



# 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 21, 2018  
HOLIDAY INN NORTH  
2805 HIGHWOOD BOULEVARD  
RALEIGH, NC 27604**

### **BOARD MEMBERS PRESENT**

David Arndt  
Ron Burris  
Ed Cobbler  
Clyde Cook  
Debra Duncan  
Richard Epley  
William Fletcher, Jr.  
Steve Johnson  
William MacRae  
Nada Lawrimore  
Tammy Owens

### **BOARD MEMBERS ABSENT**

Marcus Benson  
Bud Cesena  
Eric Weaver Sr.

### **STAFF PRESENT**

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

### **GUESTS PRESENT**

Warren Hall  
Derek Partee  
Creo M. McIver II  
Orrin Bynes

David Bailey  
Kevin Satterfield  
Jerome Cordove  
John Shoenfelt

Adam Bridges  
Jeri Williams  
Charles Gayton  
Mark Wohlwick

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Deborah Worley  
Michael Easterday  
David Ferrell  
Gregory Hatten  
Chris Lewis  
Elvalorie Matthews  
Mack Donaldson  
Uka Leonard  
Harry House  
Robert Dunn

Larry Flanner  
Jim Davis  
Ryan Moran  
Shaun Marso  
Tim Neal  
Michael Tucker  
Jim Phillips  
David Leonard  
Gary Pastor  
Tamara Rabenold

Edie Robinson  
Scott Siano  
Gerald Stickl  
Jim Geiger  
Suzanne Creech  
Brandon Blucher  
Denise Martin  
Dorian Dehnel  
Andy Renfrow  
Cheryl Thomas

### **CALL TO ORDER**

Mr. MacRae called the Private Protective Services Board meeting to order at 9:31 a.m. in Chairman Weaver's absence. He 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.

Mr. MacRae introduced three new Board members, Ron Burris, Debra Duncan and Tammy Owens, and welcomed them to the Board.

Tamara Rabenold, NCAPI President, greeted the Board and all guests. She reported the Association is working on several projects and they are excited about the Fall Conference to be held November 4-6, 2018 at Atlantic Beach, NC.

### **MINUTES:**

### **APPROVAL OF THE APRIL 19, 2018 BOARD MEETING MINUTES**

**MOTION BY MR. FLETCHER TO ACCEPT THE MINUTES; SECONDED BY MR. COOK; MOTION CARRIED.**

**SCREENING COMMITTEE REPORT:**

Mr. Arndt stated that the Screening Committee met on Wednesday, June 20, 2018 from 1:30 p.m. to 3:24 p.m. to review a total of 40 applications and four addendum items (see report attached). The Committee members included Mr. Arndt, Mr. MacRae, Mr. Fletcher and Mr. Cobbler. Mr. Arndt read the report for the record.

Mr. Cobbler recused himself from #30 of the screening report.  
Mr. Fletcher recused himself from #38 of the screening report.

**MOTION BY MR. JOHNSON TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.**

The Committee considered #30 from the screening report.

**MOTION BY MR. JOHNSON TO ACCEPT #30 OF THE SCREENING REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED**

The Committee considered #38 from the screening report.

**MOTION BY MS. LAWRIK TO ACCEPT #38 OF THE SCREENING REPORT; SECONDED BY MR. JOHNSON; MOTION CARRIED**

**GRIEVANCE COMMITTEE REPORT:**

Mr. Cook reported that the Grievance Committee met on Wednesday, June 20, 2018 from 9:30 a.m. to 10:58 a.m., and heard a total of eight cases. The Committee members included Mr. Cook, Mr. Johnson, Mr. Epley, Ms. Lawrimore and Ms. Duncan. Mr. Cook read the report for the record. (See report attached).

**MOTION BY MR. COBBLER TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.**

**TRAINING & EDUCATION COMMITTEE:**

Mr. MacRae stated the Training and Education Committee met on Thursday, June 21, 2018 from 8:00 a.m. until 9:10 a.m. The Committee members included Mr. MacRae, Mr. Johnson, Mr. Cook, Mr. Epley, Mr. Cobbler and Mr. Arndt.

Mr. MacRae introduced Ray Bullard, the new PPS training officer, to give the report on the upcoming PPS Trainer courses that are currently scheduled.

