

MINUTES

PRIVATE INVESTIGATORS LICENSING BOARD

JUNE 21, 2006

**MEMBERS PRESENT:**

EDWARD GONZALEZ: BOARD MEMBER

JAMES NADEAU: BOARD MEMBER

DANIEL CRATE: BOARD MEMBER

DAVID SPENCER: BOARD MEMBER

**OTHERS:**

KEITH MARCHER: CHAIRMAN

SUSAN LEE: BOARD COUNSEL

MECHELE RAY: EXECUTIVE DIRECTOR

RENE BOTELLO: SENIOR INVESTIGATOR

KRISTINE FARMER: INVESTIGATOR (LAS VEGAS)

ELAINE TRENT: ASSISTANT

BRANDI KING: ASSISTANT

**APPROVAL OF MINUTES:**

Chairman Marcher called the meeting to order. He explained that each person appearing before the Board should give a brief background and then could answer any questions by the Board members. He said public comment would be allowed on each agenda item related to each applicant, but asked that each

comment be brief (limited to 2 minutes) and relevant to that applicant. He asked the Board to review and approve the March 2006 minutes.

There were no comments, so the chair accepted a motion. Board Member Nadeau moved to accept the minutes.

Board Member Gonzalez seconded the motion, which carried.

### **FINANCIAL REPORT:**

Executive Director Ray said she would e-mail the financial report to the Board for review. She stated that the report would be for review only and was a non-action item.

### **SWEARING IN:**

Chairman Marcher swore in all those present in both Carson City and Las Vegas who were to testify during the course of the meeting.

### **CONSENT ITEMS:**

6. Eye Agency Investigations, LLC applied for a corporate license with James Hannah as the qualifying agent.
7. US Investigations Services, LLC requested corporate officer approval for William Cull and David Kaminsky.
8. Allied Security, LLC requested corporate officer approval for William Torzolini.
9. HMI Associates Inc requested corporate officer status for Michael Topf.
10. Choicepoint Services, Inc requested corporate officer approval for David Keil and John Mongelli.
11. Choicepoint Business and Government Services, Inc. requested corporate officer approval for David Keil and John Mongelli.
12. Worldwide Security applied for a corporate name change to Covenant Homeland Security Solutions, LTD, Robert Coe as qualifying agent, and approval of corporate officers, Louis Fuertes, Jerry Park, and James Jacobson.

13. Reliable Recovery, Inc. applied for a corporate Repossessor license and Scott Poletto requested qualifying agent status and to be recognized as the corporate officer.

Chairman Marcher stated that the Board would address Agenda Items 6-13. He asked if any members wished to pull any items at that time.

Board Member Nadeau asked, regarding Item 12, if backgrounds were performed when a name change was requested.

Senior Investigator Botello said that for a name change he reviewed the corporate status and the corporate filings for accuracy, but a background check was not performed.

Board Member Nadeau then asked if Item 13 could be pulled so he could review it.

Chairman Marcher said Item 13 would be pulled and would entertain a motion on Items 6-12.

Board Member Nadeau moved to approved Consent Items 6-12.

Board Member Crate seconded the motion.

Chairman Marcher asked if there was any discussion. There was none.

The motion then carried.

Chairman Marcher then said when the Board was ready he would take a second motion for Item 13. Board Member Nadeau said he only needed to review the item and was not implying that he was in disagreement with the item.

Board Member Crate moved to approve Item 13.

Board Member Nadeau seconded the motion.

As there was no discussion, the motion was approved and carried.

Chairman Marcher said he needed to address the staff report at that time before moving on to the next agenda items.

**STAFF REPORT:**

Senior Investigator Botello reported that there were 161 pending complaints, 48 new complaints, 7 closed complaints, 2 citations were issued at \$5,000 each, and 4 cease and desist letters sent. There were 18 pending citations. He reported that Executive Director Ray had performed 2 audits and issued 9 notices of violations. The office had completed a total of 30 backgrounds, 2 had been rejected, none had been withdrawn and 27 were pending.

