE COMMITTEE'S REPORT; SECONDED BY MR. CESENA; MOTION CARRIED.

ETHICS COMMITTEE

Ms. Duncan stated that everyone was in compliance with training and Statement of Economic Interest (SEI) requirements except for Mr. Cook who had submitted his resignation.

MOTION BY MR. COBBLER TO ACCEPT THE ETHICS COMMITTEE'S REPORT; SECONDED BY MR. WEAVER; MOTION CARRIED.

OLD BUSINESS:

None

NEW BUSINESS:

Mr. Arndt reported that Director Jones presented the proposed 2020 meeting dates for the Board's consideration. Director Jones suggested that all of the meetings be held in Raleigh. The proposed schedule is as follows.

February 12-13, 2020 - Raleigh
April 22-23, 2020 - Raleigh
June 17-18, 2020 - Raleigh
August 19-20, 2020 - Raleigh
October 14-15, 2020 - Raleigh
December 16-17, 2020 - Raleigh

Mr. Cesena suggested that the Board leave open the prospect of three-day meetings due to the numbers of grievance cases. Moreover, he would like the Board to consider traveling to Asheville in October and Wilmington in June. Mr. Cobbler agreed.

After some discussion regarding the location of the meeting Mr. Arndt asked for a motion.

MOTION BY MR. COBBLER TO ACCEPT THE 2020 PROPOSED MEETING DATES WITH THE EXCEPTION OF VISITING TWO DIFFEENT AREAS IN NORTH CAROLINA; SECONDED BY MR. CESENA; MOTION FAILED.

MOTION BY MR. JOHNSON TO ACCEPT THE PROPOSED 2020 PPS BOARD MEETING SCHEDULE AND ALL MEETINGS WOULD BE HELD IN RALEIGH, NC WITH THE POSSIBILITY OF ADDING AN EXTRA DAY TO MEETINGS IF NEEDED DUE TO THE VOLUME OF GRIEVANCE CASES; SECONDED BY MR. COOK; MOTION CARRIED.

Break 8:50 a.m.
Reconvened 9:10 a.m.

FINAL AGENCY DECISION

Shalom Yehu Williams, -18 DOJ06378. Mr. Williams was present. This case was heard by Administrative Law Judge Melissa Owens Lassiter on December 18, 2018. This case involved the summary suspension order of Petitioner's unarmed guard registration based on a lack of good moral character and temperate habits as evidenced by a charge of one count of Misdemeanor carrying a firearm without the proper firearm registration permit in violation of N.C.G.S. 74C-13(a).

MOTION BY MR. CESENA TO GO INTO CLOSED SESSION TO CONSULT WITH LEGAL COUNSEL; SECONDED BY MR. BUFF; MOTION CARRIED.

CLOSED SESSION: 9:50 a.m.
RECONVENED: 9:58 a.m.

MOTION BY MR. MACRAE TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION TO RESCIND THE SUMMARY SUSPENSION OF MR. SHALOM WILLIAMS UNARMED GUARD REGISTRATION; SECONDED BY MR. WEAVER; MOTION CARRIED.

Brandon Elye Williams, - 18 DOJ07767. Mr. Williams was present. This case was heard by Administrative Law Judge Stacey Bice Bawtinhimer on February 26, 2019. This case involved the denial of the Petitioner's armed armored car guard registration based on a lack of good moral character and temperate habits as evidenced by a conviction of three (3) counts of a Class 1 misdemeanor Attempt to Unlawfully Obtain a Credit Card and one count of misdemeanor Attempt to Possess a Counterfeit Instrument.

MOTION BY MR. COOK TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MR. WILLIAMS' ARMED ARMORED CAR GUARD REGISTRATION APPLICATION; SECONDED BY MR. JOHNSON; MOTION CARRIED. ONE OPPOSED MR. PITMAN.

Joseph Anthony Cina - 19 DOJ 00353. Mr. Cina was present. This case was heard by Administrative Law Judge Stacey Bice Bawtinhimer on February 26, 2019. This case involved whether Petitioner should be denied a Private Investigator license based on lack of good moral character and demonstration intemperate habits as evidenced by an unfavorable employment history.

MOTION BY MR. COOK TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MR. CINA'S PRIVATE INVESTIGATOR LICENSE; SECONDED BY MR. JOHNSON; MOTION CARRIED (Recused: Ms. Owens, Mr. MacRae, Mr. Stickl, Ms. Duncan, Mr. Buff and Mr. Cobbler).

Leroy McFadden Jr., - 19 DOJ00352. Mr. McFadden was present. This case was heard by Administrative Law Judge Stacey Bice Bawtinhimer on February 26, 2019. This case involved the denial of the petitioner's renewal of unarmed guard registration based on a lack of good moral character and temperate habits as evidenced by a conviction of one (1) count of a Class A1 misdemeanor Assault on a Child Under 12 in New Hanover, County, North Carolina.

MOTION BY MR. MACRAE TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MR. MCFADDEN'S UNARMED GUARD RENEWAL REGISTRATION APPLICATION; SECONDED BY MR. COOK; MOTION CARRIED. (Recused: Mr. Arndt)

Geoffrey Lawrence Jahn - 18 DOJ 06380. Mr. Jahn was not present. This case was heard by Administrative Law Judge Donald W. Overby on January 29, 2019. This case involved the summary suspension order of Petitioner's Private Investigator License based on lack of good moral character and temperate habits as evidenced by charges of misdemeanor Carrying a Concealed Handgun and misdemeanor Resisting a Public Officer in Union County, North Carolina.