Mr. Bullard reported that the upcoming training courses are currently scheduled:

July 9, 2018 - FT Re-Certification & Pre-Qualification Course at NCJA  
September 5, 2018 - FT Re-Certification & Pre-Qualification Course at NCJA  
September 10-13, 2018 - FT Course & Legal Class at NCJA (last FT certification of 2018)  
September 24-28, 2018 - UGT Course & Workshop at WTCC  
November 7, 2018 - FT Re-Certification & Pre-Qualification Course at NJA  
November 26-30, 2018 - UGT Course & Workshop at WTCC

Mr. Bullard reported that there would be continuing education credit courses scheduled after the Board meeting from 1-5 p.m., and also on August 23, 2018 from 1-5 p.m. and again on December 20, 2018 from 1-5 p.m. at that location.

Mr. MacRae then asked Mr. Bullard to continue with the report on weapons discharge.

## **WEAPONS DISCHARGE**

Mr. Bullard provided a follow-up regarding the March 26, 2018 incident at the Game Time Moose Lodge located at 3740 Owen Drive in Fayetteville, North Carolina. In particular, he stated that all parties involved had been identified by our agency and there would be a complaint filed as well as a cease and desist order issued against those parties.

On April 8, 2018 there was a report of a shooting and subsequent death of an armed guard at a Gone Fishing sweepstakes located at 1365 Church Street in Burlington, North Carolina. Mr. Bullard reported that all parties involved in that case have been identified and arrests have been made by the Burlington Police Department for the subsequent robbery that led to the shooting and death. Mr. Bullard stated there would be a complaint filed as well as a cease and desist order issued against that establishment.

Mr. Bullard reported there was one report of an unlicensed unarmed guard trainer conducting training in Raleigh, North Carolina that he investigated. He reported that upon investigation he discovered that the business had closed as of February 2018.

Mr. MacRae then reported there were nine (9) new courses submitted to the Training and Education Committee for CE approval. The Committee did approve the following new courses for submission to the full Board for approval:

Managing for Excellence: Best Practices for Recruiting the Dream Team (Online) 6.0  
Finding People: Skip Tracing from Start to Finish (Online) 6.0  
Ethics and Professional Responsibility (Online) 2.0

Equivocal Death Investigations (Online) 6.0  
Human Trafficking: International and Domestic Modern Day Slavery (Classroom) 4.0  
Managing Stress and Burnout (Classroom) 2.0  
Surveillance Detection Tactics & Techniques (Vehicle Dynamics Institute) (Classroom) 12.0  
Investigative Documentation (Classroom) 6.0  
Active Shooter (Classroom) 12.0

Mr. MacRae reported that the following courses were approved for renewal:

Surveillance Strategies for Success (Online) 6.0  
Identity Theft: Detection, Prevention and Protection (formerly known as Conducting Identity Theft Investigations) (Online) 6.0  
The People Principle (Classroom) 12.0  
Service of Process (Classroom) 4.0  
Investigative Documentation (Classroom) 6.0

**MOTION BY MR. COOK TO ACCEPT THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL; SECONDED BY MR. FLETCHER; MOTION CARRIED.**

Mr. MacRae noted that during the T&E Committee meeting, there were several areas of training discussed including low light qualification and called upon Mr. Johnson to summarize that discussion.

Mr. Johnson reported that several items were addressed beginning with the separation of the shotgun and the rifle into two distinct certifications, which will require night qualification. He stated that the long gun course will have to consist of two separate courses, a 16 hour rifle program and a 12 hour shotgun program. He stated it will not change for the armed guard training, but will revise the trainer course. He noted an hour of classroom instruction related to low light is already a requirement for guards, so they will now have to qualify with a shotgun at night.

Mr. Johnson stated that the proposed addition for low light would allow for the use of dedicated gun mounted or handheld lights for requalification. Gun mounted lights will not be allowed for the original 20 hour program nor will they be allowed for the pre-qualification for the firearms instructor certification or during the instructor course noting that the reason for this is because the Committee believes that fundamentals must be learned first.

Mr. MacRae thanked Mr. Johnson and then reported that the Committee has been reviewing an application for a certification related to digital forensics. He stated the Committee had a brief

discussion that seemed to favor adding the certification; however, the Committee decided to defer the issue until the August meeting for an actual vote.

