

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DOJ 08398

<p>Janicento Marstea Williamson Petitioner,</p> <p>v.</p> <p>NC Alarm Systems Licensing Board Respondent.</p>	<p>PROPOSAL FOR DECISION</p>
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On November 29, 2016, Administrative Law Judge Donald W. Overby 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 registration based on Petitioner's lack of good moral character and temperate habits as evidenced by two (2) convictions of misdemeanor Use of Counterfeit Trademark.

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; 14B NCAC 17 .0300., *et seq.*

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 sales and installation business.
2. Petitioner applied to Respondent Board for an alarm registration.
3. Respondent denied the alarm registration due to Petitioner's criminal record which

showed the following:

- a. A conviction in Pitt County, State of North Carolina, on February 24, 2009 for misdemeanor Use of Counterfeit Trademark; and
 - b. A conviction in Nash County, State of North Carolina, on February 20, 2010 for misdemeanor Use of Counterfeit Trademark.
4. Petitioner requested a hearing on Respondent's denial of the alarm installation registration.
 5. By Notice of Hearing dated August 23, 2016, 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 November 29, 2016. Petitioner appeared at the hearing.
 6. Petitioner testified to his criminal record, which was included as part of Respondent's Exhibit 1, his application.
 7. He stated that at the time of the first charge he owned a retail clothing store. He had ordered inventory from a clothing wholesaler in Raleigh. An undercover investigator for Nike inspected his store and informed him he was selling trademarked items that were not authentic. The items were confiscated and he was charged.
 8. Later, Petitioner liquidated his store and took the remaining contents to a flea market to sell. He thought all of the contraband items had been confiscated and removed from his store. He was charged a second time for the same offense.
 9. Petitioner has been employed by MasTec in the Commonwealth of Virginia doing sales and installation of satellite systems. He would like to be licensed in North Carolina so he can work closer to his home selling and installing alarm systems.

CONCLUSIONS OF LAW

1. The parties are properly 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 one or more crimes involving fraud.
4. Under G.S. §§ 74D-6(2) & 74D-10(a)(4), conviction of any crime involving fraud 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 a conviction in Pitt County, State of North Carolina, on February 24, 2009 for misdemeanor Use of Counterfeit Trademark and a conviction in Nash County, State of North Carolina, on February 20, 2010 for misdemeanor Use of Counterfeit Trademark.
6. Petitioner presented sufficient evidence to explain the factual basis for the charges and has rebutted the presumption.

Based on the foregoing, the undersigned makes the following:

DECISION

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

NOTICE AND ORDER

The North Carolina 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 any oral or written arguments to the agency pursuant to N.C. Gen. Stat. §150B-40e.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to any attorney of record. N.C.G.S. § 150B-42(a).

This the 30th day of December, 2016.

Donald W Overby
Administrative Law Judge