MOTION BY MR. MACRAE TO DEFER THIS MATTER UNTIL THE AUGUST 2019 BOARD MEETING; SECONDED BY MR. COOK; MOTION CARRIED.

Clifton Lamont Tinnen - 19 DOJ 00475. Mr. Tinnen was not present. This case was heard by Administrative Law Judge Augustus B. Elkins II on March 26, 2019. This case involved the summary suspension order of Respondent's Security Guard & Patrol business license based on Petitioner's failure to register 93 armed security guards and 15 unarmed security guards and failure to respond to a subpoena from the Board for records.

MOTION BY MR. CESENA THAT IN LIGHT OF THE REVOCATION OF THE LICENSE OF CLIFTON LAMONT TINNEN THAT THE ISSUE IS NOW MOOT AND THE SUMMARY SUSPENSION BE UPHeld; SECONDED BY MR. WEAVER; MOTION CARRIED.

Henry Michael Jackson - 19 DOJ 00476. Mr. Jackson was not present. This case was heard by Administrative Law Judge Augustus B. Elkins II on March 26, 2019. This case involved the summary suspension order of Respondent's Security Guard & Patrol business license based on Petitioner's failure to adequately train and register armed and unarmed guards.

MOTION BY MR. CESENA THAT IN LIGHT OF THE REVOCATION OF THE LICENSE OF HENRY MICHAEL JACKSON THAT THE ISSUE IS NOW MOOT AND THE SUMMARY SUSPENSION BE UPHELD; SECONDED BY MR. WEAVER; MOTION CARRIED.

Adonis Cantrell McCoy, -18 DOJ06379. Mr. McCoy was not present. This case was heard by Administrative Law Judge J. Randolph Ward on November 27, 2018. This case involved the summary suspension order of Respondent's unarmed and armed security guard registration based on lack of good moral character and temperate habits as evidenced by a charge of one count of Misdemeanor carrying a firearm without the proper firearm registration permit in violation of N.C.G.S. 74C-13(a).

MOTION BY MR. CESENA TO CONTINUE WITH THE SUMMARY SUSPENSION OF ADONIS CANTRELL MCCOY'S UNARMED AND ARMED GUARD REGISTRATION UNTIL HIS CRIMINAL CHARGES HAVE BEEN RESOLVED; SECONDED BY MR. COOK; MOTION CARRIED.

Keifer Austin Furr - 18 DOJ06219. Mr. Furr was not present. This case was heard by Administrative Law Judge Melissa Owens Lassiter on December 18, 2018. This case involved the suspension of the Petitioner's armed guard registration for convictions of possession of an Unregistered Firearm and misdemeanor Possession of Ammunition in Washington, District of Columbia.

MOTION BY MR. MACRAE TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND RESCIND THE SUMMARY SUSPENSION OF MR. FURR'S ARMED GUARD REGISTRATION; SECONDED BY MS. DUNCAN; MOTION CARRIED
(Recused: Mr. Cesena).

Stevie Earl Dunn - 18 DOJ06382. Mr. Dunn was not present. This case was heard by Administrative Law Judge Stacey Bice Bawtinhimer on February 26, 2019. This case involved the denial of the Petitioner's unarmed and armed guard registrations based on lack of good moral character and temperate habits as evidenced by a conviction of misdemeanor Assault on a Female in Wake County, North Carolina.

MOTION BY MR. CESENA TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MR. DUNN'S UNARMED AND ARMED GUARD

REGISTRATION APPLICATIONS; SECONDED BY MR. STICKL; MOTION CARRIED.

Mr. Cobbler expressed a desire to discuss the process of automatic recusal of the Screening Committee members in Final Agency Decisions for licensure.

Mr. Johnson stated that members of the Screening Committee made a decision on the applicants' original application for licensure. Without automatic recusal of those members, it is possible that the same Board members could hear the same matter twice, which subjects the applicant to review by the same Board members on two occasions. This practice is somewhat similar to double jeopardy and may not be equitable to the applicant.

Ms. Duncan stated that she does not agree with automatic recusal and expressed an opinion that recusal should be a personal decision for each Board member. She stated that she would like to have the opportunity to hear the Final Agency Decision because there may be new information or evidence that was not available to Board members during the Screening Committee meeting at the time members made their initial decision to deny an application.

After some discussion regarding the automatic recusal process of the Screening Committee Mr. Cobbler made a motion.

MOTION BY MR. COBBLER TO CHANGE THE CURRENT PROCEDURE OF THE AUTOMATIC RECUSAL AND TO ALLOW THE SCREENING COMMITTEE MEMBERS TO HEAR ALL LICENSURE FINAL AGENCY DECISION CASES AND FOR EACH MEMBER TO MAKE THEIR OWN PERSONAL DECISION REGARDING RECUSAL; SECONDED BY MS. DUNCAN; MOTION FAILED.

This was tabled until the August Board meeting.

DIRECTOR'S REPORT:

Director Jones read the report for the record. He reported the Board's revenue as of May 31, 2019 was \$1,254,377.86 with expenditures in the amount of \$1,321,167.79, reflecting a decrease to the fund balance of \$66,789.93. The total fund balance was \$1,133,576.78. He reported the Education Fund balance was \$106,638.75 with no disbursements. Director Jones reported that since the April Board meeting, PPS had received 4,248 registration applications, 77 applications for licensure and 76 certification, which brought the active numbers to fore registration to 30,366, license holders to 2044 and certification holders 654. Staff had printed 6547 cards since the last meeting.

