



North Carolina Department of Public Safety

Private Protective Services Board

Roy Cooper, Governor
Erik A. Hooks, Secretary

Pamela Cashwell, Chief Deputy Secretary
Brian R. Jones, Director

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
APRIL 26, 2018
DOUBLETREE BY HILTON HOTEL
1707 HILLSBOROUGH STREET
RALEIGH, NC 27605**

BOARD MEMBERS PRESENT

Eric Weaver, Sr.
Ed Cobbler
Clyde Cook
William Fletcher, Jr.
William MacRae
Steve Johnson
Richard Epley
Nada Lawrimore
David Arndt
Bud Cesena
Larry Proctor
Brian Lowman

BOARD MEMBERS ABSENT

Marcus Benson

STAFF PRESENT

Brian Jones - Director
Phillip Stephenson – Deputy Director
Kim Odom – Field Services Supervisor
Jeff Gray - Attorney
George Daniels - Investigator
Garcia Graham – PPS Board Secretary

GUESTS PRESENT

Michael Dorsey
Jim Geiger
Ruth Reynolds
Nicole Cassidy
Gregory Hatten
Roy Shipman

Alex Thompson
Taylor Beard
John Taylor
Gary Shaw
Brandy Lee
Jerry Pitman

Christ Corcione
Bob Crawford, Attorney
Thomas Lewin
Rory Eddings
Johnny Mims
Shaun Marso

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Deborah Worley
Mack Donaldson
William Melton Jr.
Ruth Nichols
Annie Johnson
Khiva Hines

Heather Brown
Dorian Dehnel
Jennifer Turlington
Robert Dunn
Tamara Rabenold

Kenneth Sheffield
Tina Gerrits
Crystal Kessler
Jeffrey Kiker
Christopher Bristow

CALL TO ORDER

Chairman Eric Weaver called the April 26, 2018 Private Protective Services Board meeting to order at 9:30 a.m. Mr. Weaver led the group in the reciting of the Pledge of Allegiance followed by him welcoming all guests.

GOOD OF THE ORDER

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.

NCAPI President Tamara Rabenold greeted the Board and all guests. She reported that there a lot great things happening with the launch of the website in the coming weeks and the conference coming up in Atlantic Beach. She talked about the NCAPI Newsletter with regard to membership and passed out copies to the audience to introduce the panel.

APPROVAL OF THE FEBRUARY 22, 2018 BOARD MEETING MINUTES

Mr. Cook referenced Page 7 of the February 22, 2018 minutes and his motion regarding the Memorandum of Understanding (MOU), the reason for his substitution motion, and requested the following amendment:

“Mr. Cook had some concerns regarding the MOU especially a note DPS Deputy Secretary Pamela Cashwell delivered to each board member just moments before Mr. Cesena made the motion to accept the MOU, which threatened to immediately begin drafting \$111,000 per year from PPS accounts unless the motion was approved. That amount compared to only \$37,500 per year for such services in the proposed MOU. Mr. Cook and Mr. Macrae questioned DPS authority to draft PPS the accounts in general without notice or prior explanation.”

MOTION BY MR. COOK TO ACCEPT THE MINUTES WITH THE ABOVE AMENDMENT; SECONDED BY MS. LAWRIMORE; MOTION CARRIED.

SCREENING COMMITTEE REPORT

Mr. Arndt stated that the Screening Committee met on Wednesday, April 25, 2018, from 1:40 p.m. to 4:55 p.m. to review a total of 49 applications. (see report attached). The Committee members included Mr. MacRae, Mr. Arndt, Mr. Fletcher, Mr. Proctor, Mr. Lowman and Mr. Cobbler. Mr. Arndt read the report for the record and noted that some applicants were contingently approved based on favorable fingerprint results, which had not been received at the time of the meeting.

Mr. Arndt reported there was one addendum item, the Armored Car Profession license of Jeremy Muldrow, which was approved.

