

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
19 DOJ 01635

Semper Fidelis Security Services LLC  
and Dakota Jermaine Covil Qualifying  
Agent

Petitioner,

v.

NC Private Protective Services Board

Respondent.

**PROPOSAL FOR DECISION**

THIS MATTER is before the Office of Administrative Hearings (“OAH”) on the appeal of Petitioner, Semper Fidelis Security Services LLC and Dakota Jermaine Covil, from the summary suspension of its security guard and patrol business license by Respondent, N.C. Private Protective Services Board. Administrative Law Judge Tenisha S. Jacobs conducted a hearing on Petitioner’s appeal on 23 April 2019.

Given the nature of Petitioner’s appeal, the issue before the undersigned Administrative Law Judge is whether Respondent erred in invoking emergency action to summarily suspend Petitioner’s business license. Based on the evidence presented at hearing, and for the reasons set forth below, the Administrative Law Judge recommends that Respondent RESCIND the summary suspension.

*Semper Fidelis Security Services LLC & Dakota Jermaine Covil, pro se.*

*Bailey Dixon, LLP by Jeffrey P. Gray, Esq. for Respondent.*

## I.

### PROCEDURAL HISTORY

By order dated 22 March 2019, Respondent summarily suspended Petitioner's security guard and patrol business license and notified Petitioner that a hearing on the suspension would be held on 23 April 2019 at 2:00 PM in the OAH in Raleigh, North Carolina. A Notice of Hearing was filed in the OAH on 22 March 2019 giving Petitioner official notice of the hearing; it was mailed via certified mail. Both Petitioner and Respondent appeared at the scheduled hearing.

## II.

### FINDINGS OF FACT

The Undersigned makes the following Findings of Fact for purposes of the Proposal for Decision:

#### *A. The Parties*

1. Respondent is established pursuant to the Private Protective Services Act ("the Act"), N.C. Gen. Stat. §74C-1, *et seq.*, and is responsible for administering the licensing of and setting the educational and training requirements for persons, firms, associations and corporations engaged in private protective services professions within this State.

2. Petitioner is licensed as a security guard and patrol business and Mr. Covil previously served as its Qualifying Agent.

***B. Contested Action and Related Matters***

3. Petitioner is in the business of providing guards, armed or unarmed, that deliver security services.

4. All guards employed by a licensee are required to be registered with Respondent. To be registered, unarmed guards must have 16 hours of training. Armed guards are required to have an additional 20 hours of training. Trainers certified by Respondent are the only persons that can provide the required training. Certificates of training are one of the items submitted to Respondent in the course of an individual becoming a registered guard in North Carolina. Mr. Brian Jones, Respondent's Director, testified Respondent generally takes training certificates at face value.

5. Prior to October 2018, Petitioner used a then-certified trainer by the name of Christopher Lewis.

6. Mr. Jones testified Respondent received information that Mr. Lewis was providing abbreviated training to various companies, one of which was Petitioner. Upon receiving this information, Mr. Jones assigned the matter to Mr. Gary Bullard, Respondent's Training Coordinator and Investigator, for further investigation.

7. Mr. Bullard's investigation revealed that Mr. Lewis trained Petitioner's guards and did so for less than the required time. Mr. Covil attended one of Mr. Lewis' abbreviated training courses in February 2018. The course was one day in length. Mr. Covil's Unarmed Training Certificate is dated 13 February 2018 and his Armed

Certificate is dated 16 February 2018. Mr. Covil testified that he did not review the training certificates.

8. Mr. Bullard testified that to be licensed, a Qualifying Agent must demonstrate knowledge of the Board's law and rules. Mr. Bullard interviewed Mr. Covil as part of his investigation and ultimately determined that Mr. Covil knew or should have known that Mr. Lewis' training was not in compliance with the training requirements for unarmed and armed security guards.

9. Mr. Bullard prepared a report as a result of his investigation, which he provided to Mr. Jones. Based on Mr. Bullard's report, Mr. Jones summarily suspended Petitioner's license by order dated 22 March 2019. The Order of Summary Suspension of Security Guard and Patrol License ("Order") was admitted into evidence as Respondent's Exhibit 1.

10. Mr. Covil is a veteran of the United States Marine Corps. At the hearing, Mr. Covil testified that he takes his responsibility as a licensed security owner seriously as it enables him to provide jobs to other veterans and to those in his community.

11. In September 2018, Ms. Khiva Hines became Petitioner's compliance officer. At the time, Mr. Covil had a lot going on, both professionally and personally. Ms. Hines was responsible for ensuring Petitioner's compliance with Respondent's rules. Her duties included reviewing guards registration applications, which, after having some initial log-in issues with Respondent's on-line registration system, Ms. Hines began entering into the system for registration.

12. Ms. Hines testified that Respondent conducted an audit of Petitioner and had made findings that some of Petitioner's guards were not registered prior to her starting as the compliance officer. Ms. Hines testified that a number of the guards identified in the audit were no longer employed by Petitioner. Other guards still employed by Petitioner were registered. Petitioner employed 30 to 35 security guards at the time Mr. Covil received the summary suspension, all of whom were registered.

13. Ms. Hines further testified that, through her discussions with guards, she developed concerns about their training. Ms. Hines spoke to Mr. Covil about the feedback she received from the guards and the decision was made to switch trainers. Petitioner switched from Mr. Lewis to Mr. David Bailey, who started training Petitioner's guards in October 2018. Ms. Hines recommended the use of Mr. Bailey as he conducted her unarmed training. All the guards currently employed by Petitioner were not trained by Mr. Lewis. Guards trained by Mr. Lewis no longer work for Petitioner.