Director Jones stated that staff members were in the process of conducting interviews for the open Investigator position in Greensboro. Additionally, staff members were reviewing

applications for a Processing Assistant vacancy.

Director Jones stated that the Registration Unit continues to make tremendous progress addressing the backlog. As of June 17th, employees had processed armed guard applications submitted through May 7, 2019 and unarmed guard applications submitted through April 23, 2019.

Director Jones reported that the Department of Public Safety conducts annual reviews of Private Protective Service's fiscal policies and procedures. The auditor began conducting this year's review at the PPS office on February 26th and concluded on March 6th. The audit noted no findings.

Director Jones stated that Permutium was completing the final stages of development. Representatives met with staff on June 5th to provide an overview of progress and discuss pending issues to be resolved. Director Jones also stated that he was working with the Purchasing and Logistics Office to renew the contract with Permutium, which expires in July.

Director Jones stated that the contract with the criminal record check vendor recently expired. Pursuant to NCGS 74C-8.1(a), the Board may designate a reporting service to provide criminal record reports. Accordingly, a request for proposals was posted on May 13, 2019.

Director Jones stated that the Private Protective Services Board did not receive any grant applications during its recent solicitation.

MOTION BY MR. COBBLER TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. STICKL; MOTION CARRIED.

ATTORNEY'S REPORT

Attorney Gray discussed the following:

CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. On February 21, 2019 Clifton Lamont Tinnen/Integrity Protection Services enter into a Consent Agreement with the Board in the amount of \$19,461.60 for registration violations. The temporary agreement was signed by QA, Clifton L. Tinnen, on February 19, 2019. To be paid in three monthly installments. Payment has not been received. Rescheduled for Grievance Committee meeting on June 18, 2019.

Mr. Gray stated that Mr. Tinnen Security Guard & Patrol license has been revoked.

2. On February 21, 2019 Dakota Jermaine Covil/Semper Fidelis Security Services, LLC enter into a Consent Agreement with the Board in the amount of \$2,080.80 for registration violations. The temporary agreement was signed by QA, Dakota J. Covil, on February 19, 2019. Paid in full.

I. OFFICE OF ADMINISTRATIVE HEARINGS

See, Hearings List (Attachment 1).

II. ADMINISTRATIVE RULES

a. At its meeting on February 22, 2018, the Board began the process for its Periodic Review of Rules to occur in August 2018. The report for the Board's rules was filed and the Public Comment Period ended May 8, 2018. No public comments were received. The Board voted at its June 21, 2018 meeting to approve its rules.

The Board's rule readoptions were on the Rules Review Commission's August 16th agenda. The report containing the final classification of the entirety of the Board's rules as "Necessary with Substantive Public Interest" was approved. At its October 25, 2018 meeting, the Board voted to readopt these rules. On November 16th the Notice of Text was filed to commence what is essentially the rulemaking process (i.e. 60-day comment period, public hearing, technical change requests, etc.). The Board has until April 2020 to readopt its rules. A copy of the administrative rule readoptions, which included the rule amendments in b., below, were attached to Mr. Gray's December 20, 2018 Attorney's Report.

The Notice of Text for the readoptions was filed, the rules were published on the Board's website and in the North Carolina Register (Vol.33; Issue 5; Feb. 1, 2019), and a Public Hearing was conducted on February 20, 2019. No written or oral comments were received. The Public Comment Period ended on April 2, 2019. These administrative rule readoptions were an attachment to Mr. Gray's April 25, 2019 Attorney's Report and approved by the Board that day. These readoptions will be considered at the Rules Review Commission's August meeting.

b. At its June 21st meeting, the Board authorized me to proceed with drafting proposed amendments to the Board's administrative rules governing unarmed and armed guard courses and trainers. These amendments were prepared and forwarded to Members Bud Cesena and Steve Johnson for review and comment. They had some questions or concerns about the practical application of two of the amendments which were discussed at the August 23rd Education and Training Committee meeting. It was decided to not pursue these two proposed amendments, but proceed with the remaining proposed amendments. The Board approved these rule amendments at its October 24, 2018 meeting. The Notice of Text for these rules was filed on November 16, 2018 as part of the rule readoptions in a., above.

c. As previously mentioned to the Board during its creation and implementation, the new Permittum on-line licensing and registration system will require changes to the

corresponding sections of the Board's administrative rules. With the assistance of Registration Supervisor Shannon Thongkheuang and Licensing Supervisor, Garcia Graham, and former Board Legal Counsel Charles McDarris, Mr. Gray prepared draft rules for the necessary changes and amendments which were approved at the Board's April 25, 2019 meeting. These rule changes and amendments will be considered at the Rules Review Commission's August meeting, and if approved, be effective September 1, 2019.

III. LEGISLATION

a. At the request of the Law & Rules Committee, Mr. Gray prepared a new proposed bill for introduction in the current 2019-2020 Legislative Session. The bulk of this new bill is identical to House Bill 566/Senate Bill 634 from the 2017-2018 Session but with the addition of one new provision voted on by the Board after introduction of these bills, as well as various technical changes you approved.

