



# 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  
DECEMBER 19, 2019  
HAMPTON INN & SUITES  
3920 ARROW DRIVE  
RALEIGH, NC 27612**

### **BOARD MEMBERS PRESENT**

David Arndt  
Ron Burris  
John Aldridge  
Bud Cesena  
David Stephens  
Gerry Stickl  
Samuel Russell  
Debra Duncan  
Steve Johnson  
Tamara Rabenold  
Jerry Pitman  
Stacy Buff  
Kim Heffney

### **BOARD MEMBERS ABSENT**

Nada Lawrimore

### **STAFF PRESENT**

Brian Jones - Director  
Paul Sherwin – Deputy Director  
Jeff Gray – Attorney  
Kim Odom – Field Services Supervisor  
Ray Bullard – Training Officer/Investigator  
Nick Ezell - Investigator  
Garcia Graham – PPS Board Secretary  
Wandria Rosario – PPS Board Licensing Assistant

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## **GUESTS PRESENT**

Harry House	Eric Scott	Daniel Massey
Pam Mayfield	Jon Phillips	Sean Hatcher
Julie Turner	Daniel Brock	Alex Spruel
Austin Black	Kyle Breischaft	Davara Ponds
Chris Hilton	Douglas Ruhl	Don Miller
Robert Dunn	Chris Mayhue	Mark Wohlneck
Roxon Flowers	Warren Hall	Greg Hatten
William Wilke	Shaun Marso	Andy Rewfrow
David Arndt	Charles Johnson	Doug Robertson
Kevin Satterfield	David Whitacre	Laura Pettler

## **CALL TO ORDER**

Mr. Arndt called the December 19, 2019, Private Protective Services Board meeting to order at 9:40 a.m. Mr. Pitman 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.

## **PUBLIC COMMENT**

Mr. Arndt introduced NCAPI President, Gregory Hatten.

Mr. Hatten reported that the NCAPI conference was held on November 8-9, 2019 at Great Wolf Lodge in Concord, NC and there were 158 attendees. He thanked Director Jones and staff for attending and giving an informative presentation. Mr. Hatten introduced the NCAPI Board members who were present.

## **MINUTES**

### **APPROVAL OF THE OCTOBER 24, 2019 BOARD MEETING MINUTES.**

**MOTION BY MS. DUNCAN TO ACCEPT THE OCTOBER 24, 2019 MINUTES;  
SECONDED BY MR. STEPHENS; MOTION CARRIED.**

## **SCREENING COMMITTEE REPORT**

Mr. Buff stated that the Screening Committee met on Wednesday, December 18, 2019 from 1:35 p.m. to 4:23 p.m. to review a total of 49 applications. The Committee members included Mr. Buff, Mr. Stephens, Mr. Heffney, Mr. Russell and Ms. Duncan. Mr. Buff read the report for the record.

**MOTION BY MR. STEPHENS TO ACCEPT THE SCREENING REPORT WITH THE EXCEPTION OF #19 BRIAN LEE; SECONDED BY MR. STICKL; MOTION CARRIED.**

**MOTION BY MR. CESENA TO ACCEPT #19 BRIAN LEE OF THE SCREENING REPORT; SECONDED BY MS. RABENOLD; MOTION CARRIED.**

Mr. Heffney recused himself from #19 Brian Lee of the screening report.

### **GRIEVANCE COMMITTEE REPORT**

Mr. Burris reported that the Grievance Committee met on Wednesday, December 18, 2019 from 9:05 a.m. to 11:40 a.m. and heard a total of eight cases. The Committee members included Mr. Burris, Mr. Aldridge, Mr. Johnson, Ms. Rabenold, Mr. Stickl and Mr. Pitman. Mr. Burris read the report for the record.

**MOTION BY MR. JOHNSON TO ACCEPT THE GRIEVANCE COMMITTEE REPORT WITH THE EXCEPTION OF CASE #2019-PPS-070 TRACY BURKE; SECONDED BY MR. STICKL; MOTION CARRIED.**

**MOTION BY MR. STEPHENS TO ACCEPT THE GRIEVANCE COMMITTEE RECOMMENDATION REGARDING CASE #2019-PPS-070 TRACY BURKE; SECONDED BY MR. STICKL; MOTION CARRIED.**

Mr. Arndt recused himself from voting on case #2019-PPS-070 Tracy Burke.