Mr. Cobbler recused himself from Ernest Rocker, #40.

MOTION BY MR. MACRAE TO ACCEPT THE SCREENING REPORT FOR ALL BUT #40; SECONDED BY MR. LOWMAN; MOTION CARRIED.

MOTION BY MR. FLETCHER TO ACCEPT #40 OF THE SCREENING REPORT; SECONDED BY MR. ARNDT. MOTION CARRIED

GRIEVANCE COMMITTEE REPORT

Mr. Cesena reported that the Grievance Committee met on Wednesday, April 25, 2018 from 9:06 a.m. to 12:39 a.m. and heard a total of 6 cases. The Committee members included Mr. Cesena, Mr. Cook, Ms. Lawrimore, Mr. Johnson and Mr. Epley. Mr. Cesena read the report for the record (see report attached).

Mr. Johnson recused himself from 2017-PPS-012.

Mr. Cobbler and Mr. Lowman recused themselves from 2017-PPS-003.

MOTION BY MR. CESENA TO GO INTO CLOSED SESSION REGARDING CASE NO. 2017-PPS-003; SECONDED BY MR. ARNDT. MOTION CARRIED.

Mr. Gray recused himself from the closed session discussion.

Closed: 9:51 a.m.
Reconvene: 10:12 a.m.

MOTION BY MR. CESENA TO ACCEPT THE GRIEVANCE COMMITTEE REPORT ON 2017-PPS-018, 2017-PPS-020, 2017-PPS-030 AND 2017-PPS-039; SECONDED BY MR. COOK; MOTION CARRIED.

MOTION BY MR. CESENA TO ACCEPT THE GRIEVANCE COMMITTEE REPORT ON 2017-PPS--012 NOTING THE RECUSAL OF BOARD MEMBER MR. STEVE JOHNSON; SECONDED BY MR. ARNDT; MOTION CARRIED.

MOTION BY MR. MACRAE TO ACCEPT THE GRIEVANCE COMMITTEE REPORT ON 2017-PPS-003 NOTING THE RECUSALS OF BOARD MEMBERS ED COBBLER AND BRIAN LOWMAN; SECONDED BY MR. JOHNSON; MOTION CARRIED. ONE OPPOSED.

TRAINING & EDUCATION COMMITTEE

Mr. MacRae stated the Training & Education Committee met on Thursday, April 25, 2018 from 8:14 a.m. until 8:56 a.m. The Committee members included Mr. MacRae, Mr. Johnson, Mr. Cook, Mr. Cesena, Mr. Epley, Mr. Cobbler and Mr. Arndt.

Mr. MacRae reported that the following PPS Trainer courses are currently scheduled:

May 14-18, 2018 - UGT course & Workshop at WTCC

May 21, 2018 - FT Re-Certification & Pre-Qualification Course at NCJA

July 9, 2018 - FT Re-Certification & Pre-Qualification Course at NCJA

August 6-10, 2018 - UGT Course & Workshop at WTCC

September 5, 2018 - FT Re-Certification & Pre-Qualification Course at NCJA

September 10-13, 2018 - FT Course & Legal Class at Salemburg NCJA (last FT certification of 2018)

September 24-28, 2018 - UGT Course & Workshop at WTCC

November 26-30, 2018 - UGT Course & Workshop at WTCC

Mr. MacRae reported that presently there are 378 PPS certified unarmed guard trainers and 134 PPS certified armed trainers.

Mr. MacRae noted that a PPSB Training course for CEU credit would be held after the Board meeting from 1:00 to 5:00 pm at that same location, and would also be held again after each Board meeting on August 23, 2018 and again on December 20, 2018 from 1-5 pm.

Mr. MacRae then called upon Kim Odom to give the report on weapons discharge.

WEAPONS DISCHARGE

Ms. Odom reported there were three incidents of weapons discharge to report.

