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FILED
FIRE ALARM, BURGLAR ALARM AND
LOCKSMITH ADVISORY COMMITTEE
OCTOBER 20, 2015

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY FIRE ALARM, BURGLAR ALARM
AND LOCKSMITH ADVISORY COMMITTEE

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

ANDREW HIGGINS (owner)
Maximum Security Alarm
Burglar Alarm Business License No. 34BX00012400

TO OPERATE A BURGLAR ALARM BUSINESS
IN THE STATE OF NEW JERSEY

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: Administrative Action
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: FINAL ORDER
: OF DISCIPLINE
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This matter was opened to the New Jersey Fire Alarm, Burglar Alarm and Locksmith Advisory Committee ("the Committee") upon receipt of information which the Committee has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Andrew Higgins ("respondent") is the owner and business license holder of Maximum Security Alarm (Burglar Alarm Business License No. 34BX00012400) and has been licensed as such at all times relevant hereto..

2. On July 15, 2013, the Committee received a complaint from consumer P.A who hired Maximum Security to install a burglar alarm system in her home. Two technicians from Maximum Security performed the installation. The technicians informed P.A. they needed to be in the bedroom in order to access the main phone jack. The technicians were in the bedroom with the door closed. The technicians completed the installation. The next day, P.A. noticed her

husband's wedding ring, as well as other jewelry, were missing from her jewelry box located in the bedroom. The downstairs bathroom window was unlocked. P.A. informed the police of the theft. According to P.A., at least one of the technicians was arrested.

3. Respondent provided a response to the complaint from P.A. via a letter to the Committee dated September 20, 2013. Maximum Security only hired one of the two technicians who performed the alarm installation for P.A. The second technician was not associated or affiliated with Maximum Security, the company was not aware of his name, and he was present without the knowledge or consent of Maximum Security. The technician hired by respondent on behalf of Maximum misrepresented who he was by providing the company with a license containing the name and license number of an individual legitimately licensed by the Committee as a burglar alarm installer. However, respondent on behalf of Maximum Security mistakenly scheduled the technician to perform the work for P.A. When the mistake was discovered the night before the appointment, Maximum Security was unable to notify the technician or P.A. As a result, the work was performed without the technician filling out a New Jersey employment application, W2 forms or other New Jersey documentation. Because Maximum Security was not aware that the technician went to P.A.'s home, on site supervision was not provided.

4. The Committee sent a letter to respondent, dated September 19, 2013. The letter requested respondent to appear before the Committee for an investigative inquiry on October 15, 2013. Respondent was asked to bring to the inquiry specific documents and other materials.

5. Respondent appeared before the Committee for an investigative inquiry on October 15, 2013. Respondent admitted the technician who performed the work for P.A. was not properly vetted. Respondent acknowledged that the company accidentally assigned a New Jersey installation (i.e. the installation for P.A.) ten or eleven days after the company discovered the technician had misrepresented his identification as a New Jersey licensed burglar alarm installer.

6. Respondent acknowledged the alarm system was sold to P.A. on Friday July 5, 2013 and that the technician was mistakenly scheduled that same day to perform the installation on Monday July 8, 2013. It was not until two days later, Sunday, July 7, 2013 at 7:00 p.m. Pacific time (10:00 p.m. Eastern time) that it was discovered the technician was inadvertently scheduled to install the system for P.A. on Monday July 8th. The company called the technician and left messages telling the technician to not perform the work. Respondent acknowledged no one from Maximum Security ever called the Committee in an attempt to clarify the confusion regarding the name of the technician.

7. Respondent indicated Maximum Security has done less than 25 installations in New Jersey. According to respondent, an individual named Sterling Wilkes was the only person performing the installations. According to the Committee's records, Sterling Wilkes is not licensed as a burglar alarm installer in New Jersey, nor does he hold a burglar alarm business license. Respondent was asked to provide a list of all the subcontractors who performed alarm work for Maximum Security in New Jersey and copies of the contracts. The Committee also requested that respondent provide copies of the permits pertaining to the installation of the alarm systems in New Jersey. At the conclusion of the inquiry, respondent was advised to provide the requested information as soon as possible..

8. Respondent failed to provide the requested information as promised. The Committee sent an email dated January 2, 2014 to Thomas Mertz, the business qualifier for Maximum Security. Accompanying the email was a list of the items that respondent was told to provide to the Committee during the investigative inquiry. The email required respondent to provide the information immediately.

