

NORTH CAROLINA
GUILFORD COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

09 CVS 10390

2009 AUG -7 P 3:15

GILMER RANDALL BRADY,)
Plaintiff,)

Plaintiff,)

v.)

COMPLAINT FOR DECLARATORY
JUDGMENT

NORTH CAROLINA PRIVATE)
PROTECTIVE SERVICES BOARD,)

Defendant.)

Plaintiff, complaining of defendant, alleges and says:

1. Plaintiff Gilmer Randall Brady ("Mr. Brady") is a citizen and resident of Guilford County, North Carolina.

2. Defendant North Carolina Private Protective Services Board ("Board") is a State board established by N.C.G.S. § 74C-4. The Board is established in the Department of Justice to administer the licensing and set educational and training requirements for persons, firms, associations, and corporations engaged in a private protective services profession within the State.

3. The purpose of the North Carolina Private Protective Services Board 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." See N.C.G.S. § 74C-1. The Board has the power to conduct investigations "regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under the Chapter are complying with the provisions of this Chapter." See N.C.G.S. § 74C-5(3).

4. Pursuant to N.C.G.S. § 74C-12(a), the Board may deny, suspend or revoke a license, registration or permit issued under Chapter 74C if it is determined that the applicant, licensee, registrant, or permit holder has done any of the following acts:

* * *

(8) Knowingly made any false report to the employer or client for whom information is being obtained.

See N.C.G.S. § 74C-12(a)(8).

5. Mr. Brady is the former Deputy Police Chief of the City of Greensboro. Mr. Brady retired from the Greensboro Police Department as deputy chief on December 1, 2005.

6. Prior to his resignation, the City of Greensboro entered into a contract with Risk Management Associates ("RMA") of Raleigh, North Carolina, to conduct an investigation involving the management of the Greensboro Police Department. RMA is engaged in private protective services and is licensed pursuant to N.C.G.S. § 74C-1, *et. seq.*

7. As part of its investigation of the Greensboro Police Department, Mr. Brady was interviewed and polygraphed by RMA agents and employees.

8. At the conclusion of its investigation, RMA issued a lengthy report, which contained numerous references to Mr. Brady, some of which implied wrongdoing on his part.

9. On or about March 19, 2009, Mr. Brady filed a complaint against RMA with the Board, requesting that the Board conduct an investigation of RMA with regard to RMA's investigation of the Greensboro Police Department. Mr. Brady alleged that RMA had knowingly made false statements in its report to the City of Greensboro, and that the individual who conducted a polygraph of Mr. Brady did not meet established standards for a polygrapher.

10. Mr. Brady requested that the Board investigate RMA for knowingly making false reports to its employer or client for whom information is being obtained, pursuant to N.C.G.S. § 74C-12(a)(8).

11. On June 17, 2009, the Grievance Committee of the Board met to discuss whether, in its opinion, Mr. Brady had "standing" to file his complaint under Chapter 74C. (See July 15, 2009, letter from Charles F. McDarris, Legal Counsel to Board, attached hereto as Exhibit A and incorporated hereto as if fully set out herein.)

12. At the conclusion of the hearing on June 17, 2009, the Grievance Committee determined that Mr. Brady did not have standing to bring his complaint.

13. The Grievance Committee determined that it had been its "position in the past that only the employer or client may file such a complaint." (See Exhibit A) The Grievance Committee concluded that, "Mr. Brady did not file the complaint on behalf of either the City of Greensboro or the Greensboro City Attorney's Office. Therefore, it is the Grievance Committee's determination that standing does not exist and that a challenge to the accuracy of the report is within the jurisdiction of the courts." (See Exhibit A)

14. The report of the Grievance Committee was approved by the full Board on June 18, 2009.

15. North Carolina General Statute Section 74C-12(a)(8) states only that the Board may discipline a licensee for knowingly making "any false report to the employer or client for whom information is being obtained." *See id.* This subsection does not state explicitly or implicitly that only the employer or client of the private protective service can file such a complaint.