On March 12, 2018, PPS was contacted by QA Brian White of Eagle Eye Security. Mr. White advised PPS that one of his armed officers was involved in a shooting on March, 9, 2018 at a site

the officer was working. While escorting people to their cars, the officer came upon a fight in the parking lot and the suspect began firing into the crowd, at which time the officer returned fire; the suspect was hit several times. Raleigh Police were called to the scene and the suspect is in custody in the hospital. Investigator George Daniels contacted the Detective assigned to the case, and was told that no charges would be filed against the officer as it is being ruled a justified shooting.

Ms. Odom reported that on March 26, 2018, Jimmy Henley notified PPS that Special Security Patrol investigated a shooting at an event in which at least two security companies, Game Time and NC Tactical Security Force, both claiming to be certified by PPS, were present. One subject fired three to four shots into the air to scare a crowd and that person was arrested and charged with several crimes. Upon said investigation it was believed that the security officers working the event were not properly registered with PPS and believed Game Time to not be properly licensed with PPS and in violation. The second company, NC Tactical, they believed to be a licensed company, but were not in proper uniform nor did the supervisor carry his ID card. Violations of 74C, along with additional issues, and possible felony charges were being considered. Mr. Henley requested a meeting with one of our investigators to go over all the issues. Investigator Hepburn met with Mr. Henley to discuss the matter, but Mr. Henley stated that the company named in the complaint is not that of the person or company who was performing the work. Ms. Hepburn will continue to investigate the situation.

Ms. Odom then reported on an April 8, 2018 news report from WFMY in Greensboro, with regard to a shooting and subsequent death of a security guard identified as Michael Thomas Le at a Sweepstakes business known as Gone Fishing Sweepstakes in Burlington, NC. Mr. Le had never been registered or licensed through PPS and on April 9, 2018 Investigator Triplett spoke with Captain Currie, with the Burlington Police Department, who confirmed the victim's name and advised that Mr. Le did not work for a security company but that he was actually a friend of the owner's son and was apparently asked to fill in that night because the scheduled security officer did not show up. Captain Currie stated they were trying to determine if the regular security officer works for a security company. Gone Fishing Sweepstakes does not have a Proprietary License. Four suspects involved in the shooting are in custody.

Mr. MacRae then reported there were three courses submitted to the T&E Committee:

Transitioning from Law Enforcement to Private Investigations (Renewal) - 6.0 hrs.

Crash Investigation for Civil Litigation (Classroom) - 6.0 hrs.

Dark Web: Open Source and Geo Monitoring Searching (Classroom) - 4.0 hrs.

MOTION BY MR. LOWMAN TO ACCEPT THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL. SECONDED BY MR. COBBLER; MOTION CARRIED.

Mr. MacRae noted that the CEU credit available to industry members for attending the Board meetings and the CEU training courses that are conducted by the Board subsequent to the Board meetings are also up for renewal and that the Committee voted to renew those CEU credits and submitted them to the Board for approval.

MOTION BY MR. MACRAE TO CONTINUE TO PROVIDE 2.0 HRS. OF CE CREDITS FOR ATTENDANCE AT A PPS BOARD MEETING AND 4.0 HRS. OF CE CREDITS FOR ATTENDANCE OF A SCHEDULED PPS TRAINING COURSE THAT FOLLOWS A PPS BOARD MEETINGS. SECONDED BY MR. CESENA; MOTION CARRIED.

Mr. MacRae reported that the Committee received a letter from EyeDetect, a company who has approached the Committee for licensure. Mr. MacRae noted that EyeDetect and the EyeDetect technology had been addressed by the Committee previously and that the Committee had requested independent scientific verification. EyeDetect provided some scientific support but it did not meet the requirements the Committee requested. Mr. MacRae stated that the Committee had requested of the Director to again correspond with the EyeDetect representative and acknowledge the Committee's receipt of its recent document submission and express that the Committee will continue to monitor the emerging technology, but that it is not intending to vote on licensure of this technology at this time.