Mr. MacRae then reported that Mr. Mark Uker, Director of Training for Research Electronics International (REI) located in Cookeville, TN, had appeared before the Committee and gave a very detailed and complete presentation in regard to REI's application to the Board to be a certified school for Electronic Countermeasures. The Committee voted to approve REI to be an approved Electronic Countermeasures school.

**MOTION BY MR. FLETCHER TO ACCEPT RESEARCH ELECTRONICS INTERNATIONAL AS AN APPROVED PPS ELECTRONIC COUNTERMEASURES TRAINING SCHOOL; SECONDED BY MR. COOK; MOTION CARRIED.**

Mr. Johnson reported the implementation of a night shotgun qualification course, which is the same course as the day course with the addition of the lights. He further stated there is no point during the course of fire where one would shoot in total darkness as there would be the option of using gun mounted lights or flashlights. He stated that he had a copy of the course of fire, and there is now a handgun requalification course that allows the use of the dedicated light system or gun mounted lights and the only change in the current course is that it would allow the use of those lights in several different distances (5, 10, 15 yard lines). He noted that all of the courses of fire must be approved by the Board and by the Secretary of the Department of Public Safety and he asked for the Board's approval so that they can move forward with getting DPS approval in order to implement the changes as soon as possible.

**MOTION BY MS. LAWRIK TO APPROVE THE AMENDMENT TO THE FIREARM'S TRAINING AND IMPLEMENT THE NIGHT SHOTGUN COURSE; SECONDED BY MR. FLETCHER; MOTION CARRIED.**

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

**GRIEVANCE COMMITTEE**

NONE

**SCREENING COMMITTEE**

NONE

## **LAW AND RULES COMMITTEE**

Ms. Lawrimore reported that the Law and Rules Committee met on Wednesday, June 20, 2018 from 8:05 a.m. to 8:53 a.m. She noted that HB 566/SB 634 have not been acted upon, but is hopeful that the legislature will address them. She stated that Andy Brannon, Legislative Liaison for DPS, has been monitoring the situation and the hope is to get the bill passed this year.

Ms. Lawrimore stated there are some issues that need addressed in another bill, but the proposed changes need to be addressed first.

Ms. Lawrimore stated that Mr. MacRae mentioned that a prospective employee has to have or obtain a copy of his or her registrant ID in order to transfer that employee based on Permittum's requirements. He noted challenges with the employer properly filing these. She also reported that the armed training certification expressed in 14B NCAC 16.807(h) states that "if a recertification of a registered armed security officer, the recertification course is valid for 180 days after completion of the course". She noted the Committee discussed this requirement and asked Mr. MacRae if he had anything to add.

Mr. MacRae clarified that a question related to the 180 day provision. Specifically, if the registrant became unemployed during that time and then became employed after that 180 day expiration, he/she would then have to go through the entire 20 hour plus 4 hour range course. He noted the discussion was centered on the validity of the training certificate separate and distinct from that of the registration. He stated that Ms. Lawrimore had graciously allowed Mr. Johnson and himself to form a subcommittee to evaluate this matter.

Ms. Lawrimore stated that target retention by instructors was also discussed. In particular, the targets are retained for 18 months. The staff will evaluate reducing the requirement to 12 months. Additionally, she noted that Mr. Johnson, Mr. Cesena and Mr. Gray will develop proposed rule changes related to firearms trainers, which will require administrative rule changes. They are as follows:

1. Expand available calibers for rifles;
2. Separate the shotgun and rifle certification programs into two distinct certifications (approved in the February 18, 2018)
3. Add night qualification to shotgun certification and make it 12 hours instead of 8 hours.
4. If a firearms instructor holds a certification to teach either rifle or shotgun, then the expiration date for all firearms certification would be based on the expiration date on the long gun certification (approved in February 18, 2018 Board meeting);
5. Amend 14B NCAC 16. 0909(a)(4) to allow recommendations for other sources;
6. Add a rule that a firearms instructor who fails to qualify during recertification cannot continue to teach during the period between the failure to qualify and the expiration of his or

her certificate. (Approved by the Board in April 2016 and has not been added to the rules yet);

7. Delete the requirement of 14B NCAC 16.0901(a)2 that a firearms instructor must have one year of supervisory experience. (This was requested by staff in May 2018, based on the fact there are a lot of people who qualified but they do not necessarily have the supervisory experience).

Ms. Lawrimore stated the Laws and Rules Committee has approved these changes and they are being submitted to the Board for approval.