Board Member Crate asked about the 2 citations and the amount of \$5,000.

Senior Investigator Botello said they were second citations.

Chairman Marcher asked if there were any questions or comments on Senior Investigator Botello's report and there were none.

**PRESENTLY LICENSED CORPORATIONS REQUESTING NEW QUALIFYING AGENT:**

CRAWFORD INVESTIGATION SERVICES INC requested qualifying agent status for JOHN PFLANZ and, if approved, asked that the Board allow him to put his individual license in abeyance.

Chairman Marcher asked Mr. Pflanz for a brief background.

He said Crawford Investigations had its corporate license and he wished to become the qualifying agent for that company.

Chairman Marcher asked if there were any questions or public comment, but there were none. He asked for a motion.

Board Member Spencer moved moved that John Pflanz be granted an individual Private Investigator license to be placed into abeyance and that he become the

qualifying agent for CRAWFORD INVESTIGATION SERVICES INC, subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion.

There was no further discussion and the motion carried.

ROYAL SECURITY INC dba BROWNSTONE SECURITY requested qualifying agent status for THOMAS BRAGG and, upon approval, to grant him an individual Private Patrolman license.

Mr. Bragg stated that he was the president of Royal Security and that Alfredo Francisco had remained as the qualifying agent.

Board Member Crate asked if Alfredo Francisco still had a relationship with Royal Security.

Mr. Bragg said the relationship would end once he was replaced as qualifying agent. He further explained that Mr. Francisco was still on staff, but wanted to leave as soon as possible.

Board Member Crate asked if Mr. Francisco would leave the company if Mr. Bragg was approved and Mr. Bragg said that was true.

Board Member Crate asked under which name the company wished to do business.

Mr. Bragg said as Brownstone Security.

Board Member Crate asked about the relationship to Fox and Mr. Bragg said the same investors were involved with both Fox and Brownstone Security.

Board Member Nadeau inquired about verbiage in the background pertaining to qualifying agent and sole corporate officer and if that was a typographical error.

Senior Investigator Botello agreed that was true.

Chairman Marcher asked for a motion.

Board Member Nadeau moved that THOMAS BRAGG be approved as qualifying agent for ROYAL SECURITY dba BROWNSTONE SECURITY, to grant him an individual Private Patrolman license and that his license be placed in abeyance that THOMAS BRAGG and RAMON RODRIGUEZ be approved as corporate officers, subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion, which passed.

**PRIVATE INVESTIGATOR:**

SECURITY MANAGEMENT GROUP INTERNATIONAL requested a corporate Private Investigator license.

JOHN GIMPLE stated that he had appeared before the Board in March and this request was a continuation from the previous Board meeting. He said he was one of the founders of Security Management Group International.

Board Member Crate asked what actions Mr. Gimple had taken since the prior meeting when action had not been taken on his request.

Mr. Gimple said he had contacted individuals for the purposes of employment verification.

Board Member Crate asked Senior Investigator Botello about the concern with the San Luis Obispo Police Department and the verification of hours that had been provided by them.

Senior Investigator Botello stated that he had finally made contact with Mr.

Reese. He said there were some personality conflicts between Mr. Gimple and

the person who actually completed the employment verification. He said Mr. Reese was able to provide more objective information for the applicant.

Chairman Marcher asked for further comment, there was none, and he asked for a motion.

Board Member Nadeau moved to grant SECURITY MANAGEMENT GROUP INTERNATIONAL a corporate Private Investigator license and to grant JOHN GIMPLE an individual Private Investigator license, to recognize him as the qualifying agent for SECURITY MANAGEMENT GROUP INTERNATIONAL, and that JAMES SCHMIDT, PAUL JOHNSTON AND JOHN SEVERINI be recognized as a corporate officers, subject to all statutory and regulatory requirements.

Board Member Crate seconded the motion, which passed unanimously.