### **TRAINING & EDUCATION COMMITTEE**

Mr. Cesena reported that the Training & Education Committee met on Thursday, December 19, 2019 from 9:00 a.m. until 9:21 a.m. The Committee members included Mr. Cesena, Mr. Johnson, Mr. Aldridge, Mr. Buff, Mr. Stickl, Mr. Stephens, and Mr. Russell.

### **Unarmed Guard Trainer Course and Workshop at Wake Tech. Community College**

February 10-14, 2020  
May 11-15, 2020  
July 13-17, 2020  
September 14-18, 2020  
November 16-20, 2020

### **Firearms Trainer Recertification/Prequalification at N.C. Justice Academy, Salemburg**

March 23, 2020  
May 18, 2020  
July 13, 2020  
September 2, 2020  
November 16, 2020

**Firearms Instructor Course at N.C. Justice Academy, Salemburg**

March 30-April 2, 2020  
September 8-11, 2020

**Long Gun Instructor Recertification Course at Camp Butner**

April 7, 2020

**The following PPS Trainer courses have been completed:**

November 7, 2019	Firearms Trainer Recertification Course at NCJA
November 12-14, 2019	Long Gun Instructor Course
November 14, 2019	Long Gun Instructor Recertification Course
December 2-6, 2019	Unarmed Guard Trainer Course at Wake Tech

**The following PPSB Training Courses for CEU Credit are scheduled:**

December 19, 2019	1-5 p.m.	Raleigh, NC
February 13, 2020	1-5 p.m.	Raleigh, NC
April 23, 2020	1-5 p.m.	Raleigh, NC
June 18, 2020	1-5 p.m.	Raleigh, NC
August 20, 2020	1-5 p.m.	Raleigh, NC
October 15, 2020	1-5 p.m.	Raleigh, NC
December 17, 2020	1-5 p.m.	Raleigh, NC

**Weapon Discharge/Incident Reports:**

On, Tuesday, October 15, 2019, Robert McCrury emailed Investigator Bullard and advised of a weapon discharge by a Security Guard employed by Eagle Eye Security. On October 18, 2019 McCrury emailed Investigator Bullard a typed memo regarding the incident. McCrury advised that Officer Noah Chase was attempting to clear his handgun while on post at a sweepstakes parlor located at 3560 Maitland Drive, Raleigh, North Carolina. Chase was clearing his weapon for cleaning when the discharge occurred.

On October 21, 2019 Investigator Bullard interviewed McCrury about the incident. McCrury advised that Noah Chase was working an armed post at the 64 Business Sweepstakes located at 3560 Maitland Drive, Raleigh. Chase attempted to clear his handgun for cleaning. Chase discharged one round into his hand. Chase was transported to the hospital by personal

vehicle. Raleigh Police Department was called to the hospital. McCrury advised that Chase would not be allowed to work Armed until he has attended remedial training in weapon safety.

Investigator Bullard contacted the Raleigh Police Department and obtained a copy of the incident report. A copy of this report is included in the case file. According the Raleigh Police Department report Officers were dispatched to Wake Med Hospital located at 3000 New Bern Avenue, Raleigh, North Carolina. Upon arrival to the hospital officers spoke with Noah Chase. Chase advised responding officers that he had been shot by an unidentified male while near St. Augustine College. Chase continued by stating that he observed the man who shot him in an altercation with a female near the "Corner Store". Chase advised that he hit the man and the female ran away. The unidentified male then brandished a handgun and shot Chase striking Chase in the hand. Officers asked for consent to search Chase's vehicle. Chase initially denied consent. Officers explained to Chase that a Crime Scene Search Warrant would be obtained for his vehicle. Chase then granted consent and advised officers that the only thing they would find in his vehicle was a security guard uniform and his duty handgun. Officers searched Chase's vehicle and located a security guard uniform and a Sig Sauer, Model P228 handgun Serial Number B219704 in the trunk of the vehicle. Chase then advised officers that he had accidentally shot himself in the hand while attempting to dismantle his handgun for cleaning. Officers responded to the Sweepstakes location. Officers located one spent 9mm shell casing inside the business and several drops of blood. Officers located several bloody paper towels in the men's restroom of the business. Raleigh Police Department advised that no criminal charges will be filed at this time.