**MOTION BY MR. JOHNSON TO ADOPT THE PROPOSED ADMINISTRATIVE RULE CHANGES AS PUT FORTH BY THE LAWS AND RULES COMMITTEE; SECONDED BY MR. COBBLER; MOTION CARRIED.**

Ms. Lawrimore also noted that they are waiting on the proposed legislative changes with regard to the proposed executive protection license.

**MOTION BY MR. COOK TO ACCEPT THE LAWS AND RULES COMMITTEE REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED**

#### **FINANCE REPORT:**

Mr. Fletcher reported that the Finance Committee met on Wednesday, June 19, 2018 from 4:00 p.m. to 4:42 p.m. at the Private Protective Services office at 3101 Industrial Drive, Raleigh, NC. Those in attendance were Mr. MacRae, Mr. Fletcher, Mr. Arndt and Ms. Lawrimore. Mr. Fletcher reported that revenues for the past two month period are up \$74,000.00 with expenditures only up \$26,000.00. He reported that the Committee was made aware that the staff computers have reached the end of their life cycle and will need to be replaced. The plan is to stagger replacement over the next two fiscal years. Mr. Fletcher stated that the possibility of raising the fees will be addressed in the next fiscal year.

Mr. MacRae offered a reminder about the education grants, explaining that organizations can petition the Board for a grant of up to \$5,000.00 which can be used to conduct courses that are approved by the Board. He noted that the course must be open to all members of the industry, allowing for potential capacity limitations. Mr. MacRae stated this program is very important but has not been fully utilized by the industry and he encouraged those in attendance to remind industry stakeholders about the grant program.

**MOTION BY MR. COOK TO ACCEPT THE FINANCE COMMITTEE'S REPORT; SECONDED BY MR. ARNDT; MOTION CARRIED.**



**ETHICS COMMITTEE**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Mr. MacRae reported the Board has been presented with proposed meeting dates for 2019:

- February 20-21, 2019 - Raleigh
- April 24-25, 2019 - Raleigh
- June 19-20, 2019 - Raleigh
- August 21-22, 2019 - Raleigh
- October 23-24, 2019 - Raleigh
- December 18-19, 2019 - Raleigh

Mr. MacRae noted that the Finance Committee would continue to meet the Tuesday prior to the meeting at the PPS office.

**MOTION BY MR. FLETCHER TO ACCEPT THE PROPOSED 2019 PPS BOARD MEETING SCHEDULE TO BE HELD IN RALEIGH, NC; SECONDED BY MS. LAWRIMORE; MOTION CARRIED.**

BREAK: 10:24 a.m.  
RECONVENE: 10:45 a.m.

**FINAL AGENCY DECISION**

Edmund Brian Naumann - 18 DOJ 00857. Mr. Naumann was not present. This case was heard by Administrative Law Judge J. Randolph Ward on February 27, 2018. This case involved the denial of the petitioner's armed guard registration based on whether Respondent erred in finding that the public welfare required suspension of Petitioner's armed guard registration pending a final agency determination.

**MOTION BY MR. JOHNSON TO UPHOLD THE ADMINISTRATIVE LAW JUDGE'S DECISION AND TO ACCEPT THE CONTINUED SUSPENSION OF MR. NAUMANN'S ARMED GUARD REGISTRATION SO LONG AS THE ORDER IN THE STATE OF NEW YORK REMAINS IN PLACE; SECONDED BY MR. COOK; MOTION CARRIED.**

## **DIRECTOR'S REPORT:**

Mr. Jones read the report for the record. He reported that to date, the Board has received \$1,341,982.20 in revenue with expenditures in the amount of \$1,451,680.08 showing a decrease in the fund balance of \$109,697.88 with an ending balance in the fund of \$1,158,562.95; the education fund balance is currently \$94,937.12. Mr. Jones stated that applications received since the last meeting for registration were 3,803, for licensure 254, and certification 53. The total active number of registrants is 22,256, active licensees 1866, and certification holders 591. He noted registration has printed 1,333 cards since the last meeting.

Mr. MacRae asked if the total number of cards printed included both the temporary paper cards and hard cards to which Mr. Jones responded affirmatively.

Mr. Jones introduced the new training officer, Ray Bullard, to the Board, noting that Mr. Bullard comes to PPS with 28 years of law enforcement experience with the Sanford Police Department and retired as a captain overseeing the agency's narcotics division and is a certified firearms instructor. He stated he replaced Melvin Turner, who was in attendance at this meeting, helping with the transition. Mr. Jones thanked Mr. Turner for his help with the transition.