The Law & Rules Committee considered this new bill at its meeting on December 20, 2018. A copy was attached to Mr. Gray's December 21, 2018 Attorney's Report, and the proposed bill was discussed at the full Board meeting on December 21st where it was deferred to a special Board meeting. Another copy was e-mailed to all Board members and it was again discussed at a special Board meeting via telephone conference call on January 25, 2019. It was tabled for discussion until the Board's February 21st meeting and was approved with some minor modifications. It was introduced in the House as House Bill 630, "Private Protective Services Changes." A copy of the original version of House Bill 630 was attached to Mr. Gray's April 25, 2019 Attorney's Report.

House Bill 630 was heard in the House State & Local Government Committee on April 29th and following a minor technical amendment it received a unanimous vote for a Favorable Report and was referred to the House Finance Committee. It was heard in that Committee on May 29th where it was amended to include a rewrite of the law governing the Alarm Systems Licensing Board. With only two or three "nay" votes, it received a Favorable Report and was referred to the House Committee on Rules, Calendar, and Operations of the House on May 29, 2019.

A copy of House Bill 630 as it currently appears was attached as Attachment 2.

b. As a direct response to the three-judge panel's Order in *Cooper v. Berger, et al.*, 17 CVS 6465 – Wake County (*see*, October 25, 2018 Attorney's Report), three bills were introduced in the General Assembly last Fall effecting the Board and its appointments. Both Senate Bill 821, introduced by Senator Andy Wells, and House Bill 1117, introduced by Representative David Lewis, would have repealed N.C. Gen. Stat. § 74C-4, the Board's appointment provision, as well as similar appointment provisions in the other five boards and commissions that were the subject of *Cooper v. Berger*, effective June 30, 2019. The third bill, House Bill 1120, introduced by Representative Charles McGrady, would have amended N.C. Gen. Stat. § 74C-4 to reduce the Senate and House appointments from five each to three each and establish the terms of the appointments.

The only one of the three bills to see any action was Senate Bill 821; it passed the Senate on December 6, 2018. None of the three passed both houses before adjournment. Copies of each of these three bills were attached to Mr. Gray's December 20, 2018 Attorney's Report.

The legislature convened on January 30, 2019 for its 2019-2020 Session and Representative McGrady, now joined by four additional Primary Sponsors, introduced House Bill 14 the first day. It is identical to House Bill 1120 from the previous Session. A copy was attached to Mr. Gray's February 21, 2019 Attorney's Report. There has been no action on this bill.

However, Senate Bill 381, introduced by Senator Andy Wells, has seen action. Identical to House Bill 14, this bill gives the House and Senate three appointments each and the remainder to the Governor. It passed the Senate on April 18th, was sent to the House where it was amended in two separate committees (but not effecting the Board appointments), and passed the House on May 5th. It was returned to the Senate for concurrence, passed June 11, 2019, and has been sent to the Governor for his approval.

A copy of Senate Bill 381 as passed was attached as Attachment 3.

c. House Bill 760, "Expand Loss Prevention," was introduced on April 15, 2019. It would amend the exemptions section of Chapter 74C in an attempt to clarify that loss prevention investigators have the authority to conduct investigations beyond the businesses premises. A copy of the original version was attached to Mr. Gray's April 25, 2019 Attorney's Report and Mr. Gray explained this bill further in the meeting. The Board also responded to this issue by formally adopting a Statutory Interpretation of N.C. Gen. Stat. § 74C-3(b)(14).

This bill passed the House on May 3rd and has been referred to the Senate Committee on Rules, Calendar and Operations of the Senate. A copy was attached as Attachment 4.

d. Senate Bill 305, "OLB Reform," was introduced on March 19, 2019. It modifies and adds to the Chapter's definitions set out in N.C. Gen. Stat. § 93B-1 by modifying the definition of "occupational licensing board" to include any board, committee, commission, or other state agency which is established for the purpose of regulating the entry of persons into, and the conduct within (was, "and/or the conduct within"), a particular profession or occupation, which is authorized to issue licenses.

It maintains the term "does not include State agencies, staffed by full-time State employees, which as a part of their regular functions can issue licenses", but adds the term "State agency licensing board," and defines the term to include any State agency, staffed by full-time State employees, which as part of their regular functions issue licenses. It then includes a nonexclusive list of ten State agency licensing boards and the profession or occupation for which the board, agency, or officer can issue license. **The Private Protective Services Board is included on this list of ten.**

Therefore, the Private Protective Services Board would no longer be considered an "occupational licensing board," but instead be designated a "State agency licensing board." (Interestingly, the Alarm Systems Licensing Board would remain an o.l.b.)

Additional reports would be required of o.l.b.s. Further, denial, suspension or revocation based upon “crimes involving moral turpitude” would be deleted from the enabling statute of 34 occupational licensing boards. (It also deletes the Dental Board’s “crime involving gross immorality” and the Optometry Board’s “immoral conduct.”) Chapter 74C does not make reference to crimes of moral turpitude. A copy was attached to Mr. Gray’s April 25th Attorney’s Report.

An identical bill, House Bill 910, was filed in the House on April 16th. Neither bill has seen action.

e. Senate Bill 473, “Various OLB and Administrative Law Changes,” was introduced on April 2, 2019. This bill directs the Joint Legislative Administrative Procedure Oversight Committee (APO) to study whether the definition of “occupational licensing board” under N.C. Gen. Stat. § 93B-1 and the definition of “occupational licensing agency” under N.C. Gen. Stat. § 150B-2 should be specific lists of occupational licensing boards in order to clarify which state agencies should be considered occupational licensing boards for purposes of Chapters 93B and 150B, then directs the APO to recommend which state agencies should be included under each definition if that determination is made, and report the results of the study to the 2020 General Assembly.

