

PRIVATE PROTECTIVE SERVICES NEWSLETTER

North Carolina Private Protective Services Board

January 2015

Director's Comments

This newsletter contains information regarding actions taken by the Private Protective Services Board (PPSB), as well as important industry information. When unlicensed activity is reported to the PPSB, the matter is investigated by the field staff and a report is generated. When there is credible evidence that an unlicensed individual or a company is providing PPS services or advertising that they can provide such services without being licensed, PPSB issues a Cease and Desist Order and Notice of Hearing is sent to the violator.

Grievance Committee

The Grievance Committee is made up of 7 members of the Board to review complaints, audits and activities that may violate North Carolina General Statute 74C and the administrative rules. The Board conducts an investigation and the Committee holds an informal hearing to review the report and to allow the licensee to respond. The Committee then makes a preliminary decision and recommends whether the case should be closed or whether some action is warranted. The licensee may appeal the recommended decision and a formal hearing will then be held in the Office of Administrative Hearings. It is important to note that the Committee is merely making an informal recommendation and the decision is not final until all appeals have been completed.

The Grievance Committee made the following recommendations to the Private Protective Services Board (PPSB) during the August 21, 2014 Board meeting:

Cease and Desist

Case Number: 2014-PPS-017

Lance Adrian Jones Sr.
Safe & Secure Worldwide

Allegation: Violation of G.S. 74C-11(a), 74C-13(a), 12 NCAC 07D .0109(a)(b)

Recommendation: Uphold the current cease and desist issued to Mr. Lance Adrian Jones Sr. and Safe & Secure Worldwide for holding himself out as engaging in the Private Investigator profession without being properly licensed.

Case Number: 2014-PPS-024

Robert Louis Aromando
The K Street Group, LLC

Allegation: Violation of G.S. 74C-2(a)
Recommendation: Uphold the current cease and desist issued to Mr. Robert Louis Aromando and the K Street Group for engaging in the private protective services profession without being properly licensed.

Case Number: 2014-PPS-025

Charlotte Ann Lee
Beach Services, LLC

Allegation: Violation of G.S. 74C-2(a),
Recommendation: Uphold the current cease and desist issued to Ms. Charlotte Ann Lee and Beach Services, LLC for engaging in the security guard and patrol profession without being properly licensed.

Letter of Reprimand

Case Number: 2014-PPS-022

Timothy Lee Wooten
Triad Investigations

Allegation: Violation of G.S. 74C-12(a)(23)(29)(30)(31)
Recommendation: Mr. Timothy Wooten and Triad Investigations be issued a letter of reprimand for revealing information acquired by the license holder without the permission of the client.

Consent Agreement

Case Number: 2014-PPS-017

Lance Adrian Jones Sr.
Safe & Secure Worldwide

Allegation: Violation of G.S. 74C-11(a), 74C-13(a), 12 NCAC 07D .0109(a)(b)

Recommendation: Mr. Lance Adrian Jones Sr. and Safe & Secure Worldwide enter into and pay a consent in the amount of \$1,407.60 for registration violations.

The Grievance Committee made the following recommendations to the Private Protective Services Board (PPSB) during the October 23, 2014 Board meeting:

Cease and Desist

Case Number: 2014-PPS-013

Kendrix Lavel Mace
KK Christian Security

Allegation: Violation of G.S. 74C-2(a), 74C-11(a), 74C-13(b)

Recommendation: Mr. Kendrix Lavel Mace and KK Christian Security be issued a cease and desist for engaging in the security guard and patrol profession without being properly licensed.

Case Number: 2014-PPS-027

Steven Andiloro
Professional Security Solutions, LLC

Allegation: Violation of G.S. 74C-2(a), 74C-13(b)

Recommendation: Mr. Steven Andiloro and Professional Security Solutions, LLC be issued a cease and desist for engaging in the private protective services profession without being properly licensed.

