

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
15DOJ04293

Michael Ross Pitchford Petitioner  v.  N C Private Protective Services Board Respondent	<b>PROPOSAL FOR DECISION</b>
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THIS MATTER came on for hearing before Hon. J. Randolph Ward, on July 28, 2015 in Raleigh, upon Respondent's request, pursuant to N.C. Gen. Stat. § 150B-40(e), for designation of an Administrative Law Judge to preside at the hearing of this contested case under Article 3A, Chapter 150B of the North Carolina General Statutes.

**APPEARANCES**

Petitioner: *Pro se*

Respondent: Jeffrey P. Gray  
Bailey & Dixon, LLP  
Raleigh, North Carolina

**ISSUE**

Should Petitioner's application for unarmed guard registration be denied due to failure to show the "good moral character" required by N.C. Gen. Stat. § 74C-8(d)(2), as evidenced by a conviction for felony Obtaining Property by False Pretenses and a conviction for misdemeanor Larceny, as well as multiple convictions of Driving While License Revoked.

**APPLICABLE STATUTES AND RULES**

N.C. Gen. Stat. §§ 14-100, 74C-3(a)(6), 74C-8(d)(2), 74C-11, and 74C-12(a)(25); and 14B NCAC 16 .0703(3)

**EXHIBITS ADMITTED INTO EVIDENCE**

Respondent's Exhibits:

1. Petitioner's *Unarmed Registration Application*
2. Respondent's June 5, 2015 *Revised Denial Letter*

## WITNESSES

For Petitioner: Mr. Michael Ross Pitchford, Petitioner

For Respondent: Mr. Anthony Bonaparte, Dep. Director, N.C. Private Protective Services Board

**UPON DUE CONSIDERATION** of the arguments of counsel; the exhibits admitted; and the sworn testimony of each of the witnesses in light of their opportunity to see, hear, know, and recall relevant facts and occurrences, any interests they may have, and whether their testimony is reasonable and consistent with other credible evidence; and upon assessing the preponderance of the evidence from the record as a whole in accordance with the applicable law, the undersigned makes the following:

## FINDINGS OF FACT

1. Respondent N.C. Private Protective Services Board is constituted 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 Michael Ross Pitchford was employed by Staff One Services of Durham on September 14, 2014 as a probationary unarmed security guard pursuant to N.C. Gen. Stat. §74C-11, and his application to Respondent for an unarmed guard registration was received on October 14, 2014.
3. Respondent denied the unarmed guard registration due to Petitioner's criminal record which showed the following:
  1. A conviction in Wake County, State of North Carolina on July 31, 2008 for misdemeanor Larceny;
  2. A conviction in Wake County, State of North Carolina on January 3, 2012 for Obtaining Property by False Pretenses, a felony;
  3. A conviction in Wake County, State of North Carolina on July 31, 2012 for Driving while License Revoked (hereinafter, "DWLR");
  4. A conviction in Wake County, State of North Carolina on August 28, 2012 for felony Probation Violation;
  5. A conviction in Durham County, State of North Carolina on December 12, 2013 for DWLR;
  6. A conviction in Wake County, State of North Carolina on October 31, 2014 for DWLR; and
  7. A conviction in Wake County, State of North Carolina on February 10, 2015 for DWLR.
4. Petitioner timely requested a contested case hearing on Respondent's denial of his application for unarmed guard registration.