Investigator Bullard queried PPSM(Permitium) and discovered that Noah Chase was a properly registered Armed Guard for Eagle Eye Security and was qualified on a Sig Sauer, Model P228 handgun serial number B219704.

On Monday, November 25, 2019 at approximately 10:30 a.m. Daniel Newell, Qualifying Agent for Top Shelf Entertainment, called Investigator Bullard and advised of a weapon discharge by an Armed Guard, Timothy Usery. Newell advised that the incident occurred on Friday, November 22, 2019 at Club Onyx nightclub located at 5300 Pineville Road, Charlotte, North Carolina. Newell advised that the Charlotte Mecklenburg Police Department (CMPD) was the investigating agency and that a written response would be forwarded.

On Monday, November 25, 2019 at approximately 11:11 a.m., Newell forwarded a copy of a written statement provided to CMPD about the incident. The statement indicates that on November 22, 2019 at approximately 2:30 a.m. Timothy Usery and Kevin Ammons were working an armed post at Club Onyx nightclub. Usery and Ammons were on foot patrol in the parking lot of the business. Usery observed a white vehicle pull into the parking lot playing loud music and park. Usery approached the vehicle and advised the driver that he needed to leave the premises. The driver indicated that he would leave. At that time Ammons approached another group of people and instructed them to leave. The group became loud and boisterous. Usery walked toward Ammons. The driver of the white vehicle exited the vehicle and walked behind Usery. Ammons and Usery had indicated that the group would be pepper sprayed if they did not disperse. The driver of the white vehicle stated to the crowd, "If he pepper sprays y'all, I'll have to kill them". The driver walked back toward the white vehicle. Usery followed the driver back to the white vehicle. Usery approached the passenger side of the white vehicle and observed a handgun on the passenger seat. Usery challenged the driver of the vehicle not to reach for the weapon. The driver exited the vehicle and walked toward Usery and Usery attempted to Pepper

Spray the driver. The driver attempted to attack Usery, but bystanders intervened. The driver got back into the white vehicle and again Usery challenged him not to reach for the weapon. All parties involved left the parking lot at that time. Approximately 90 seconds later the white vehicle drove past the parking lot of the nightclub and the driver fired approximately 6-8 shots. Usery in return fired 3 shots at the vehicle. A copy of the statement is included in this case file.

Officers from CMPD searched the area and were unable to locate any damages done to any businesses or vehicles because of the gun fire. CMPD collected three spent shell casings from the area where Usery was standing. No other evidence was collected. Investigator Bullard queried PPSM (Permitium) and discovered that Timothy Usery and Kevin Ammons are both properly registered Armed Guards. At the time of this report the suspect driving the white vehicle has not been located and no charges have been filed.

On Tuesday, November 26, 2019 at approximately 1:30 p.m. Investigator Lee Kelly contacted Investigator Bullard about a Security Guard being killed in the Charlotte area. Investigator Kelly advised that a security company in South Carolina had contacted him about the incident. Investigator Bullard searched the internet and discovered that a Security Guard had been shot and killed at the La Casa Skilled Based Games located at 5820 East WT Harris Boulevard, Charlotte. Investigator Kelly advised that he would obtain a copy of the Charlotte Mecklenburg Police Department (CMPD) report about the incident.

On Wednesday, November 27, 2019 Melvin Lowery, Qualifying Agent for Security Plus Protection Services notified Private Protective Services that Askia Toure Alkebulan, an Armed Security Guard had been killed in the incident. Lowery advised that Security Plus Protection Services did not have a contract to conduct security at the La Casa Skilled Based Games and that Alkebulan was not scheduled to work for Security Plus Protection Services on the date of the incident.

According to the CMPD report there had been an altercation between Alkebulan and the suspect earlier in the evening. The suspect left but indicated that he would return. At approximately 5:00 a.m. Alkebulan was shot from behind at the business. Alkebulan was transported to the hospital but did not survive. At the time of the report no arrest has been made. A Cease and Desist has been issued to the La Casa Skilled Based Games.

Investigator Bullard queried PPSM (Permitium) and discovered that Alkebulan was a properly registered Armed Guard for Security Plus Protection Services. A copy of the reports is included in this case file.

Mr. Cesena stated that the Unarmed Guard Trainer Manual has been updated.