MOTION BY MR. LOWMAN TO ACCEPT THE EDUCATION AND TRAINING COMMITTEE'S REPORT AS DELIVERED. SECONDED BY MR. COOK; MOTION CARRIED.

GRIEVANCE COMMITTEE

NONE

SCREENING COMMITTEE

NONE

LAW AND RULES COMMITTEE

Ms. Lawrimore reported that the Law and Rules Committee met on Wednesday, April 25, 2018 from 8:05 a.m. to 8:53 a.m. She noted that HB 566 is in the Senate Rules Committee and that Senator Raybon is assisting with its passage.

Ms. Lawrimore stated she and Mr. Fletcher had spoken with various members of the Legislature related to the recent shootings at sweepstakes establishments with the hope of bolstering the Board's ability to address unlicensed activity at these establishments. She noted that these establishments present hazards for both the armed guards as well as the public. Ms. Lawrimore expressed hope that the Legislature would address this issue for the safety of everyone.

Ms. Lawrimore mentioned the Committee also discussed the Permittum progress as well as some antiquated language in 74C, which Mr. Arndt and Mr. MacRae offered to assist in addressing.

Ms. Lawrimore also stated that there was some discussion of using security such as school resource officers, contract security, and officers through law enforcement agencies for private schools and churches. She noted a possible related upcoming legislative meeting and wanted to inform the industry that the Committee is monitoring this evolving issue.

MOTION BY MR. LOWMAN TO ACCEPT THE LAWS AND RULES COMMITTEE REPORT. SECONDED BY MR. COBBLER; MOTION CARRIED.

FINANCE REPORT

Mr. Fletcher reported that the Finance Committee met on Tuesday, April 24, 2018 at 4:08 until 4:53 p.m. at the PPS offices. The committee members present were Mr. Fletcher, Mr. MacRae, Mr. Arndt and Ms. Lawrimore. Mr. Fletcher stated the committee went over the budget for the preceding two months. As of March 31, 2018 balance total \$1,186,983.17. Education Fund Balance \$93,004.29.

MOTION BY MR. LOWMAN TO ACCEPT THE FINANCE COMMITTEE'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

ETHICS COMMITTEE

Mr. Weaver reported that he spoke with Mr. Benson the preceding evening and learned that he would be unable to attend the meeting. Accordingly, Mr. Weaver called upon Mr. Lowman to give the Ethics Report.

Mr. Lowman reported there were five (5) Board members who were behind on submitting their Statement of Economic Interest (SEI) that were due in April. Mr. Cesena, Mr. Cobbler, Mr. Fletcher, Ms. Lawrimore and Mr. Proctor. He directed them to the website where they could submit the required SEI.

Mr. Weaver noted that the form could also be submitted via US Mail and asked those Board members to comply with the requirement.

Mr. Lowman then reported there were four members, Mr. Epley, Mr. Johnson, Mr. Proctor and himself, who must comply with continuing education requirements in 2018.

Mr. Weaver suggested that the requirement can also be satisfied in person as well as online.

MOTION BY MR. COOK TO ACCEPT THE ETHICS LIASON PRO TEM'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

Break: 10:35 a.m.
Reconvene: 11:02 a.m.

OLD BUSINESS

None

NEW BUSINESS:

Tamara Rabenold, NCAPI President, addressed the Board with a request to include the NCAPI informational letter with all mailings sent to new PI and PIA licensees from Private Protective Services.

Mr. Johnson questioned whether NCAPI's business entity status related to its lobbying efforts posed any barriers with regard to our ability to include the letter. Mr. Gray replied that he did not believe there would be an issue because there is no financial gain for the Board; there's no exchange for a good or service based on the Board's decision to include the letter, and they are not lobbying for anything but merely including voluntary information about the association.