It amends N.C. Gen. Stat. § 143B-426.39, requiring the State Controller to develop and prescribe a uniform format for financial statements of the annual financial audits required by each licensing board pursuant to N.C. Gen. Stat. § 93B-2(b), and requires consultation with the State Auditor and occupational licensing boards in doing so. The financial statement audit reporting format is to be used for reports submitted on or after July 1, 2020. (Note: The PPSB’s financial reporting is done through the Department of Public Safety.)

The bill also changes the title of N.C. Gen. Stat. § 150B-21.5 of the Administrative Procedure Act (APA) to “Circumstances when notice and rule-making hearing not required; circumstances when submission to the Rules Review Commission is not required.” It amends subsection (a) to provide that an agency is not required to publish a notice of text in the North Carolina Register, hold a public hearing, or submit the amended rule to the Rules Review Commission for review (previously, did not except submission of the amended rule to the Commission for review) when the agency proposes to amend a rule to do one of the specified purposes in subsection (a). Provides changes to a few of the specified purposes for which notice, a public hearing, and submission to the Commission for review are not required, which include (1) when the rule is amended to change information readily available to the public, such as an address, telephone number, or a web site (previously, did not include a web site) and (2) when the rule is amended to correct a typographical error (previously, correct a typographical error in the North Carolina Administrative Code). It further moves the sixth purpose excepted in subsection (a) to new subsection (a1) to provide that an agency is not required to publish a notice of text in the Register or hold a public hearing when it proposes to change the rule in response to a request or an objection by the Commission, unless the Commission determines that the change is substantial (note, not excepted from rule submission to the Commission in this circumstance). Creates new subsection (e) to require any agency that adopts or amends a rule under subsection

(a) or (c) of N.C. Gen. Stat. § 150B-21.5 to notify the Codifier of Rules of its actions and directs the Codifier of Rules to make the appropriate changes to the North Carolina Administrative Code when notified of such agency action.

It changes the title of N.C. Gen. Stat. § 150B-21.20 to “Codifier’s authority to revise rules” and amends the Codifier of Rules authority to allow the Codifier, after consulting with the agency that adopted the rule, to revise a rule (previously, revise the form of a rule submitted for inclusion in the North Carolina Administrative Code) to do one or more of the specified objectives. It adds four objectives for which the Codifier may revise a rule: (1) to substitute one name for another when an organization or position is renamed; (2) to correct a citation in the rule to another rule or law when the citation has become inaccurate because of the repeal or renumbering of the cited rule or law; (3) to change information that is readily available to the public, such as an address, a telephone number, or a web site; or (4) to correct a typographical error.

It divides existing N.C. Gen. Stat. § 150B-22, “Settlement; contested case,” into two subsections and additionally, clarifies that a party or person aggrieved cannot be required to petition an agency for rule making or to seek or obtain a declaratory ruling before commencing a contested case under N.C. Gen. Stat. § 150B-23 (provisions for commencement of a contested case), then makes conforming changes to N.C. Gen. Stat. § 150B-43, “Right to judicial review”.

It also makes changes to the APA concerning the periodic review and expiration of existing rules. (Since the Board is completing this process now, and will not have to undergo it again for 10 years, Mr. Gray will not elaborate on this section.)

The remaining portion of House Bill 473 merges the Barber Board and Cosmetology Board and adds appointees to the Massage and Body Work Therapy Board. Since these provisions make this bill rather lengthy, a copy is not attached.

This bill has not seen action.

f. Senate Bill 478, “Removal Power Modifying Reporting,” would allow the Governor to remove individuals from boards and commissions for malfeasance and/or nonfeasance regardless of the individual’s appointment or authority. It would also require reporting of “gender-proportionate appointments” to more than just regulatory bodies as currently required, and require it for “public bodies” including certain units of local government. A copy was attached to Mr. Gray’s April 25th Attorney’s Report. Following a minor amendment on the floor, Senate Bill 478 passed the Senate on April 30th and has been referred to the House Rules Committee. (Copy not attached.)

g. House Bill 484, “Verification of Immigration Status,” was introduced on March 28, 2019. It would require all State agencies and licensing boards to verify the immunization status of applicants using the federal Department of Homeland Security’s Systematic Alien Verification for Entitlements, or “SAVE” system. It would require that the Board enter an agreement with Homeland Security and it would require yet another report be submitted. (Copy not attached.) This bill has seen no action.

h. House Bill 590, “Amend Administrative Procedures Laws,” was introduced on April 4, 2019. It is best described as a condensed version of SB 305, above, and authorizes certain technical corrections by the Codifier of Rules, clarifies the provision in N.C. Gen. Stat. § 150B-2(b) regarding declaratory rulings, and amends the Periodic Review of Rules process. Following an amendment in two successive committees it passed the House on May 2nd and has been referred to the House Rules Committee. (Copy not attached.)

i. House Bill 770, “Freedom to Work,” was introduced on “tax day,” April 15th. This bill amends N.C. Gen. Stat. § 15A-173.2(d) to require rather than permit an administrative agency, governmental official, or civil court to consider a certificate of relief (i.e. pardon, expungement, etc.) favorably in determining whether a conviction should result in disqualification.

