



criminal record which showed the following:

- a. a conviction in Cabarrus County, State of North Carolina, on January 3, 2013 for Driving While Impaired, Level 5; and
  - b. a conviction in Guildford County, State of North Carolina, on November 5, 2014 for Driving While Impaired, Level 2.
4. Petitioner requested a hearing on Respondent's denial of an alarm installation registration for the above two (2) convictions.
5. Subsequent to his letter requesting a hearing, Petitioner was sent a second letter notifying him of denial based on a third conviction: Driving While Impaired, Level 1, on November 6, 2014 in Moore County, North Carolina.
6. By Notice of Hearing dated June 10, 2015, 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 June 23, 2014. Petitioner appeared at the hearing.
7. Petitioner admitted in open court to the third conviction which was sent after his initial request for a hearing.
8. Petitioner testified that in October 2012 he was driving home to Greensboro, NC from Charlotte, NC on Interstate 85 N when he was pulled over by a State Highway Patrolman for swerving in the highway. The Patrolman smelled alcohol as he talked to him and he was ordered out of the car. He was subjected to a field sobriety test, which he failed. He was arrested and transported to jail in Concord, NC where he spent the night in jail and was allowed to drive home the next day after authorities felt he was sober. He retained an attorney and appeared in Court on January 3, 2013 and entered a guilty plea. The Court sentenced him to complete a 20-hour DWI education class. He was placed on 12 months Restrictive Driving Privileges, so he could drive from 6:00 a.m. to 8:00 p.m. Monday – Friday.
9. In October or November 2013 while driving on a restrictive license, he was driving from Greensboro, NC to Pinehurst, NC via Highway 220. It was approximately 11:00 a.m. and a Highway Patrolman noticed him swerving and pulled him over in Moore County. The Patrolman realized that he was intoxicated and he was arrested and taken to jail in Carthage, NC. His brother came and picked him up from jail. He retained an attorney and entered a guilty plea. The Court revoked all driving privileges. He had to complete a 40-hour DWI class. Because it was his second DWI, he spent 30 days in the Moore County detention facility; he spent every other weekend in jail until his time was served.
10. Petitioner does not have a NC driver's license at this time.

11. In the late 1980's/early 1990's he went to Alcoholics Anonymous for help. He stated that because of AA he stayed sober for seven (7) years but relapsed. He is attending AA again and his first AA meeting was May 3, 2014. He has been sober since attending that May 3<sup>rd</sup> meeting over one (1) year ago. He attends meetings at two different locations in Greensboro; a 1<sup>st</sup> Lutheran Church daily and every Tuesday, Friday and Saturday nights at 6:30 p.m. at Muir's Chapel United Methodist Church.
12. Petitioner is a Certified Public Accountant with many years' experience in public accounting.
13. Petitioner was hired by Secure Watch, Inc. as Chief Financial Officer in August, 2014, but has not worked since his application was denied. His employer is aware of his alcohol problems and DWI convictions.
14. Nancy Blackett Nagel testified on behalf of Petitioner. She has known him since 1965 and they have been long-time friends. In 1989 he proudly told her he had obtained a six-month medallion from Alcoholics Anonymous. She too, is a recovering alcoholic and attends the daytime AA meetings with Petitioner.
15. She has seen him really "grow" in the past 14 months; he now chairs the meeting, and she think Petitioner is "marvelous."
16. Shelba Wooten Forrest, a friend and Petitioner's Sunday School teacher, testified that he is a very caring man. Everyone in his Sunday School class knew Petitioner had a problem, was very concerned, and wanted him to get help.
17. Petitioner told Ms. Forrest about the Moore County DWI conviction and his 30-day active sentence. After that, she saw resolve in him to stay sober.
18. Ms. Forrest stated she regrets the law is so inflexible and does not understand alcoholics, or give people second chances. She thinks Petitioner should be given a new start and an opportunity.

#### 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 the illegal use of alcohol is *prima facie* evidence that the applicant does not have good moral character or intemperate habits.
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through convictions in three (3) different counties in North Carolina for Driving While Impaired, crimes involving the illegal use of alcohol. Notably all three convictions were less than two years apart with two of them being on successive days. The two most recent convictions were less than a year ago.
6. Petitioner admitted the charges, presented character witnesses, but has not 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 denied an alarm installation registration.

#### NOTICE AND ORDER

The NC Alarm Systems Licensing 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 4<sup>th</sup> day of August, 2015.

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Honorable Donald W. Overby  
Administrative Law Judge