Board Member Nadeau asked Mr. Gimple if one of the company's employees had been lost in Iraq. Mr. Gimple said that was true and Board Member Nadeau offered his condolences.

LEXIS NEXIS RISK MANAGEMENT INC requested a corporate Private Investigator license.

Chairman Marcher said he had inside knowledge pertaining to the company from the time of his capacity as Board Counsel and would recuse himself at that time from voting.

JOHN BENSON said he had begun his career as an investigator and manager of special investigations for an insurance company.

Board Member Gonzalez asked for insight with regards to the company's request.

Mr. Benson said he was requesting to be licensed in Nevada so he could act as qualifying agent for Lexis Nexis. He said he did not currently possess a private investigator license in any state. He had held a California license at one time, but did not have that license any longer. He further stated that he had performed investigations for an insurance company in the areas of life insurance, disability, and auto fraud.

Board Member Gonzalez asked if any of those insurance investigations brought him to Nevada and Mr. Benson said they had not.

Chairman Marcher asked if there were more questions.

Board Member Nadeau asked Senior Investigator Botello if any corporate officers had been filed in the corporate papers.

Board Member Nadeau asked if any corporate papers had been filed and Mr. Benson said they had.

Mr. Benson said that corporate documents had been filed with the Secretary of State on June 15, 2006.

Senior Investigator Botello agreed that the documents had been filed.

There were no further Board questions or audience comment, so CHAIRMAN MARCHER asked for a motion.

Board Member Gonzalez moved that LEXIS NEXIS RISK MANAGEMENT INC be granted a corporate Private Investigator license, to grant JOHN BENSON an individual Private Investigator license, to recognize his status as qualifying agent for LEXIS NEXIS RISK MANAGEMENT INC, and that JAMES PECK, KURTIS



SANFORD and KENNETH THOMPSON II be recognized as corporate officers, subject to all statutory and regulatory requirements.

Board Member Spencer seconded the motion and it passed.

PT&C FORENSIC CONSULTING SERVICES PA INC applied for a corporate Private Investigator license.

BENJAMIN WILKERSON said the company was a 23-year old engineering firm and had been moving into the forensic area for the last year. He said they needed to use C & O (cause and origin) investigators and wanted to become licensed in states where the company intended to work. He said he had been involved in law enforcement since 1985.

Board Member Gonzalez asked if, during the course of on-site fire investigations, he had interviewed people.

Mr. Wilkerson said he had routinely done so.

Chairman Marcher asked for a motion.

Board Member Spencer moved to grant PT&C FORENSIC CONSULTING SERVICES PA INC a corporate Private Investigator license, to grant an individual Private Investigator license to BENJAMIN WILKERSON to recognize his status as the qualifying agent, and to approve MICHAEL DEITERS, NEIL KUPPLIC, VAN FISHER, GROVER DAVID and BRYAN MAPHET as corporate officer, subject to all statutory and regulatory requirements.

Board Member Nadeau seconded the motion, which passed.

RANDALL POWERS dba ADVANTAGE SECURITY ENTERPRISES requested an individual Private Investigator license.

Chairman Marcher noted that an individual Private Patrolman license had been erroneously omitted from the agenda.

Mr. Powers said he was from Los Angeles and had been a private patrol operator for over 22 years. He had been vice-president and corporate officer for Tandem Security International.

Board Member Nadeau asked for Mr. Powers to expand on his investigative experience.

Mr. Powers had been a hands-on officer for the corporation and had been involved in all matters of investigation on a day-to-day basis for the contract security agency. He was responsible for employee background checks, for investigating internal complaints between employees, for handling complaints at properties, and for investigating complaints from other agencies. He provided investigative reports on all the matters he handled.

Board Member Crate asked for a break down of patrol experience.

Mr. Powers said he had been responsible for the day-to-day operations of the private contract security company. He stated that he hired staff, approved contract clients, approved schedules, was very hands-on and was very dedicated to the job.