MOTION BY MR. LOWMAN TO INCLUDE THE NCAPI LETTER IN THE PPS LICENSING MAILINGS; SECONDED BY MR. FLETCHER. MOTION CARRIED.

FINAL AGENCY DECISIONS

Kathy Annette Broom 18 DOJ 00855 – Ms. Broome was present along with her attorney, Bob Crawford. This matter was heard before Administrative Law Judge J. Randolph Ward on February 27, 2018. The issue is whether the Respondent erred in finding that the public health, safety and welfare required suspension of Petitioner's private investigator's license pending a final agency determination.

MOTION BY DAVID ARNDT TO REVERSE THE JUDGE'S DECISION AND FOLLOW THE DIRECTION OF THE GRIEVANCE COMMITTEE'S RECOMMENDATION, AND FIND THAT THE DIRECTOR DID NOT ERR IN ISSUING A SUMMARY SUSPENSION; SECONDED BY MR. LOWMAN; MOTION CARRIED. *Recused: Bud Cesena, Mr. Cook, Ms. Lawrimore, Mr. Johnson, Mr. Cobbler and Mr. Epley*

DIRECTOR'S REPORT

Mr. Jones read the report for the record. To date for this fiscal year revenue has been in the amount of \$1,130,206.33 with expenditures in the amount of \$1,232,268.29 which leaves a withdrawal from the fund balance to date of \$102,061.96 with an ending fund balance of

\$1,166,198.87. The education fund as has a balance of \$93,004.29. Applications received since the last meeting totaled 6,611. Mr. Jones revealed that 2728 applications have been submitted through Permittum and staff has received nearly 4,000 paper applications since the last Board meeting. There have been 228 applications for licensure and 69 for certification since the last meeting bringing the active numbers to date as follows: 21,467 registration, 1,850 licensees and 604 certification holders. 2085 cards have been printed since the last meeting.

Mr. Jones then reported on the status of PPSB matters, where he updated the Board on the hiring of Christina Shamberger, who began as a temporary employee in May 2017, and has now accepted a permanent position as a processing assistant. He also noted that the training officer position is vacant but a finalist has been selected for the position and will tentatively begin in May. Mr. Jones reported staff members are also reviewing applications for two investigator openings. One investigator vacancy is in Raleigh, which was created by Ronnie Broadwell's resignation, and the other is in Greensboro, which was created by Kim Odom's promotion to Field Services Supervisor. Mr. Jones stated they anticipate interviews will be scheduled for those positions in the near future.

Mr. Jones reported that Temporary Solutions, the state agency that provides temporary employees, failed to send PPS invoices for some services provided by temporary employees in 2016. This oversight by Temporary Solutions led to a \$26,305.66 charge and based on the division of financial responsibility between the two Boards, the Private Protective Services Board is responsible for \$19,729.25 of the total charge. He reported that he informed the Finance Committee during its meeting on Tuesday that Temporary Solutions had provided those services in 2016, original timesheets were verified, and it was also verified that invoices for those services were not provided in 2016.

Mr. Weaver commented there is not much that can be done with regard to the situation.

Mr. Jones then moved on to the Continuing Education portion of his report and noted that PPS2000 is used to track continuing education. While it is a fairly small component of PPS2000, it is a critical component. Based on his understanding, it is the only part of PPS2000 that Permittum was not contracted to provide. Early discussions were focused on utilizing a solution similar to those used by colleges such as Moodle or Blackboard. Preliminary analysis revealed that those solutions would require substantial development effort and may be expensive. Mr. Jones stated that various state law enforcement agencies have existing contracts with a company called PowerDMS. Numerous law enforcement agencies use that software to track accreditation standards, upload proofs of compliance and track continuing education. After assessments, staff members believe that PowerDMS can meet continuing education needs for tracking rosters and keeping track of courses and steps are being taken to acquire access to that software.