**MOTION BY MR. CESENA TO APPROVE THE UNARMED GUARD TRAINER MANUAL; SECONDED BY MR. STICKL; MOTION CARRIED.**

Director Jones thanked Mr. Bullard for his dedication and hard work in the revision of the Unarmed Guard Trainer Manual.

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

Understanding Bombing Motivations (seven hours)

How to Prepare, Outline and Write Investigation Reports for Insurance Companies, Attorneys, Civil Cases, Criminal Cases, Court Testimony (twelve hours)

**MOTION BY MR. STEPHENS TO APPROVE THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING; SECONDED BY MR. RUSSELL; MOTION CARRIED.**

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

#### **LAW AND RULES COMMITTEE**

Mr. Johnson stated that the Law and Rules Committee discussed several issues, which included draft bylaws, the personal reference questionnaire form, and non-licensed individuals employed by attorneys under 74C-3(b). He stated that after the final revisions of the bylaws are completed, the Committee will be able to discuss and vote on whether to adopt the bylaws at the February Board meeting. As it relates to the personal reference questionnaire form, the Committee recommended that licensee Leroy Everhart, who raised a concern, and staff work together to consider revisions to the form and report back at next Board meeting. With regard to non-licensed individuals employed by attorneys pursuant to N.C.G.S. 74C-3(b), the Committee suggested Judge Burris, Mr. Johnson, John Aldridge, and staff work with the Mr. Gray to draft language to clarify the statute.

**MOTION BY MS. DUNCAN TO ACCEPT THE LAW AND RULES COMMITTEE'S REPORT; SECONDED BY MR. RUSSELL; MOTION CARRIED.**

#### **ETHICS COMMITTEE**

Ms. Duncan reminded Board the members of the three ethics requirements. First, she reminded members to file the Statement of Economic Interest which will be available in January until April 15. Second, members must complete the ethics training within six months of appointment and every two years thereafter. Finally, members must complete N.C.G.S. 93B-5 training administered by the Board's attorney within six months of appointment and again within two years.

Ms. Duncan also reported that Ms. Lawrimore's ethics training is past due.

Director Jones stated that he will send out the link to the Ethics Commission website and suggested that each Board members check the site to ensure that their information is correct. If not, he asked that members email him so that he can forward updated information to the Ethics Commission.

**MOTION BY MR. CESENA TO ACCEPT THE ETHICS LIAISON'S REPORT; SECONDED BY MR. STICKL; MOTION CARRIED.**

## **EMERGING TECHNOLOGY COMMITTEE**

Mr. Aldridge reported that the Emerging Technology Committee met. Protus3 representatives provided a presentation related to searching data on electronic devices, such as smartphones and computers. It was very informative, and the Committee desired to continue the discussion at the February meeting. Mr. Aldridge recommended that Director Jones and Attorney Gray review the PPS Board law and administrative rules and recommend any suggestions for modifications as it relates to the use of unmanned aerial vehicles. Mr. Aldridge stated that he will be seeking a representative to discuss and present the best utilization of cameras on drones for the upcoming February 2020 committee meeting.

**MOTION BY MR. PITMAN TO ACCEPT THE EMERGING TECHNOLOGY COMMITTEE'S REPORT; SECONDED BY MR. RUSSELL; MOTION CARRIED.**

Break            10:15 a.m.  
Reconvened    10:30 a.m.

### **OLD BUSINESS:**

None

### **NEW BUSINESS:**

None

### **FINAL AGENCY DECISION**

Coyte Charles Franklin Kennedy Jr., - 19 DOJ 03748. Mr. Kennedy was present. This case was heard by Administrative Law Judge Tenisha S. Jacobs on August 27, 2019. This case involved the denial of the Petitioner's armed guard registration based on a lack of good moral character and temperate habits as evidenced by a conviction of one count of a Class 1 misdemeanor Violating Domestic Violence Order in Forsyth County, NC.

**MOTION BY MR. JOHNSON TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MR. KENNEDY'S ARMED GUARD REGISTRATION APPLICATION BASED ON HIS REBUTTAL OF THE PRESUMPTION; SECONDED BY MS. DUNCAN; MOTION CARRIED.**



Douglas Earl Martin, - 19 DOJ 04702. Mr. Martin was not present. This case was heard by Administrative Law Judge Stacey Bice Bawthinhimer on September 24, 2019. This case involved the denial of the Petitioner's unarmed guard registration based on a lack of good moral character and temperate habits as evidenced by a conviction of felony Financial Card Theft, felony Identity Theft, felony Habitual Felon in Wake County, NC and felony Possession of Motor Vehicle in Wayne County, NC.