Suspension

Case Number: 2014-PPS-031

Sean Anderson Carter
DWC Investigations

Allegation: Violation of G.S. 74C-12(a)(8)(31)

Recommendation: Mr. Sean Anderson Carter's private investigator license be suspended for a period of thirty (30) days for making a false report to the employer or client for whom information was being obtained. Engaging in conduct constituting dereliction of duty or otherwise deceiving, defrauding, or harming the public in the course of professional activities or services.

Consent Agreement

Case Number: 2014-PPS-029

Owence Pascal Jean-Baptiste
Centinel Armed Services, LLC

Allegation: Violation of G.S. 74C-11(a)

Recommendation: Mr. Owence Pascal Jean-Baptiste and Centinel Armed Services, LLC enter into and pay a consent in the amount of \$1,101.60 for registration violations.

Case Number: 2014-PPS-030

Cleveland Lamar Bridges
American Citadel Guard, Inc.

Allegation: Violation of G.S. 74C-11(a), 12 NCAC 07D .0701(a), 12 NCAC 07D .0706(a)

Recommendation: Mr. Cleveland Lamar Bridges and American Citadel Guard, Inc. enter into and pay a consent in the amount of \$7,099.20 for registration violations.

Case Number: 2014-PPS-034

Joseph Daniel Washington
A1 Tactical Protection Services, LLC

Allegation: Violation of G.S. 74C-13(a), 12 NCAC 07D .0801(a), 12 NCAC 07D .0807

Recommendation: Mr. Joseph Daniel Washington and A1 Tactical Protection Services, LLC enter into and pay a consent in the amount of \$673.20 for registration violations.

The Grievance Committee made the following recommendations to the Private Protective Services Board (PPSB) during the December 11, 2014 Board meeting:

Cease and Desist

Case Number: 2014-PPS-035

Gary Jordan
Team Extreme

Allegation: Violation of G.S. 74C-2(a)

Recommendation: Continue the cease and desist issued to Mr. Gary Jordan for providing security guard and patrol services without being properly licensed. Staff, refer this matter to the Screening Committee for unlicensed activity.

Case Number: 2014-PPS-036

Patsy Phillips Fulcher

Allegation: Violation of G.S. 74C-2(a)

Recommendation: Issue a cease and desist to Mr. John Fulcher for performing private protective services duties without a license.

Case Number: 2014-PPS-038

Maurice Laron Johnson

Allegation: Violation of G.S. 74C-2(a)

Recommendation: Uphold the cease and desist issued to Mr. Maurice Laron Johnson for providing security guard and patrol services without being properly licensed. Staff, refer this matter to the Screening Committee for unlicensed activity.

Case Number: 2014-PPS-040

Buddy Biles
City to City Couriers

Allegation: Violation of G.S. 74C-2(a)

Recommendation: Uphold the cease and desist issued to Mr. Buddy Biles and City to City Couriers for providing courier services without being properly licensed. Staff, refer this matter to the Screening Committee for unlicensed activity.

Case Number: 2014-PPS-042

Valerie J. Blettner
Vallee Management, Inc.

Allegation: Violation of G.S. 74C-2(a)

Recommendation: Issue a cease and desist to Valerie J. Blettner and Vallee Management, Inc. for providing security guard and patrol services without being properly licensed.

Civil Penalty

Case Number: 2014-PPS-036

Patsy Phillips Fulcher

Allegation: Violation of G.S. 74C-2(a)
Recommendation: Suspend Ms. Patsy Fulcher's license for a period of thirty (30) days and Ms. Fulcher be assessed a civil penalty of \$1,000.00 for engaging in the private protective services profession without being properly licensed.

Note: To read more about disciplinary action taken by PPSB go to Department of Public Safety website at: www.ncdps.gov/pps
Click meetings and minutes and read the Grievance and/or Screening report of your choice.