Mr. Jones reported that work is still being done to address the registration backlog. The overtime project that began in January and ended in April resulted in over 1600 registration applications

being processed over that timeframe with staff members providing this work in the evenings and on weekends. Mr. Jones publicly applauded their efforts.

Mr. Jones then spoke about the Permittium project, noting he is confident that registration is in a good place and that the May 1st cutoff to stop accepting paper applications should not be an issue. He informed the Board the issues have been resolved to the satisfaction of PPS staff members and reported the licensing phase is nearing completion. Mr. Jones went on to recognize guests in attendance, Dr. Shere McLamb, the Project Manager, Michael Blackwood who assisted Dr. McLamb, NCAPI President Tamara Rabenold for including information about Permittium in their newsletter, and of course Paul Blake, one of the managing partners of Permittium. He thanked them for their efforts and ongoing support.

Mr. Jones then reported on the various training sessions held at the PPS offices as well as the webinars, and noted 166 people took part through video conference, with 23 in attendance on site. He reported the agency has seen a 124% increase in registrations submitted through Permittium.

Mr. MacRae asked Mr. Jones to repeat the number of attendees for the training. Mr. Jones responded this is the recent round of training from February 5th through March with 166 attendees and does not include the YouTube videos and other training resources.

Mr. Weaver recognized an audience member who had a question regarding the Temporary Solutions invoice, and if that amount included interest. Mr. Jones responded no, it was for temporary services provided by temporary employees; there was no interest included.

Mr. MacRae addressed Chairman Weaver and wanted to make everyone aware that the negative number being seen on the budget, is made up of extraordinary items such as this particular invoice and scanning, which are non-recurring items.

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

PERMITTIUM PRESENTATION

Mr. Weaver recognized Dr. McLamb and Mr. Blake.

Mr. Blake informed the Board the registration side appeared to be working well, and reported that 1000 companies had been entered in Permittium with approximately 1400 passwords assigned.

Dr. McLamb then discussed the processes, explaining Permittium is a two-part system, why registration was built first, and noted that the hope was that licensing would be completed by mid-June.

The Board raised concerns about PPS staff members and Permittum employees being inundated with requests for assistance. Dr. McLamb explained the ticketing process to assist users as they navigate the system and troubleshoot challenges.

MOTION OF AFFIRMATION BY MR. ARNDT TO MOVE FORWARD WITH THE MAY 1ST DEADLINE TO STOP THE ACCEPTANCE OF PAPER APPLICATIONS WITH A CAVEAT FOR SPECIAL CIRCUMSTANCES TO BE REVIEWED BY THE DIRECTOR OR DEPUTY DIRECTOR FOR A PAPER APPLICATION, AND TO END THE BOARD'S ABSORPTION OF THE \$4.00 CONVENIENCE FEE. SECONDED BY MR. LOWMAN. MOTION CARRIED.

Dr. McLamb reiterated that any paper applications that are brought to the PPS offices after May 1st will be returned.

ATTORNEY'S REPORT:

Attorney Gray discussed the following

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. On October 26, 2017, Daitwan Lamont Hardy/Security Contracting, Inc., entered into a consent agreement with the Board in the amount of \$7,466.40 for registration violations. The temporary agreement was not signed. Payment has not been received. Rescheduled for the April 25, 2018 Grievance Committee meeting. On April 26, 2018 the full Board voted to suspend the license until payment of \$7,466.40 is received.
2. On December 21, 2017, David Bailey/Garda CL East, entered into a Consent Agreement with the Board in the amount of \$29,743.20 for registration violations and a civil penalty in the amount of \$2,000.00 for failing to own or lease firearms carried by armed armored car guards. The Consent Agreement was signed by QA David Bailey on December 21, 2017. Paid in full.
3. On February 22, 2018, John Scott Dwiggin/SightSpan Security, Inc., entered into a Consent Agreement with the Board in the amount of \$11,628.00 for registration violations. The temporary agreement was signed by John Walsh on March 18, 2018. Payment has not been received.
4. On February 22, 2018, Jeffrey Kiker/P and G Security Guard, Inc., entered into a Consent Agreement with the Board in the amount of \$7,441.92 for registration violations and a civil penalty in the amount of \$2,000.00 for firearms training

violations. The amount due for registration violations was to be paid in three monthly installments. The Consent Agreement was signed by QA Jeffrey Kiker on March 19, 2018. First payment received in the amount of \$3,147.31 on April 16, 2018, however, it included both consent and civil penalty payments. (The check payments must be separated.)

