

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13 DOJ 14219

PROPOSAL FOR DECISION

APPEARANCES

ISSUE

APPLICABLE STATUTES AND RULES

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. §74C-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the armed and unarmed security guard and patrol business.
2. Petitioner applied to Respondent Board for renewal of her unarmed guard registration.

3. Respondent denied the unarmed guard registration due to Petitioner's criminal record which showed the following since her last renewal:

A conviction in New Hanover County, State of North Carolina, on August 9, 2012 for misdemeanor Larceny and Financial Card Fraud.

4. Petitioner requested a hearing on Respondent's denial of the renewal of her unarmed guard permit.

5. By Notice of Hearing dated November 2, 2013, the undersigned Administrative Law Judge advised Petitioner that a hearing on the denial of her unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on November 26, 2013.

6. At hearing, Petitioner explained that she was living in Wilmington, NC in 2012, and was working a part-time job at a group home. One day, during her break, she and a coworker went to lunch. They stopped at her house first. She got out of her car, grabbed her mail, threw the mail into her car, and then ran into the house to get some things. Unbeknownst to her, the coworker that was riding with her went through her mail, and grabbed a letter containing her brother's credit card. She left her house, drove to her coworker's house, and then back to work.

7. She claimed she did not know the letter containing her brother's credit card was missing.

8. Petitioner claimed that later, she learned that her coworker was part of a credit card theft ring that ran scams. The coworker's gang activated the card, and applied Petitioner's name to her brother's card. Petitioner used the card to purchase gas and a cell phone.

9. Petitioner advised Anthony Bonapart, Deputy Director of the Board, that the credit card company contacted her brother, and asked him if he received a credit card. He replied, "No." The company told him that purchases were being charged to the card. Petitioner informed Mr. Bonapart that her brother called her, and asked her if his card had come in the mail, and she told her brother, "No." Her brother pressed charges. Petitioner was charged, because her name was on the credit card.

10. A public defender was assigned to Petitioner's case, and recommended that Petitioner enter a guilty plea. Petitioner pled guilty, because she did not have the money to pay all the money back at one time. She paid off the charges while on probation.

11. Petitioner could not explain exactly how her name was placed on the credit card, and then returned to her without her suspecting anything.

12. Petitioner she served five (5) years as a New York City police officer, and is now a supervisor at her current employment.

13. Petitioner has worked for Universal Protection Service LLC for four years. She is assigned to various warehouses and a condominium complex, and patrols the assigned areas to deter crime.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. §74C-12(a)(25), Respondent Board may refuse to grant a registration if it determines the applicant has demonstrated intemperate habits or lacks good moral character.
3. Under G.S. §74C-8(d)(2), conviction of any crime involving an act of larceny or any act involving fraud is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
4. Respondent Board presented evidence that Petitioner has demonstrated intemperate habits and lack good moral character through conviction in New Hanover County, North Carolina for misdemeanor Larceny and Financial Card Fraud.
5. Petitioner presented insufficient evidence to explain the factual basis for the charge, and rebut the presumption.

PROPOSAL FOR DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Respondent **DENY** Petitioner's renewal of her unarmed guard registration.

NOTICE AND ORDER

The NC Private Protective Services Board will make the Final Decision in this contested case. As the Final Decision maker, that agency 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 N.C. Gen. Stat. § 150B-40(e).

The undersigned hereby orders that agency serve a copy of its Final Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

This the 13th day of January, 2014.

Melissa Owens Lassiter
Administrative Law Judge