Attorney's Update of Legal Information

Board's Administrative Rules to be Re-numbered

By
Jeffrey P. Gray
Legal Counsel to the Board

As part of the 2014 State Budget Act, the Private Protective Services Board and staff - - as well as its "sister" board and staff, the Alarm Systems Licensing Board - - were transferred to the Department of Public Safety (DPS) effective October 1, 2014. Since their creation, both of these boards have been staffed by employees of the Department of Justice and the Attorney General has had a limited role in certain decisions and functions of the Private Protective Services Board.

So far, the transfer has been flawless, and the Secretary of the Department of Public Safety, Frank Perry, Commissioner of Law Enforcement Services, Greg Baker, and the staff of DPS have been very welcoming and quickly integrated both boards into the Department. One downside is that the

Board's administrative rules must be re-numbered.

In North Carolina, a State agency's administrative rules are categorized and indexed by department, then agency. Since its creation the Private Protective Services Board has been housed in the Department of Justice and its administrative rules found in Title 12, the section of the Administrative Code reserved for the Department of Justice. Now, the Board's rules must be re-numbered as they are moved to Title 14B, the Department of Public Safety's section of the Code. This will take some adjustment for all of us since we are so used to knowing certain rules by their number; however, in no time, I am sure we will all quickly adapt.

One upside to this re-numbering is that the Board can now drop all references to old, repealed rules and the Board's rules will read much clearer.

As a related side note, the Board has asked that I create an Index for the Board's law and rules to make them easier to find. I will be working on this project in the coming months, and solicit any and all suggestions from industry members as to how best to format this Index.

RECEIPT OF EVIDENCE OF A CRIME

by

Jeffrey P. Gray
Legal Counsel to Board

The Board recently had the opportunity to investigate a complaint against a private investigator who understood that he was to search for possible evidence of a crime. In this instance, it was a weapon that had been used in a murder and had been discarded by the defendant. The private investigator had been retained by the defendant's attorney to investigate the circumstances surrounding the crime.

As Legal Counsel for the Board, I want to state clearly in this article that there are no laws or rules governing the exact situation where a private investigator comes into receipt of evidence of a crime, nor are there rules of professional conduct or standards of conduct codified in the Board's law or administrative rules governing private investigators as there are for many other professions. However, the receipt of evidence of a crime by a private investigator gives rise to many problems and can, in fact, hurt the private investigator's client in court.

Many private investigators are former law enforcement officers which is in innumerable ways beneficial as a basis of knowledge performing duties as a private investigator. Albeit, it has been my experience that sometimes private investigators forget that they are no longer law enforcement officers and still "think like cops." Basically, when it comes to investigating a crime, a private investigator is nothing more than a private citizen, and, as mentioned above, his or her conduct could actually hurt the client even when the P.I.'s intentions are well meaning and within the scope of duties for assisting a client.

There are specific rules in the Rules of Professional Conduct for attorneys governing situations where the attorney receives contraband or otherwise legal or illegal items from their clients, so I am providing those as guidance to P.I.'s. Under the Rules, if the attorney can show that the

private investigator was working for that attorney and turned the contraband or illegal item directly over to the attorney, then certain protections are going to be afforded to that private investigator. Otherwise the private investigator is going to be left in one of those "grey areas" of the law which might subject him or her to criminal prosecution or discipline by the Board.

Let's look at some scenarios interpreting the opinions from the Rules of Professional Responsibility that guide lawyers.

Receipt of Evidence of Crime

Opinions under these rules state that absent a court order or law requiring delivery of physical evidence of a crime to the authorities, a lawyer for a criminal defendant may take possession of evidence that is not contraband in order to examine, test, or inspect the evidence. The lawyer must return inculpatory physical evidence that is not contraband to the source and advise the source of the legal consequences pertaining to the possession or destruction of the evidence.