5. On February 23, 2018, Paul Joseph Manley/Show Pros Entertainment Services of Charlotte, Inc., entered into a Consent Agreement with the Board in the amount of \$367.20 for registration violations. The Consent Agreement was signed by QA Paul Manley on April 10, 2018. Paid in full.
6. On February 22, 2018, Dakota Jermaine Covil/Semper Fidelis Security Services (Screening), entered into a Consent Agreement with the Board in the amount of \$85.00 for unlicensed activity. The Consent Agreement was signed by QA Dakota Covil on March 22, 2018. Paid in full.

II. OFFICE OF ADMINISTRATIVE HEARINGS

See, Hearings List (attachment 1).

III. RULES

The Board began the process for its Periodic Review of Rules which will occur in August 2018 at its meeting on February 22nd. The report for the Board's rules has been filed and the Public Comment Period ends May 8, 2018.

IV. LEGISLATION

Identical House and Senate bills making various changes to Chapter 74C have been introduced in the General Assembly. They are House Bill 566 and Senate Bill 634, both entitled, "Private Protective Services Changes." The House version was referred to the House Committee on Judiciary I with a serial referral to Finance and the Senate Bill was referred to the Senate Committee on Rules and Operations of the Senate. House Bill 566 was heard in committee on Wednesday, June 14th and received a favorable report following an amendment to replace a reference to "C.F.R." with "federal regulation." It was sent to the House Finance Committee. There has been no further action since.

V. PENDING CASES

a. In a rare occurrence for this Board, a disciplined licensee filed a Petition for Judicial Review in Superior Court. Private Investigator Jeffrey Scott Moore's license was suspended for a period of six (6) months for failing to make or offer a client a written report within 30 days after the completion of the investigation. The matter was heard in the Office of

Administrative Hearings and the Board voted to adopt the Administrative Law Judge's Proposal for Decision at its August 2017 meeting.

The Petition was filed in Johnston County. Mr. Gray prepared and filed the Official Record on December 8th and filed a response to the Petition on December 11th.

The Petition was heard on Monday, February 12, 2018 in Johnston County Superior Court. Neither Petitioner's attorney nor Petitioner appeared. Mr. Gray made a brief oral argument to the Court and handed up a 1986 Court of Appeals case finding the Private Protective Services Act constitutional. The presiding Judge denied the Petition thereby effectively dismissing the action. When Mr. Gray sent a draft of the proposed Order for the Judge's signature, the Petitioner's attorney claimed she was not aware of the hearing.

On March 19, 2018, Mr. Gray received a copy of a Motion to Set Aside and Motion for New Hearing in this matter. To date, this Motion has not been calendared for hearing.

b. For the past 44 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.

I 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 impassioned 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 Mr. Gray 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 is due on May 17, 2018.

VI. OFFICE OF ADMINISTRATIVE HEARINGS

See, Hearings List (attachment 1).

Mr. Gray reminded the Board that his contract for legal services is coming up for renewal in June 2018 if the Board wished to seek other proposals.

MOTION BY MR. COBBLER TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. LOWMAN; MOTION CARRIED.

**MOTION BY MR. JOHNSON TO ADJOURN; SECONDED BY MR. COBBLER
MOTION CARRIED.**

12:27 P.M. Adjourned

Brian Jones, Director

Garcia Graham, Board Secretary