It amends N.C. Gen. Stat. § 93B-8.1 to prohibit an occupational licensing board from automatically denying licensure on the basis of an applicant's criminal history unless federal law governing a particular occupation provides otherwise (was “unless the law governing a particular occupational licensing board”). If passed it will provide that if a board is authorized to deny a license on the basis of a verified conviction of any crime (was also for “commission of a crime involving moral turpitude”), the board is permitted to deny the license if it finds by clear and convincing evidence that the applicant's criminal history is directly related to the duties and responsibilities for the licensed occupation (previously, no burden of proof was specified nor was the board required to directly link the applicant's criminal history to the occupation for denial). It maintains the eight factors a licensing authority must consider in making its determination. Adds that a certificate of relief must be considered favorably by the board.

It also adds a new procedure for applicants to petition a board at any time for a determination of whether the individual's criminal history will disqualify the individual from obtaining a license. It requires the board to make a determination pursuant to the standard parameters it would in reviewing an application and notify the individual of the determination within 30 days of receipt of the petition and allows the board to charge of fee of no more than \$25.00 per petition. It mandates that the board notify an individual of a denied petition and include the grounds for the board's reasoning, that the individual has a right to contest the decision, the earliest date the individual can reapply for a license, and further evidence of rehabilitation that will be considered upon reapplication, and specifies that a determination of eligibility upon a petition is binding if an applicant fulfills all other requirements for the occupational license and the applicant's criminal history record is accurate and remains unchanged at the time of application for licensure.

Further, it enacts new N.C. Gen. Stat. § 93B-8.6 to require a licensing board to grant licensure to an applicant who has completed an apprenticeship approved by the State or federal Department of Labor or otherwise permitted by law, and who passed an examination, if necessary. (Since the Board does not have an “apprenticeship” -- and the PIA process does not meet this definition -- Mr. Gray will not elaborate on this section.)

This bill was amended in two successive committees and passed the House 112-0 on May 3rd. It has been referred to the Senate Rules Committee. If passed, the bill would apply to

certificates of relief granted or applications for licensure submitted on or after October 1, 2019. A copy as it currently appears was attached as Attachment 5.

j. House Bill 902, “Military-Trained/Spouse Licensure Practices,” was introduced on April 16, 2019. This bill would require the Program Evaluation Division of the General Assembly to study the extent to which the provisions of Gen. Stat. § 93B-15.1 have improved the ability of military-trained applicants and military spouses to become licensed by occupational licensing boards. The PED’s study is due to the Joint Legislative Oversight Committee on General Government and to the Department of Military and Veterans Affairs by February 1, 2020. (No copy attached.)

This bill passed the House 114-0 on May 2nd and has been referred to the Senate Rules Committee.

k. Senate Bill 553, “Regulatory Reform Act of 2019,” is a broad-ranging bill addressing a myriad of laws from the limits on public employees benefitting from government contracts (raising the cap!), to amending the plumbing code, to amending the real estate licensing law, to repealing the ban on computer monitors and TVs being dumped in landfills. One provision, however, would effect the Board.

Section 4. (a) of this bill, if passed, would require all Gen. Stat. § 93B-1 boards to study and report to the Legislative Administrative Procedures Oversight Committee by December 31, 2019 any available options for on-line continuing education. (No copy attached.)

IV. PENDING CASES

a. On January 9, 2018 Mr. Gray filed a Complaint for Injunctive Relief in Wake County Superior Court against Kendall L. Locklear for failure to register armed proprietary security guards. At the same time Mr. Gray filed a related Motion for Temporary Restraining Order (TRO). Mr. Locklear was served by Sheriff and appeared at the TRO hearing. The presiding Judge issued the TRO and set the hearing on the Preliminary Injunction for Monday, January 22nd. Mr. Locklear appeared at this hearing as well. The Court granted the Board’s Motion and a Preliminary Injunction was entered on this date enjoining Mr. Locklear or his alter-ego “Tuscarora Nation,” and his or its officers, agents and employees from providing armed private protective services without properly registering the armed guards.

In late October, 2017, a Special Agent of the Alcohol Law Enforcement Section (ALE) of the North Carolina State Bureau of Investigation contacted Investigator Cynthia Hepburn and informed her that Mr. Locklear appeared to be operating an unlicensed security guard and patrol service in a casino in Maxton, North Carolina. Investigator Ronald Broadwell was assigned to investigate the matter.

On November 2, 2017, Investigator Broadwell met with the reporting ALE agent and a Sergeant with the Robeson County Sheriff's Office and was shown an undercover video taken inside the "Tuscarora Nation Casino" located at 1345 Modest Road, Maxton, North Carolina. The video clearly showed a person identified as Mr. Locklear and other persons walking around in security guard-style uniforms armed with handguns. On November 7, 2017, Investigator Broadwell, along with Deputies from the Robeson County Sheriff's Office and agents of the ALE and federal ATF, went to the Tuscarora Nation Casino.

Upon arrival at the scene, Investigator Broadwell and the law enforcement officers encountered Kendall Locklear at his residence (which is adjacent to the casino), and Mr. Locklear informed Investigator Broadwell that he was the owner and operator of the casino and the casino is a "sovereign nation." He further advised that "they" (i.e. he and the Nation) did not abide by any county, state or federal laws and they were their own country; he further advised that they do not pay state or federal taxes. He also advised Investigator Broadwell that he was in charge of security and they provided their own armed guards.