Example #1:

Attorney A has been appointed to represent Defendant who is charged with first degree murder. P.I. has been retained by Attorney A to investigate the crime and assist in the preparation of a defense. Defendant's wife was apparently present during the altercation that led to the victim's death. During the P.I.'s investigation, Defendant implicated his wife in the matter and told his attorney that he had knowledge of relevant physical evidence. The police detectives who investigated the death are in possession of a stick they believe Defendant used to commit the murder but neither the police detectives nor the prosecutors are aware of the existence of other physical evidence.

Defendant brought the physical evidence to P.I.'s office and he took possession of the physical evidence and then turned it over to Attorney A for purposes of examination and

consultation with Defendant concerning the extent to which the physical evidence might incriminate or exculpate Defendant. Attorney A interviewed the wife, who incriminated herself. The story the wife told Attorney A is different from the statement that she gave to the police officers during the initial investigation.

Must Attorney A or the P.I. notify the district attorney's office or the investigating law enforcement agency of the existence of the physical evidence?

Answer #1:

No. On the one hand, a lawyer has a duty to preserve the confidences of the client and to zealously represent the client within the bounds of the law. (Rule 4 and Canon VII of the Rules of Professional Conduct.) On the other hand, a lawyer is an officer of the court and should not engage in conduct that is prejudicial to the administration of justice. (Rule 1.2(d).) In the absence of a court order or statutory obligation to disclose the location or deliver an item of inculpatory physical evidence that is not contraband (the possession of which is in and of itself a crime, such as narcotics) to law enforcement authorities, a defense lawyer may take such evidence into his or her possession for the purpose of testing, examination, or inspection. The defense lawyer should return the evidence to the source from whom the lawyer received it. In returning the item to the source, the lawyer must advise the source of the legal consequences pertaining to the possession or destruction of the evidence by that person or others. This advice should include the advice to retain the evidence intact and not engage in conduct that might be a violation of criminal statutes relating to evidence (i.e. "tampering.") If a defense lawyer (or P.I. employed by an attorney) receives a subpoena for inculpatory physical evidence in his or her possession, the lawyer may take appropriate steps to contest the subpoena in order to protect the interests of the client. However, the lawyer must comply with a court order to produce the evidence. Similarly, pursuant to G.S. §15A-905, a defense lawyer must comply with any order entered by the court to produce evidence the defendant intends to introduce at trial.

As an agent of Attorney A, these same rules must be followed by the P.I..

Example #2:

What specific information, if any, is Attorney A (or P.I.) allowed to disclose to the district attorney or the law enforcement agency regarding the weapon or how it was obtained?

Answer #2:

See Answer #1 above.

Example #3:

Wife provided information to Attorney A, obtained by P.I., which would assist Defendant in his defense. Can P.I. be called as a witness against Defendant?

Answer #3:

Any information gained by Attorney A and his agent, P.I., during the professional relationship with Defendant, including information obtained from third parties such as Defendant's wife is confidential information. Unless Defendant consents to disclosure of the information gained from his wife, the P.I. may not be compelled to testify about what wife told him.

Example #4:

Defendant was arrested for drug trafficking and placed in jail. At the time of his arrest, Defendant was wearing a hat. The hat was confiscated by the police and put in the jail's repository for inmates' personal property along with Defendant's other clothes. Defendant was unable to post bond and remains in jail.

Attorney is appointed to represent Defendant. In an attorney-client consultation at the jail, Defendant tells Attorney that there is contraband hidden in the hat. It appears that the contraband has not been discovered by law enforcement or the jailers.

Attorney anticipates that Defendant will be convicted, probably by plea, and will be sentenced to prison. At that time, he will be asked about the disposition of his personal property. Personal clothing is not sent with inmates to prison; it is usually given to family or friends. May Attorney take possession of the contraband for the purpose of destroying it, turning it over to the authorities, or giving it to a third party, such as another lawyer who would be subject to the duty of confidentiality, to be delivered to the authorities?