**MOTION BY MR. BUFF TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND DENY MR. MARTIN'S UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. CESENA; MOTION CARRIED.**

**DIRECTOR'S REPORT:**

Director Jones read the report for the record. He reported the Board's revenue as of November 30, 2019 was \$607,486.88 with expenditures in the amount of \$603,648.92, reflecting an increase to the fund balance of \$3,837.96.80. The total fund balance was \$1,168,788.61. He reported the Education Fund balance was \$112,292.63 with no disbursements. Director Jones reported that since the last Board meeting, PPS had received 4,650 registration applications, 113 applications for licensure and 65 certifications, which brought the active numbers for registration to 23,308, license holders to 2,355 and certification holders 600. Staff printed 4,556 cards since the last meeting.

Director Jones introduced two new employees, Deputy Director Paul Sherwin and Wandria Rosario, Licensing Assistant.

He stated that after a thorough search process, Paul Sherwin was selected as the new Deputy Director and started on November 12<sup>th</sup>. Mr. Sherwin served as a captain in the U.S. Army and Oregon Army National Guard. He also served as a deputy sheriff for the Washington County, Oregon and Durham County, North Carolina Sheriff's Offices. In Durham, he served as the agency's first full-time public information officer. Additionally, Mr. Sherwin served as a special agent for Norfolk Southern Corporation. Most recently, he worked as a security & operational resilience specialist for DHL Global Forwarding, where he managed all facility-level security programs, to include compliance with TSA and U.S. Customs regulations. Mr. Sherwin received a Bachelor's Degree in Journalism from the University of Oregon and a Master's Degree in Business Administration from Queens University of Charlotte.

Wandria Rosario was hired as the PPSB licensing assistant. Most recently, Ms. Rosario served as a temporary employee at PPS. Prior to that, she worked for Wake County Human Services. Ms. Rosario obtained an associate's degree in human services from University of Phoenix.

Director Jones reported that pursuant to N.C.G.S. 74C-4(h) and in accordance with the MOU between the Department of Public Safety (DPS) and the Board, DPS intends to transfer the annual administrative services fee of \$37,500 in January 2020.

Director Jones stated that as of December 16, 2019, employees had processed armed guard

applications submitted through November 15, 2019 and unarmed guard applications submitted through October 29, 2019.

Director Jones announced that Permittum representatives planned to return to the PPS office in January to discuss the status of support items.

Director Jones stated that he was invited to speak at the North Carolina Association of Private Investigators' Fall Conference in November. He had a great time interacting with private investigators from various parts of North Carolina and benefited from candid conversations about challenges their industry faces. Garcia Graham and Shannon Thongkheuang accompanied him and provided an overview of the Permittum registration and licensing processes.

Director Jones stated that on November 19<sup>th</sup> and December 17<sup>th</sup>, he taught law enforcement instructors at the North Carolina Justice Academy in Salemburg about the roles and responsibilities of the armed and unarmed security guards and private investigators, as well as the territorial and subject matter jurisdiction of company police officers. Steve Johnson assisted on November 19<sup>th</sup>. Investigator Bullard delivered the same training at the North Carolina Justice Academy in Edneyville on December 11<sup>th</sup>. This training ensured the instructors would be able to deliver the same course to law enforcement officers at their respective agencies during the 2020 in-service training.

Director Jones reported that Jerry Pitman, Sam Russell and he attended the Close Protection Conference in Nevada from December 12-14. The event provided helpful information related to the protective security industry and facilitated a greater understanding of the issues faced by protection professionals.

Director Jones stated that Attorney Gray, Wayne Woodard, and he attended the 2019 Conference of the International Association of Security & Investigative Regulators (IASIR) in Baltimore from October 29-31. This year's conference focused on planning for and reacting to emerging trends. During the conference, he was appointed as the legal adviser for IASIR.

Director Jones discussed a potential revision to the registration process that would allow greater discretion to grant an individual their registration when it would otherwise be denied by staff due to the Board's adopted framework related to prior criminal history.