Mr. Jones reported that a new investigator for Raleigh has been selected and is tentatively scheduled to begin work later in the month. He noted staff members are currently reviewing applications for the investigator position in Greensboro, which was previously occupied by Kim Odom.

Mr. Jones stated that at this time four (4) temporary employees are assisting with the registration backlog and reported positive progress. He noted that four employees are the maximum number of employees that the agency can accommodate due to space limitations.

Mr. MacRae asked Mr. Jones if he had an estimate of where staff was with the backlog at this point. Mr. Jones said he anticipates staff members would soon complete processing the last applications from 2017.

Mr. Jones continued in reporting that the contract with Permutium to continue scanning and archiving paper applications has been executed with the cost of \$23,200.00 to scan an additional 400,000 pages. He reported that on May 2, 2018 Permutium picked up 122 boxes of paper applications to scan and archive. At the present time, Permutium is completing licensing, certifications, and complaints components.

Mr. Jones informed the Board they lost access to PPS2000 sooner than anticipated noting that the infrastructure in which the legacy system (PPS2000) was housed was very unstable. On June 8, 2018, staff had to stop entering data in PPS2000 and can only use it to view historical data. Mr. Jones noted to the Board their reports look different due to the transition to Permitium.

Mr. Jones reiterated Mr. Fletcher and Mr. MacRae's message regarding the PPS training grant and stated that applications were being accepted from June 21<sup>st</sup> until August 20<sup>th</sup>. He added that the grant information and the guidelines were available on the PPS website.

Finally, Mr. Jones directed the Board's attention to the financial comparisons listed in his report. He anticipates reduced expenditures during the upcoming fiscal year, noting that some expenses during the current fiscal year were related to the office relocation and document archive project.

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

**ATTORNEY'S REPORT:**

Attorney Gray discussed the following:

1. On October 26, 2017 Daitwan Lamont Hardy and Security Contracting, Inc., entered into a consent agreement with the Board in the amount of \$7,466.40 for registration violations. The Return Receipt was signed by Michelle Benammor on November 9, 2017. The temporary agreement was not signed. Payment has not been received. On April 26, 2018, the full Board voted to suspend the license until payment of the \$7,466.40 consent amount is received.
2. On February 22, 2018, John Scott Dwiggins/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 the QA, John Walsh, on March 18, 2018. Paid in full.
3. 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 failing to own or lease firearms carried by armed armored car guards. To be paid in three monthly installments. Civil penalty and consent paid in full.

4. On April 26, 2018, Jerry Callicutt / Randolph Security Services entered into a Consent Agreement with the board in the amount of \$4,896.00 for registration violations. Staff is to conduct a follow up audit in six months. The temporary agreement was not signed. Payment has not been received.

## **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 22<sup>nd</sup>. 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 should vote to approve today.

If approved today, the Board's rule adoptions will be on the Rules Review Commission's August agenda and will be effective September 1, 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 14<sup>th</sup> 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. M.O.U. WITH D.P.S.**

At its April 26<sup>th</sup> meeting, the Board requested that Mr. Gray prepare a proposed amendment to the Memorandum of Understanding with the Department of Public Safety (D.P.S.) requiring it to give the Board advance notice before transferring the funds to reimburse for services. A copy of the proposed amendment is attached. (*See, attachment 2.*) The proposed amendment has been forwarded to D.P.S.'s General Counsel for review.

## **VI. 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 8<sup>th</sup> and filed a response to the Petition on December 11<sup>th</sup>.

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 her 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 46 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 28<sup>th</sup> and was impassed 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 was filed on May 17, 2018. Plaintiff-

Appellant filed a Reply Brief on May 30<sup>th</sup>. The parties are now awaiting further orders from the Court.

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

**MOTION BY MR. ARNDT TO ACCEPT THE ADMINISTRATIVE RULES; SECONDED BY MS. LAWRIMORE; MOTION CARRIED.**

**PUBLIC COMMENT:**

NONE

Mr. MacRae announced that it was Mr. Epley's last day on the Board, and thanked him for his service.

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

11:19 P.M. Adjourned

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Brian R. Jones, Director

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Garcia Graham, Board Secretary