Answer #4:

No. Attorney may not take possession of an item that is contraband nor may the lawyer facilitate its transfer to any other person in furtherance of a crime.

A lawyer should not engage in criminal conduct under any circumstance and may not assist a client in conduct that the lawyer knows is criminal. (Rule 1.2(d) and Rule 8.4(d)). The same is true for a P.I. (G.S. § 74c-12(2)(25)). If possession of an item is itself a crime, as in the case of contraband, a lawyer or a P.I. working for the lawyer, may not take possession of the item.

Board Not Included In Legislative Report

By
Jeffrey P. Gray
Legal Counsel to the Board

During the 2012 Session of the Legislature, the Joint Legislative Administrative Procedures Oversight Committee replaced the Joint Select Regulatory Reform Committee. This Committee had oversight over a study by the Program Evaluation Division (PED) of the structure, organization and operation of all occupational licensing boards in the State and the feasibility of a single “umbrella” agency as required by Section 10(a) of S.L. 2013-413. The Private Protective Services Board has always been treated as an occupational licensing board although it did not meet the definition of “occupational licensing board” in Chapter 93B of the General Statutes. An occupational licensing board is defined in that statute as being made up of appointed board members, wholly supported by licensing fees (i.e. no tax dollars support its functions) and not staffed by State employees. While the Board is made up of appointees and wholly receipt supported, its staff are employees of the Department of Public Safety (and previously the Department of Justice.)

The PED began the process of evaluating boards in May, 2014. Only four (4) boards were visited and the staffs interviewed. The remainder were evaluated through a “questionnaire” which the Private Protective Services Board submitted by the deadline of July 31st. The PED’s final report on all occupational and professional licensing was released on December 16, 2014. Quite surprisingly, both the Private Protective Services Board, and its “sister” board, the Alarm Systems Licensing Board, were not included as an occupational licensing board on the report’s list of boards, so evidently was not a part of the study. Both boards were recognized in the report as being an occupational licensing board “housed in a State agency.” Even more interesting is that the report did not even mention the Criminal Justice Education and Training Standards Commission and the Sheriff’s Education and Training Standards Commission, the two boards that certify all law enforcement officers in North Carolina, which have also always been treated as “occupational licensing boards,” even though they too have never met the definition set forth in N.C.G.S. § 93B-1.

This new designation (or non-designation) could have future ramifications for the board, depending on what further action, if any, that the legislature takes on the recommendations in the report. Watch this newsletter for any future developments.

For Your Information

Designee Listing

All companies that are required to submit registration applications to include armed guards, unarmed guards, armed private investigators, armed private investigator associates, armed armored car guards and unarmed armored car guards should review their designee listing and ensure that the designees are actively registered or licensed or certified with the company they are submitting applications for. Once we go live the online system will only allow active designees and active licensees to

submit applications to the Private Protective Services Board. The applicants will be allowed to enter their own application information electronically, but they will only be submitting it to a designee or licensee within the company based on the Business Permit Number (BPN) they are applying with. Once the applicant submits their information to a licensee or designee; that licensee or designee will submit the application electronically to the Private Protective Services Board.

Prior to the licensee submitting an updated designee list to the Private Protective Services Board the list needs to be BPN specific. If the company has more than one active BPN, it will need to be clear which active BPN(s) the person will be a designee for with the company. A designee can be authorized to submit applications for more than one active BPN for the company. The updated should be submitted to our office no later than December 15, 2014.

New On-Line Application System

Private Protective Services (PPS) has tentatively planned to launch the new computer system during the first quarter of 2015. PPS has been working closely with the Department of Public Safety (DPS IT) and the Department of Justice (DOJ IT) on the implementation of this database. Introducing or upgrading software and hardware will change the way PPS staff accesses and manages information. However, our commitment to providing first-rate customer service will not change.