Mr. Burris suggested that Director Jones, Mr. Johnson, and Attorney Gray develop a proposal and bring it back to the February 2020 Board meeting for review.

**MOTION BY MS. RABENOLD TO ACCEPT THE DIRECTOR'S REPORT;  
SECONDED BY MR. RUSSELL; MOTION CARRIED.**

#### **ATTORNEY'S REPORT**

Attorney Gray discussed the following:

## **CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES**

1. On June 20, 2019 Sione Atu Latu/Security On Call, LLC entered into a Consent Agreement with the Board in the amount of \$13,096.80 for registration violations. The temporary agreement was not signed. Signature on return receipt is illegible and signature date was omitted. Payment has not been received. Rescheduled for the Grievance Committee on December 18, 2019.
2. On August 22, 2019 Gregory Stephen Smith/Deps Safety & Security Services, Inc., entered into a Consent Agreement with the Board in the amount of \$7,099.20 for registration violations. The temporary agreement was signed by QA Gregory Smith on August 21, 2019 to be paid in three monthly installments. Paid in full.
3. On August 22, 2019 Lance Adrian Jones Sr., /Safe & Secure Worldwide Protection entered into a Consent Agreement with the Board in the amount of \$183.60 for registration violations. The temporary agreement was signed by QA Lance Jones Sr. on August 21, 2019. Payment has not been received.

**MOTION BY MR. CESENA TO ISSUE A CEASE & DESIST TO MR. LANCE JONES SR., AND SAFE & SECURE WORLDWIDE PROTECTION UNTIL PAYMENT HAS BEEN RECEIVED; SECONDED BY MR. RUSSELL; MOTION CARRIED.**

4. On October 24, 2019 Beverly Gurkin/ Martin Edwards & Associates, Inc., entered into a Consent Agreement with the Board in the amount of \$612.00 for registration violations. The temporary agreement was signed by QA Beverly Gurkin on October 23, 2019. Paid in full
5. On October 24, 2019 Michael Angelo Staton/Lyon Shield Security entered into a Consent Agreement with the Board in the amount of \$2,448.00 for registration violations. The temporary agreement was signed by QA Michael Staton on October 23, 2019. To be paid in three monthly installments. Payment has not been received.

Judge Burris suggested that the non-payment of a consent agreement be included with the Grievance Committee report.

### **I. 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 16, 2018 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 16<sup>th</sup> 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 must now be refiled for review by the Rules Review Commission, which is being done in segments.

b. At its June 21<sup>st</sup> 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 23<sup>rd</sup> 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, and the 11 amended rules were the first segment of the periodic Review of Rules to be filed with the Rules Review Commission.

These 11 were originally scheduled to be considered by the Commission at its September 2019 meeting but the period of review was extended due to numerous Staff Objections. All but one objection was resolved and the remaining 10 rules were considered at the Commission's October 17, 2019 meeting and approved. They were effective November 1, 2019.

One rule, 14B NCAC 16 .0804, received an objection because it did not set forth the criteria to be used by the Director to determine when an additional investigation is necessary. After discussing this rule with Director Jones, he and Mr. Gray agreed it was unnecessary and recommended to the Board it be repealed in lieu of addressing the objection. The Board voted to repeal .0804 at its October meeting and the appeal was approved at the Rules Review Commission's November meeting.

The latest version of the Board's administrative rules is being provided to you and the staff today.

c. As previously mentioned to the Board during its creation and implementation, the new Permittum on-line licensing and registration system requires 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. The Notice of Text was filed on July 22, 2019 and published on the PPSB's website on July 23, 2019 and in the North Carolina Register (Vol. 34; Issue 4; August 15, 2019). The Public Hearing was held on August 30, 2019 at the Board's office, and there was one from the public in attendance. The public comment period ended on October 14<sup>th</sup> with no public comment, oral or written. These

rules as amended were adopted at the Board's October meeting and will be filed with the Rules Review Commission for review and approval.

These rules were filed on November 20, 2019. Mr. McDarris and Mr. Gray received 30 pages of Requests for Technical Changes from the Staff Attorney for the Rules Review Commission. Due to the sheer volume of the Requests, and the need to meet with Board staff in order to respond to many of them, Mr. McDarris requested a 30-day extension of time to respond to the Requests which were otherwise due December 13, 2019.