Investigator Broadwell informed Mr. Locklear of the provisions of the Board's law and that even though his security was proprietary the armed guards were required to be registered with the Board. Mr. Locklear told Investigator Broadwell that his lawyer (located in Washington, D.C.) told him that as a sovereign nation they did not need "permission or permits to have armed security guards." He showed Investigator Broadwell a driver's license and a concealed weapon permit issued by the "Tuscarora Nation." He claimed no law enforcement agency could arrest him.

He then voluntarily gave Investigator Broadwell and the law enforcement officers a tour of the casino. With his permission, Investigator Broadwell took approximately ten (10) pictures of the exterior and interior of the casino and employees with uniforms, security insignia and badges armed with handguns. Investigator Broadwell personally observed at least four (4) guards visibly patrolling the interior armed with handguns. Some were in plain clothes and some in uniform.

Mr. Locklear confirmed with Investigator Broadwell that he paid the armed guards through the Tuscarora Nation and that the armed guards were not trained and had never qualified with the firearms they carry. (The "casino" is actually only a building with video poker machines, and is open 24 hours per day, seven (7) days per week, and has three (3) security guards per shift.)

Mr. Locklear was orally advised to cease all armed security guard activity.

Indian tribes recognized by the State of North Carolina can be found in Chapter 71A of the North Carolina General Statutes. The "Tuscarora Nation" is not a recognized tribe in this State. According to the Secretary of State's website section for "Corporations" numerous legal

entities contain the words “Tuscarora Nation” or “Tuscarora Indians.” A website for the “Tuscarora Nation” appears on-line, but does not state which corporate entity it represents.

To be a federally recognized Indian tribe requires an Act of the United States Congress. Only a single tribe - - the Eastern Band of Cherokee Indians residing in Cherokee, Graham, Jackson, Swain and adjoining mountain counties of North Carolina - - is recognized by Congressional act. No other tribe residing in North Carolina is federally recognized. N.C. G.S. § 71A-2 specifically bars any other tribe claiming rights through the Eastern Band of Cherokee’s federal recognition.

The Eastern Band of Cherokee Indians is also the only tribe in North Carolina with Trust land, and considered a “sovereign nation.” Further, the Eastern Band of Cherokee Indians has a compact with the State of North Carolina, approved by the federal Indian Gaming Commission, which allows for legal gambling upon its Trust land. No other tribe has a similar compact.

The “casino” is on land he has deeded to the Tuscarora Nation located in up-state New York but Mr. Gray could find no authority for his claim that his actions are not governed by the laws of the State of North Carolina.

Prior to filing the Complaint Director Jones had attempted to serve Mr. Locklear with a written notice to cease and desist but he refused to sign for the Certified Mail.

On July 23, 2018, agents of the North Carolina Alcohol Law Enforcement Division, along with agents and officers of the Robeson County Sheriff’s Office, U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, and five other agencies served search warrants on three locations for illegal casinos operated by Defendant and charged Defendant and 25 others, including his employees, with gambling, manufacturing controlled substances, money laundering, and failing to register armed security guards. In the Maxton location (1345 Modest Road), 13 employees of Defendant were arrested and charged with violating N.C. Gen. Stat. 74C-13(a); in the Pembroke location, four employees were charged; and in the Red Springs location 13 were charged.

On August 13, 2018, Mr. Gray filed a Motion to Show Cause as to why Defendant Locklear should not be held in civil and/or criminal contempt for violating the Preliminary Injunction entered on January 22, 2018. An Affidavit from Deputy Director Phil Stephenson, who was personally involved with the execution of the search warrant at 134 Modest Drive and the two other locations on July 23, 2018, was attached to the Motion, which was mailed to the Defendant. The Motion was returned “unclaimed” along with a Notice of Hearing for October 29th, so it was necessary to serve Mr. Locklear by personal service through the Sheriff of Robeson County. At a hearing on the Motion on November 26, 2018 the presiding Judge issued an Order for Mr. Locklear to appear and show cause as to why he should be found in contempt of Court.

The contempt hearing was first calendared for January 7, 2019, but Defendant was not served until that day. His hearing was recalendared. He was served on January 25, 2019 for his contempt hearing on February 18, 2019.

b. For the past 50 months Mr. Gray has been reporting to the Board the status of a civil action filed against Board Investigator Sarah Conner, the Board, the City of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-cv-636 - - WDNC. (Mr. Kelly was unlicensed as a security guard business and unregistered as a security guard, but performing armed security guard and patrol services. He was arrested by the Charlotte-Mecklenburg Police Department and charged with violating Chapter 74C.) The Court granted the Board's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6) and Motion for Summary Judgment, as well as similar motions filed by the other Defendants, on May 27, 2015 and this action was dismissed with prejudice. The Plaintiff gave notice of appeal on June 24, 2015, and the parties filed their respective Brief with the Fourth Circuit Court of Appeals on November 13, 2015.

Oral arguments in this matter were held on Tuesday, October 25, 2016 in Richmond, Virginia and Robert M. McDonnell, the attorney for the Charlotte-Mecklenburg Police Department, and Mr. Gray shared the Appellees' allotted time. Member Justin Greene attended the arguments as the Board's representative.