The Deputy Director, Project Manager and IT support staff are aware of the need to achieve a smooth system implementation, free of omissions and delays. However, a smooth and error free implementation can never be guaranteed, particularly where new technology is involved.

The potential benefits from upgrading the PPS database include accessing the PPSB website to query or use a search engine for any information that is public

record. These components of the new system will be available to the public at a later date.

Qualifying Agents/Designees will be able to submit applications and additional documentation electronically and track the status of applications. The system's structure will guide users through the process, including calculating the appropriate fees. The QA will also have the ability to enter pictures for applicants.

Once we go live with the on-line application process, PPS strongly encourages all to apply on-line. Applying on-line will eventually expedite the application process. Individuals who continue to send applications into the office must ensure that all information is complete and accurate. If incorrect fees are received, the check/money order will be returned and you will receive an invoice listing the correct amount due.

Once an applicant receives a letter requesting information, all information requested in the letter must be received within sixty (60) days. After the sixty-day timeframe, the system will consider the application null and void and the applicant will be required to reapply.

2015 Board Meeting Dates

The PPS Board has set the following dates and locations for its regularly scheduled meetings through December 2015. Please note that the 2015 Private Protective Services Board meetings that will be held in Raleigh will convene at the **Holiday Inn North, 2805 Highwoods Blvd, Raleigh, NC 27604 (919) 872-3500.**

<u>Date</u>	<u>Location</u>
February 18-19	Concord
April 22-23	Raleigh
June 24-25	Raleigh
August 26-27	Raleigh
October 20-22	Raleigh (3 days)
December 16-17	Raleigh

2015 Board CEU Training Dates

The PPS Board has set the following continuing education training dates for the industry:

<u>Date</u>	<u>Location</u>	<u>Time</u>
Feb 19	Concord	1:00 p.m.
Apr 23	Raleigh	1:00 p.m.
Aug 27	Raleigh	1:00 p.m.
Dec 17	Raleigh	1:00 p.m.

Note: Any additional training dates will be announced and posted on the PPSB website.

Website

The PPS Board can be located at the Department of Public Safety website at: www.ncdps.gov/pps.

The website is a valuable tool in fulfilling the mission of Private Protective Services, as it enables us to improve our outreach and provides PPS professionals with detailed information. The website also contains important Board information such as, meeting schedules, minutes and reports, as well as, registration and licensing information to include applications and fee amounts. The website also facilitates the search for specific disciplinary actions taken by the Private Protective Services Board. Feel free to explore the website and review all its valuable resources. Staff is constantly working with the Department's Information Technology Office to upgrade and enhance the site to keep you informed of upcoming PPS issues.

The e-mail address for PPS is PPSASL@ncdoj.gov and should be utilized for general information. Any requests and/or questions will be forwarded to the appropriate person or persons for response.

Board Office Closed

In accordance with the holiday schedule adopted by the State of North Carolina, the Board office will be closed on the following dates:

New Year's Day	January 1, 2015	Thursday
MLK Birthday	January 19, 2015	Monday
Good Friday	April 3, 2015	Friday
Memorial Day	May 25, 2015	Monday
Independence Day	July 3, 2015	Friday
Labor Day	September 7, 2015	Monday
Veteran's Day	November 11, 2015	Wednesday
Thanksgiving Day	November 26 & 27, 2015	Thursday & Friday
Christmas	December 23, 24, & 25, 2015	Wednesday, Thursday & Friday

PPS Board

Eric Weaver Sr.
Chairman

Robert Clark (Monty)
Vice-Chairman
Chairman, Screening Committee

Marcus T. Benson

William Booth (Bill)
Chairman, Grievance Committee

Steve Johnson

Vincent P. Cesena (Bud)

Edward Cobbler
Chairman, Training and Education Committee

Clyde Cook
Ethics Liaison

Richard Epley
Chairman, 74C Rewrite Committee

Donald Foster

William MacRae
Chairman, Finance Committee

Brian R. Lowman

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