Because of the importance of the on-line rules, it was necessary to file the them even though the statutorily mandated re-adoption process was underway. Since these 26 rules were amended during the re-adoption process for all PPSB rules, the RRC is allowing us to both amend and re-adopt these 26 rules at the same time. This creates a very confusing, and somewhat contradictory process. Therefore, once these 26 rules pass the RRC next month, we will go back and complete the statutorily mandated re-adoption of all remaining 70+ rules. Until that time, all amendments to the rules need to be held in abeyance.

d. At the August 22<sup>nd</sup> meeting, staff requested, and the Board approved allowing applicants for licensure and registration to submit fingerprints through approved systems -- known by the most common vendor name as "Live Scan" -- in addition to a traditional fingerprint card. Mr. Gray was instructed to prepare amendments to the corresponding administrative rules for applications. Those rule amendments were adopted at the Board's October meeting and the Notice of Text, which begins the formal rulemaking process, will be filed upon completion of the Periodic Review of Rules process.

e. Also, at its August 22<sup>nd</sup> meeting the Board discussed allowing firearms trainers to train independent of a licensed company. Concern was expressed that if allowed, these trainers would not be covered by the company's insurance. Mr. Gray was instructed to prepare a rule amendment that would require an "independent" firearms trainer to have the liability insurance required by N.C. Gen Stat. § 74C-10(e). That amendment was made a part of 14B NCAC 16 .0902 and approved along with the two rule amendments referenced in d., above, and the Notice of Text will be filed at the same time.

## II. 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 21<sup>st</sup> 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 21<sup>st</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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, where it was amended to a Private Investigator to receive an endorsement on his or her existing license to perform Close Personal Protection (in lieu of a license) under certain circumstances. It received a Favorable Report. House Bill 630 passed the House on July 9<sup>th</sup> with minor floor amendment (“Chairman” to “Chair”) and has been referred to the Committee on Rules and operations of the Senate.

A copy of House Bill 630 as it currently appears was attached to Mr. Gray’s August 22, 2019 Attorney’s Report.

b. 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.

This bill passed the House 114-0 on May 2<sup>nd</sup> and has been referred to the Senate Rules Committee. (No copy attached.)

c. 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. This bill passed the Senate on June 11<sup>th</sup> after a single amendment (“Committee Substitute”), but was amended numerous times in House committees and on the floor before passing the House on July 8<sup>th</sup>. Since that time it has been tied up in a joint Conference Committee. (No copy attached.)

### **III. LITIGATION**

At its October meeting following the Grievance Committee report, Mr. Gray was instructed to seek injunctive relief against Trini Lydell Hollins, Donald Lee Watts and Elite Protective Services 1, Inc. (a corporation owned by Mr. Hollins) for engaging in unlicensed security guard and patrol activities and for soliciting security guard and patrol services, failing to register armed and unarmed guards, and failure to train armed and unarmed guards.

On November 14, 2019 Mr. Gray filed a Complaint for Injunctive Relief in Wake County Superior Court seeking to enjoin the above, and obtained a Temporary Restraining Order against the Defendants. The Judge set the return for the TRO for December 2, 2019.

The original Civil Summons and Complaint were served by Sheriff at multiple addresses in two counties, and during this same time Investigators Lee Kelly and Nicky Ezell arranged for agents of the Alcohol Law Enforcement Division to serve a copy of the TRO and Notice of Hearing for the December 2<sup>nd</sup> hearing on Defendants Hollins and Watts. Surprisingly, both appeared at the Preliminary Injunction hearing.

Mr. Gray interviewed both Defendants outside the courtroom and they were adamant they had stopped engaging in private protective services upon receipt of the Cease and Desist letter from the Director. The investigation had uncovered no evidence to the contrary. The Defendants agreed to enter into a Consent Order, which was signed by both on December 3<sup>rd</sup>, then signed by the presiding Superior Court Judge on December 4<sup>th</sup>.

The Defendants are now enjoined from engaging in any activity defined by N.C. Gen. Stat. § 74C-3 as a “private protective service.”

**MOTION BY MR. CESENA TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. PITMAN; MOTION CARRIED.**

**MOTION BY MR. CESENA TO ADJOURN; SECONDED BY MR. STICKL; MOTION CARRIED.**

11:39 A.M. Adjourned

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Brian R. Jones, Director

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Garcia Graham, Board Secretary