9. Thomas Mertz provided a response to the email. He requested a copy of the transcript in order to provide the items requested by the Committee. Mr. Mertz was again referred to the list of the items respondent was required to provide to the Committee. The email required

the requested items within twenty (20) days and referenced the duty to cooperate with the Committee.

10. To date, respondent has failed to provide any of the requested information to the Committee.

CONCLUSIONS OF LAW

The above findings of fact establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(e), in that respondent has engaged in occupational and professional misconduct by failing to provide the information requested by the Committee in contravention of N.J.A.C. 13:45C-1.2. Additionally, the above findings of fact establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21n and N.J.A.C. 13:31A-1.9(a)14, in that respondent has permitted unlicensed persons to perform an act for which a license is required by the Committee and aided and abetted unlicensed persons in performing such an act. Specifically, respondent allowed the unlicensed technician to perform alarm services for P.A. Additionally, respondent subcontracted burglar alarm work to Sterling Wilkes who does not possess an individual or burglar alarm business license.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on March 17, 2015. A copy of the Provisional Order was forwarded to respondent's address of record, via certified mail. The certified mail was returned to the Committee indicating "Insufficient Address, Unable to Forward." The Provisional Order was subject to finalization by the Committee at 5:00 p.m. on the 30th business day following its entry unless respondent requested a modification or dismissal, setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

The Committee finds that the Provisional Order of Discipline was sent to respondent's address of record. N.J.A.C. 13:31A-1.8(b) provides that service of an administrative complaint or other Committee-initiated action at a licensee's address which is on file with the Committee shall

be deemed adequate notice for the purposes of commencement of any disciplinary proceedings. Since the Provisional Order was served at respondent's address of record, the Committee deems service to be effected. Respondent cannot evade process by failing to respond. As such, the Committee determined that the Provisional Order of Discipline, entered on March 17, 2015, is to be finalized as written.

ACCORDINGLY, IT IS, on this 20th day of October, 2015

HEREBY ORDERED THAT:

1. Respondent's business license for Maximum Security Alarm (Burglar Alarm Business License No.34BX00012400), to engage in the burglar alarm business in the State of New Jersey is hereby suspended until such time as respondent furnishes the Committee with the information requested during the October 15, 2013 investigative inquiry which was summarized in the attachment to the email sent to business qualifier Thomas Mertz dated January 2, 2014.

2. Respondent shall refrain from engaging in the burglar alarm business in the State of New Jersey and shall not represent himself as a burglar alarm business until such time as his burglar alarm business license is reinstated. Any practice in this State prior to formal reinstatement of license by the Committee shall constitute grounds for a charge of unlicensed practice. In addition, the Committee reserves the right to place restrictions on respondent's practice should his burglar alarm business license be reinstated.

3. Respondent is hereby reprimanded for the violations cited above.

4. Respondent is hereby assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00), pursuant to N.J.S.A. 45:1-21(e), in that respondent engaged in occupational and professional misconduct by failing to provide the information requested by the Committee in contravention of N.J.A.C. 13:45C-1.2. Additionally, respondent is assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00), pursuant to N.J.S.A. 45:1-21n and N.J.A.C. 13:31A-1.9(a)14, in that respondent has permitted unlicensed persons to

perform an act for which a license is required by the Committee and aided and abetted unlicensed persons in performing such an act. Payment of the aggregate civil penalties totaling five thousand dollars (\$5,000.00) shall be paid by certified check or money order made out to the "State of New Jersey", or by wire transfer, direct deposit, or credit card payment delivered or mailed to Francine Widrich, Acting Executive Director, New Jersey Fire Alarm, Burglar Alarm and Locksmith Advisory Committee, 124 Halsey Street, P.O. Box 45042, Sixth Floor, Newark, NJ 07101, no later than fifteen (15) days after entry of this Final Order of Discipline. In the event respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

5. Nothing in this order precludes the Committee from taking disciplinary action regarding the information required to be provided by respondent concerning the other installations performed by Maximum Security in New Jersey.

NEW JERSEY FIRE ALARM, BURGLAR ALARM
& LOCKSMITH ADVISORY COMMITTEE

By: 

Charles Okun
Committee Chairman