14. Mr. Covil testified that he voiced his concerns about Mr. Lewis to Mr. Bullard in the course of the investigation and that these concerns arose after switching from Mr. Lewis to Mr. Bailey. He further testified that he told Mr. Bullard that Petitioner had switched trainers, but this information and other information he provided during the investigation did not appear in Mr. Bullard's report. Mr. Covil testified that he felt Respondent was harder on him than others, but that he appreciated the advice given by Respondent.

15. Ms. Hines, who is now also used as Petitioner's qualifying agent and is an unarmed instructor, testified that Petitioner ceased operations upon receipt of the Order, which was in April 2019. She further testified that she believes Petitioner is in compliance with Respondent's rules.

## II.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Undersigned makes the following Conclusions of Law:

1. "No private person, firm, association, or corporation shall engage in, perform any services as, or in any way represent or hold itself out as engaging in a private protective services profession or activity in this State without having first complied with the provisions of [the Act]." N.C. Gen. Stat. § 74C-2(a). A private protective services profession includes the security guard and patrol profession. N.C. Gen. Stat. § 74C-3(a)(6).

2. A licensee is required to register all guards – both unarmed and armed – employed by it with Respondent. N.C. Gen. Stat. §§ 74C-11 and 74C-13. However, before an unarmed security guard can be registered with Respondent, he or she must have completed a minimum of 16 hours training. N.C. Gen. Stat. § 74C-11 and 14B N.C. Admin. Code 16.0707. Similarly, an armed guard must have first received the 16 hours of unarmed guard training and an additional 20 hours of armed guard training. N.C. Gen. Stat. § 74C-13 and 14B N.C. Admin. Code 16.0807. The training for both unarmed and armed guards must be completed prior to the performance of

any security guard and patrol duties. N.C. Gen. Stat. §§ 74C-11 and 74C-13.

3. Respondent may, after compliance with Chapter 150B of the General Statutes, “deny, suspend, or revoke” a license issued under the Act if it is determined that the licensee violated any provision of the Act or any administrative rule adopted by the Board. N.C. Gen. Stat. § 74C-12(a)(2) and (a)(3). Of particular relevance is General Statute 150B-3, which allows Respondent to summarily suspend a license if “it finds that the public health, safety, or welfare requires emergency action.” N.C. Gen. Stat. § 150B-3(c) (noting that summary suspension is “effective on the date specified in the order, which must incorporate a finding “that the public health, safety, or welfare requires emergency action”).

4. In this case, Respondent summarily suspended Petitioner’s security guard and patrol business license on the basis that Mr. Lewis provided training to Petitioner’s guards in February or March 2018 that did not comply with Respondent’s requirements and Mr. Covil knew or should have known that the training was noncompliant because of his mere attendance at one of Mr. Lewis’ trainings. (R’s Ex. 1, pp. 2-3.)

5. As an initial matter, the Undersigned notes that Mr. Covil testified that he never reviewed the training certificate sent to Respondent for the training course he attended with Mr. Lewis. Thus, while Mr. Covil may have attended Mr. Lewis’ training, he did not ultimately see the certificate associated with this training.

6. Respondent, through its witnesses, presented evidence that Mr. Lewis did not conduct training in accordance with Respondent’s requirements. Such actions

directly undermine the express purpose of the Act because they pose a threat to the public's safety and welfare. *See* N.C. Gen. Stat. § 74C-1 (the purpose of the Act is to “increase the level of integrity, competency, and performance of Private Protective Service Professions in order to safeguard the public health, safety, and welfare.”) However, the record before the Undersigned demonstrates that Petitioner took measures to address the training issue that served as the basis for the Order.

7. In October 2018, more than four months prior to the date of the Order, Petitioner switched trainers from Mr. Lewis to Mr. David Bailey, the same trainer who trained Petitioner's now qualifying agent. All of Petitioner's current guards, which numbered 30 to 35 at the time Petitioner received the summary suspension, were trained by a trainer other than Mr. Lewis. Guards trained by Mr. Lewis are no longer employed by Petitioner. Petitioner's compliance officer, who now also serves as its qualifying agent, testified that it was her belief that Petitioner is now in compliance with Respondent's requirements. Thus, while there may have been a basis in early 2018 about the threat Petitioner's continued operations posed to public health, safety, or welfare due to employing guards improperly trained by Mr. Lewis, the Administrative Law Judge is not persuaded based on the record before her that Petitioner's operations posed a similar threat at the time Respondent issued the Order.

8. Mr. Covil has not only taken responsibilities for his mistakes, but has also remediated the matters prompting the summary suspension of Petitioner's license. Summary suspension is an *extreme action* that is justified because the public

health, safety, or welfare requires emergency action. For the reasons explained above, the Undersigned finds that the circumstances presented in this contested case fail to support a finding that Petitioner's continued operation poses a threat to the public health, safety, or welfare that requires emergency action. The Order should therefore be rescinded.

### III.

#### PROPOSED FINAL DECISION

Based upon the foregoing Findings of Fact and the Conclusions of Law, the Undersigned recommends Respondent **RESCIND** the 22 March 2019 Order of Summary Suspension of Petitioner's security guard and patrol license so that Petitioner can resume its business of providing security services.

### IV.

#### NOTICE

The agency making the final decision in this contested case 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. N.C. Gen. Stat. § 150B-40(e).

The North Carolina Private Protective Services Board will make the final decision in this contested case.

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.  
Gen. Stat. § 150B-42(a).

**SO ORDERED**, this the 21st day of June, 2019.



Tenisha S Jacobs  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

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Attorney For Respondent

Dakota Jermaine Covil  
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Petitioner

This the 21st day of June, 2019.



Daniel L. Chunko  
Administrative Law Judge Assistant  
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