

NORTH CAROLINA
WAKE COUNTY

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DOJ 03457

CARLITO SOLER)
)
Petitioner,)
)
v.)
)
NORTH CAROLINA ALARM)
SYSTEMS LICENSING BOARD,)
)
Respondent.)
)

PROPOSAL FOR DECISION

This contested case was heard before the Honorable Administrative Law Judge Joe Webster on August 28, 2012 in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*

Respondent was represented by Jeffrey D. McKinney.

WITNESSES

Respondent – Anthony Bonapart, Deputy Director, testified for Respondent Board.

Petitioner – Petitioner testified on his own behalf.

ISSUES

Whether grounds exist for Respondent to deny Petitioner’s application for alarm system registration permit pursuant to N.C. Gen. Stat. § 74D-1 *et seq.* based on Petitioner’s lack of good moral character and temperate habits as evidenced by a conviction for felony, 4th degree grand larceny in 1998 in Westchester County, New York.

BURDEN OF PROOF

Respondent has the burden of proving that the Petitioner lacks good moral character or temperate habits. Petitioner may rebut Respondent’s showing.

9. Petitioner also introduced several letters from his employers speaking highly of petitioner's character and work ethic. These letters were introduced as *Petitioner's Exhibits*. Petitioner's Exhibits were admitted as part of the record.

CONCLUSIONS OF LAW

1. Pursuant to N.C. Gen. Stat. § 74D-6, Respondent Board may refuse to issue an alarm systems registration permit for lack of good moral character or temperate habits.
2. Pursuant to N.C. Gen. Stat. § 74D-6(a), conviction by a State court for larceny shall be prima facie evidence that the applicant does not have good moral character or temperate habits.
3. Respondent Board presented evidence that Petitioner lacked good moral character or temperate habits through Petitioner's criminal record.
4. Petitioner presented sufficient evidence to rebut the presumption that he lacks good moral character.

Based on the foregoing, the undersigned makes the following:

PROPOSAL FOR DECISION

The North Carolina Alarm Systems Licensing Board will make the final decision in this contested case. It is proposed that the Respondent Board **REVERSE** its denial of Petitioner's application for a registration permit.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714, in accordance with G.S. 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact and to present oral and written arguments to the agency pursuant to G.S. 150B-40(e).

The agency that will make the final decision in this contested case is the Alarm Services Licensing Board.

This the 26th day of September, 2012.

The Honorable Joe Webster
Administrative Law Judge

Submitted this the 20th day of September, 2012

BAILEY & DIXON, LLP

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Attorneys for Respondent

CERTIFICATE OF SERVICE

I, Jeffrey D. McKinney, hereby certify that I have served a copy of the foregoing Proposed Proposal for Decision by depositing a copy with the United States Postal Service, first class mail, and addressed as follows:

Carlito Soler
3320 Boynton Ct.
Virginia Beach, VA 27452

This the 20th day of September, 2012

BAILEY & DIXON, LLP

Jeffrey D. McKinney

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