16. The purpose of the Private Protective Services Board 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." See N.C.G.S. § 74C-1. Accordingly, it is against the wisdom of the North Carolina General Assembly and the public policy of North Carolina to restrict complaints to the employer or client of the private protective service.

CLAIM FOR RELIEF

17. Plaintiff hereby incorporates paragraphs 1 through 16 as if fully set out herein.

18. This claim is brought pursuant to N.C.G.S. § 1-253, *et seq.*, the Uniform Declaratory Judgment Act.

19. There is an actual controversy between Mr. Brady and the Board, in that the Board has refused to conduct an investigation of RMA requested by Mr. Brady.

20. Mr. Brady has exhausted his administrative remedies and has no avenue of appeal other than to seek redress through the General Court of Justice.

21. Mr. Brady, therefore, requests that this Court determine the construction of N.C.G.S. § 74C-12(a)(8), pursuant to N.C.G.S. § 1-254.

22. More specifically, Mr. Brady requests that the Court construe N.C.G.S. § 74C-12(a)(8) to allow him to file a complaint against RMA for knowingly making a false report to its client, the City of Greensboro. Stated differently, Mr. Brady requests that this Court disavow the Board's interpretation of N.C.G.S. § 74C-12(a)(8) that only the employer or client for whom information is being obtained may request an investigation as to whether the private protective service has knowingly made a false report.

WHEREFORE, plaintiff prays that:

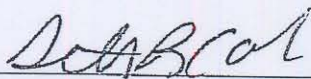
1. This Court interpret N.C.G.S. § 74C-12(a)(8) to allow Mr. Brady standing to file a complaint with the Board against RMA for knowingly making false reports to the City of Greensboro with regard to its investigation of the Greensboro Police Department;

2. This Court order the North Carolina Private Protective Services Board to conduct an investigation of Mr. Brady's complaint filed on March 19, 2009, against RMA;

3. The costs of this action be taxed against defendant;

4. He be granted such other and further relief as to the Court seems just and proper.

This the 7 day of August, 2009.



Seth R. Cohen
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NORTH CAROLINA
PRIVATE PROTECTIVE SERVICES BOARD

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July 15, 2009

Mr. Seth Cohen
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P.O. Box 990
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Mr. Terry Wood
Greensboro City Attorney
P.O. Box 3136
Greensboro, North Carolina 27402

Mr. William Booth
Risk Management Associates
4000 West Chase Blvd.
Suite 350
Raleigh, NC 27607

RE: Randall Brady Complaint

Dear Gentlemen:

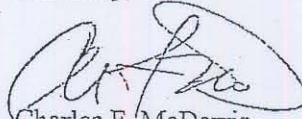
The Private Protective Services Board is in receipt of a complaint filed by Randall Brady against Risk Management Associates (RMA). Apparently, RMA conducted an investigation of the Greensboro Police Department at the request of the City of Greensboro City Attorney's Office. From the material provided, Mr. Brady was an employee of the Greensboro Police Department at the time RMA conducted the investigation. Further, a number of cases, based in part on the RMA investigation, have been filed in the courts and are currently pending. Mr. Brady's Complaint contains approximately twenty-nine allegations that RMA produced a report containing specified inaccuracies.

The Complaint was filed asserting a violation of G.S. 74C-12(a)(8), which states that it is a violation if a licensee "knowingly made any false report to the employer or client for whom information is being obtained." It has been the position in the past that only the employer or client may file such a complaint. Further, the proper forum for challenging the accuracy of an investigation is through cross-examination in the courts.



The Grievance Committee of the Private Protective Services Board met on June 17, 2009, to discuss the issue of Mr. Brady's standing to file the complaint. The Greensboro City Attorney indicates that Mr. Brady did not file the complaint on behalf of either the City of Greensboro or the Greensboro City Attorney's Office. Therefore, it is the Grievance Committee's determination that standing does not exist and that a challenge to the accuracy of the report is within the jurisdiction of the courts.

Sincerely,

A handwritten signature in black ink, appearing to read "C. F. McDarris", enclosed within a large, loopy circular flourish.

Charles F. McDarris
PPSB Legal Counsel

Cc: Terry Wright, Director