Mr. Gray received the opinion of the Court on November 11, 2016. In a very strange and sudden turn of events, the appeal was dismissed and the case remanded to the federal Magistrate Judge who heard the parties' motions for summary judgment.

In its simplest terms, the Court found that the Judge had failed to rule on two counts in the Plaintiff's Complaint and therefore only granted partial summary judgment; the granting of only partial summary judgment is "interlocutory in nature," which means it cannot be appealed until the entire case is concluded.

The attorneys for all parties filed a Motion for Status Conference on December 8, 2016. On April 4, 2017 the Judge ruled on this Motion by way of an Order requiring the parties to confer and file a status report. As a result of the status report filed by the attorneys the Judge ordered that the matter be re-mediated and that two issues -- the two of most importance to the Board -- be re-briefed.

Interestingly, the Plaintiff moved to dismiss four of the five Charlotte-Mecklenburg police officers as individual Defendants (leaving only Kerl) and the Judge granted the request on June 9, 2017. The City of Charlotte, the Board, (retired) Investigator Sarah Conner and CMPD officer Jason Kerl still remain as Defendants.

The second attempt at court-ordered mediation in this matter was to be held on August 16, 2017 in Charlotte, but was postponed due to the Plaintiff's attorney being unexpectedly in a criminal trial an extra day; it was held on August 28th and was impassive by the mediator since there could be no resolution. New motions for summary judgment and to dismiss and a response to the two counts in Plaintiff's Complaint as ordered by the Fourth Circuit Court, and a supporting Memorandum of Law, were filed by me on behalf of the Board on September 1, 2017. Mr. Gray then filed a Response to Plaintiff's Memorandum of Law in Opposition to the Board's Motion to Dismiss and Second Motion for Partial Summary Judgment on October 13, 2017.

The Judge entered a Supplemental Memorandum and Order addressing counts 11 and 12 in Plaintiff's original Complaint, then reaffirmed his May 27, 2015 Memorandum and Order denying Plaintiff's first Motion for Partial Summary Judgment, granting the Defendants' initial Motions for Summary Judgment and dismissing the Complaint with prejudice. This Order then granted Defendant North Carolina Private Protective Services Board's New Motion to Dismiss and Renew[ed] Motion for Summary Judgment, granted Defendants Kerl, Mickley, Murray, Ford, and Narvaez's Renew[ed] Motion for Summary Judgment, granted Defendant City of Charlotte's Second Motion for Summary Judgment, granted Defendant Sarah A.H. Conner's Renewed Motion to Dismiss and/or Summary Judgment, and denied Plaintiff's Motion for Partial Summary Judgment. The Judge then dismissed the Complaint with prejudice.

Plaintiff gave Notice of Appeal on January 13, 2018.

The parties received a Scheduling Order from the Fourth Circuit Court of Appeals, and following a Consent Motion to Extend Time to File, the Plaintiff-Appellant's Brief was filed on March 29, 2018 and the Defendants-Appellees' Brief was filed on May 17, 2018. Plaintiff-Appellant filed a Reply Brief on May 30, 2018.

The Court tentatively calendared this matter for oral argument for two different sets of dates but those tentative dates were canceled. It was then calendared for Tuesday, March 19, 2019 and heard on that date. Director Jones attended the oral argument in Richmond, VA with me.

As announced during the Board's April meeting the Court's opinion was received the day after the Attorney's Report was printed. The Court ruled in favor of all Defendants striking down the innumerable claims of Plaintiff.

Of central importance to the Board is that this opinion establishes that the Board's enabling statute is constitutional, and that no person can perform a function defined as a "private protective service" armed unless licensed or registered with the Board with the proper training and endorsement.

MOTION BY MR. JOHNSON TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. STICKL; MOTION CARRIED.

PUBLIC COMMENT

Suzanne Creech asked the Board for clarification regarding whether a licensed private investigator is permitted to subcontract work related to duties for which the private investigator does not possess the relevant license.

Mr. Cesena acknowledged that was permissible as long as the private investigator does not perform the work and that the private investigator does not hold him/herself out as possessing a license that he/she does not possess.

Robert Santiago gave a brief overview of his past experience and asked the Board a question regarding the application process. Specifically, he asked whether the Board verifies the validity of information provided in an application for licensure. If so, he asked what steps were taken to verify the information.

Director Jones acknowledged that staff members attempt to verify information provided in applications prior to presenting the applications to the Board and its committees.

Gary Pastor provided a brief overview of the guidelines requirements for obtaining private investigator and electronic countermeasure licenses.

Patrick Mitchell suggested that the Board evaluate the procedures for uploading documents to Permitium. In particular, he asked that the Board consider numbering forms to ensure that industry stakeholders are submitting the correct version.

GOOD OF THE ORDER:

Mr. Arndt introduced NCAPI President, Gregory Hatten.

Mr. Hatten, stated that the Association's Fall Conference is November 7-9, 2019 and it will be held at the Great Wolf Lodge in Concord, NC. Further, he stated that next year's conference would be held in Cherokee, NC. He also stated that on behalf of the industry they would like to thank Mr. Cook for his service on the Board.

Mr. Arndt recognized and thanked Mr. Cook for his outstanding service on the Board and with the industry. He also stated that Mr. Cook will be missed.

MOTION BY MR. COBBLER TO ADJOURN; SECONDED BY MR. COOK; MOTION CARRIED.

11:39 A.M. Adjourned

Brian R. Jones, Director

Garcia Graham, Board Secretary