

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14DOJ06135

DANIEL LEWIS SAGER PETITIONER, V. N C ALARM SYSTEMS LICENSING BOARD RESPONDENT.	PROPOSAL FOR DECISION
--	------------------------------

On September 23, 2014, Administrative Law Judge Randall May called this case for hearing in Raleigh, North Carolina.

APPEARANCES

Petitioner appeared *pro se*.

Respondent was represented by attorney Jeffrey P. Gray, Bailey & Dixon, LLP, P.O. Box 1351, Raleigh, North Carolina 27602.

ISSUE

Whether Petitioner should be denied an alarm systems installation registration based on Petitioner's lack of good moral character and temperate habits as evidenced by conviction of misdemeanor Hit and Run and DWI.

APPLICABLE STATUTES AND RULES

Official notice is taken of the following statutes and rules applicable to this case:
N.C.G.S. §§ 74D-2; 74D-6; 74D-8; 74D-10; 12 NCAC 11 .0300.

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. § 74D-2, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems installation business.
2. Petitioner applied to Respondent Board for an alarm systems installation registration.
3. Respondent denied the alarm installation registration due to Petitioner's criminal

record which showed the following:

A conviction for misdemeanor Hit and Run, Failure to Stop & Property Damage and Driving While Impaired (DWI), Level 5 in Wake County, State of North Carolina on November 25, 2013.

4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.
5. By Amended Notice of Hearing dated August 14, 2014, and mailed via certified mail, Respondent advised Petitioner that a hearing on the denial of his alarm installation registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on September 23, 2014. Petitioner appeared at the hearing.
6. Petitioner testified that on June 30, 2013 at 2:00 a.m. he was at a local bar in Raleigh, North Carolina, drinking. He left the bar in his car and started driving home. It was raining heavily. He lost control of his car on Lumley Road striking a guard rail. He backed up and continued to drive home. A citizen witnessed the accident and called the police. While resting at his house, the police arrived.
7. The officers checked the damage to the car and asked if he had been drinking. He admitted to the police that he had been drinking and was placed under arrest. He retained an attorney and entered a plea of Not Guilty. The Court found him guilty. The Court sentenced him to one year unsupervised probation, community service, a \$1,500.00 fine for property damage and revocation of his driver's license. The Court issued him a provisional license that allows him to drive back and forth to work.
8. Petitioner has worked for Time Warner Cable for four (4) years in "inside sales." (He provides product information to the public over the telephone. He does not go into customers' homes. He does no in-home sales or installations.)
9. Petitioner has been sober for 15 months and is turning his life around. He voluntarily entered the treatment program at Fellowship Hall in Greensboro, North Carolina.
10. He does not drive as part of his job.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Under G.S. § 74D-6(3), Respondent Board may refuse to grant an alarm installation registration if it is determined that the applicant has demonstrated intemperate habits or lacks good moral character.
3. Under G.S. § 74D-6(2), Respondent Board may refuse to grant an alarm installation

registration if it is determined that the applicant has been convicted of a crime involving the illegal use of alcohol.

4. Under G.S. §§ 74D-6(2) & 74D-10(a)(4), conviction of any crime involving damage to real or personal property is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through convictions in Wake County, North Carolina for crimes involving the illegal use of alcohol and Hit and Run/Failure to Stop & Property Damage.
6. Petitioner presented sufficient evidence to explain the factual basis for the charge and has rebutted the presumption.

Based on the foregoing, the undersigned makes the following:

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby recommends that Petitioner be issued the renewal of his alarm installation registration.

NOTICE AND ORDER

The North Carolina Alarm Systems Licensing Board is the agency that 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).

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.

This the 27th day of January, 2015.

J. Randall May
Administrative Law Judge