5. By Notice of Hearing dated June 11, 2015, sent by certified mail, Respondent advised Petitioner that a hearing on the denial of his unarmed guard registration would be held at the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, North Carolina 27609 on July 28, 2015. Petitioner appeared at the hearing.
6. Petitioner testified that he had read the list of his criminal convictions in Finding of Fact 3, and he stated that they were all correct.
7. Petitioner testified that in July 2008, he was attending college at Saint Augustine in Raleigh. He was dating a girl who caught him cheating on her with another girl. His girlfriend had purchased two books for him for \$400.00. When she became angry with him cheating on her, she filed charges against him for keeping these books. He stated that she also went to a Dean with the issue, which resulted in the campus police getting involved. He testified that he retained a lawyer and showed up in court with receipts showing that he had paid her back the \$400.00 for the books as his lawyer had instructed, but after hearing all the evidence, the Court found him guilty of misdemeanor Larceny.
8. Petitioner testified that in January 2012, he was out of college and living with a girl. They broke up, and he moved out. Petitioner alleges that when he left, he took things that he purchased for their house, including a large flat screen TV, and that his ex-girlfriend took out charges against him for taking the TV. On January 3, 2012, the Court found him guilty of N.C. Gen. Stat. § 14-100, Obtaining Property by False Pretenses, a felony, and placed him on probation for one year. Conviction under § 14-100 requires a finding that the accused “knowingly and designedly by means of any kind of false pretense ... obtain[ed] ... any ... thing of value with intent to cheat or defraud any person of such[.]”
9. In the summer of 2012, Petitioner still retained his Virginia driver’s license, although he had lived in North Carolina since 2008. The Virginia Dept. of Motor Vehicles contacted his mother, learned that Petitioner lived in North Carolina, and revoked his license because he was no longer a resident of Virginia. He was subsequently stopped by Raleigh Police for a license tag violation. When the police determined that his license was revoked, he was arrested for DWLR and spent 24 hours in jail. When he went to Court, he was found guilty and ordered to pay court costs and fines totaling over \$1,000.00.
10. Because of the DWLR and his failure to pay court costs and fines, the Court also found him guilty of probation violation in August 2012.
11. Petitioner testified that he continued to drive without a license because he had to get to work to raise the money to pay his court costs and fines. He was also cited by the police for DWLR in 2013, 2014, and 2015. Petitioner testified that he does not drive anymore and now gets rides from his parents.
12. Petitioner’s mother, Susanne Pitchford, not a sworn witness at the hearing but stated in open court to the undersigned that Petitioner had retained an attorney who is working to clear up his driving record in North Carolina.

13. Petitioner testified that he has worked for Staff One Services, Inc. for a year. He is assigned to Event Staff where he walks the aisles during events. He recently moved up to security duties.
14. The preponderance of the evidence shows that Petitioner has not demonstrated that he is presently of “good moral character” within the meaning of the statutes governing the issuance of unarmed guard registration.

### **CONCLUSIONS OF LAW**

1. The parties are properly before the Office of Administrative Hearings.
2. Pursuant to N.C. Gen. Stat. § 74C-12(a)(25) and 14B NCAC 16 .0703(3), Respondent Board may refuse to grant an unarmed guard registration if it is determined that the applicant has a demonstrated lack of good moral character.
3. Conviction of any crime involving an act of larceny or a crime of moral turpitude within the last five years is *prima facie* evidence that the applicant does not have good moral character. 14B NCAC 16 .0703(3). Violation of N.C. Gen. Stat. § 14-100, Obtaining Property by False Pretenses, is a crime of moral turpitude. *State v. Yarboro*, 194 N.C. 498, 140 S.E. 216, 221 (1927).
4. Multiple convictions for criminal offenses, and particularly for the same offense, demonstrates a disregard for the law that evidences a lack of good moral character within the meaning of N.C. Gen. Stat. §74C-8(d)(2) and 14B NCAC 16 .0703(3); *In re Willis*, 288 N.C. 1, 10, 18, 215 S.E.2d 771, 776-77, 781-82 (1975).
5. The preponderance of the evidence shows that Petitioner lacks good moral character within the meaning of N.C. Gen. Stat. §§ 74C-8(d)(2) and 74C-12(a)(25), and 14B NCAC 16 .0703(3).

### **PROPOSAL FOR DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned recommends that Petitioner be denied an unarmed guard registration for five (5) years from the date of his conviction for Obtaining Property by False Pretenses on January 3, 2012.

### **NOTICE AND ORDER**

The North Carolina Private Protective Services 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 hereby is 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 25<sup>th</sup> day of September, 2015.

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J. Randolph Ward  
Administrative Law Judge