Board Member Crate noted that this experience was administrative in nature and wanted to know about private patrol experience from Mr. Powers.

Mr. Powers said that prior to becoming vice-president he had been the general manager of All Safe Security. He had taken on all roles in that capacity. He had

stood post, provided patrol services, performed alarm response and had hired individuals.

Board Member Crate asked Senior Investigator Botello if All Safe had been mentioned in the application.

Mr. Powers said All Safe was a brief 6-month period.

Board Member Crate asked what qualified Mr. Powers to be the general manager of All Safe.

Mr. Powers said he was a graduate of the University of Akron. He was hired by All Safe in Los Angeles by Jeff Cohen to be his manager.

Board Member Crate asked again if Mr. Powers had a degree in Criminal Justice, and he said he did.

Board Member Gonzalez moved that RANDALL POWERS be granted a Private Investigator license and a Private Patrolman license, subject to all statutory and regulatory requirements.

Board Member Crate and Board Member Spencer seconded the motion, which carried.

VERTICAL SCREEN INC requested a corporate Private Investigator license.

JOSEPH O'KANE said he was senior vice president for investigative compliance of Vertical Screen Corporation. He said he was currently licensed in 18 states and 21 pending. He said the company engaged in background screening for pre-employment and performing criminal background checks. He said he had 28 years of experience with U.S. Customs and was the first U.S sky marshal. He

had been with narcotics investigations for 9 years. He had received over 55 awards in the course of his years of experience.

Board Member Gonzalez asked about his experience with the narcotics agency. He said they were second only to the IRS in generating revenue by collecting \$22 billion in fines in 1998, the last year he worked there.

Board Member Spencer moved to grant VERTICAL SCREEN INC a corporate Private Investigator license, to grant JOSEPH O’KANE an individual Private Investigator license so that he could be recognized as the qualifying agent, and to approve ANTHONY D’ORAZIO, STEFAN KELLER and AMY BLEZNAK D’ORAZIO as corporate officers, subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion, which passed.

Chairman Marcher stated that the Board had just received public comment regarding Item 21, so they would move to Item 22 and return to that item later in the meeting. Mr. Morgan was provided with a copy of the public comment.

ROBERT BENNETT applied for an individual Private Investigator license.

Mr. Bennett said he had lived and worked in Las Vegas for 19 years for the FBI. He had investigated white-collar crimes and organized crime.

The Board wished Mr. Bennett a happy birthday.

Mr. Bennett displayed his ability to properly pronounce “Nevada” to the Board’s satisfaction.

Board Member Spencer moved to grant ROBERT BENNETT an individual Private Investigator license, subject to all statutory and regulatory requirements.

Board Member Nadeau seconded the motion, which carried.

BACKGROUND INFORMATION SERVICES INC requested a corporate Private Investigator license.

JASON MORRIS said he was a private investigator in New Jersey and Ohio. He was president of Background Information Services Inc.

Board Member Nadeau moved to grant BACKGROUND INFORMATION SERVICES INC a corporate Private Investigator license, to grant JASON MORRIS an individual Private Investigator license to recognize him as the qualifying agent , and to approve LESLIE FISHMAN, NICKY FISHMAN and JASON MORRIS as corporate officers, subject to all statutory and regulatory requirements.

Board Member Crate seconded the motion, which passed.

INTELLICORP RECORDS INC requested a corporate Private Investigator license.

Chairman Marcher stated that with regard to the item, he had dealt with the attorneys for the company in his past capacity as Board counsel. He said he would recuse himself from any voting on the item.

Tony Sanchez with the law firm of Jones, Vargas stated his name for the record and that of Howard Walker as attorneys for Intellicorp.

JOHN FRANCOIS said he was in the United States Air Force and his experience had included searching Air Force One. He had worked for the State Department.

He had extensive experience in the military. He had been offered a position at Intellicorp.

Board Member Nadeau inquired about the tax liens shown in the background information.

Mr. Francois said they involved child support order and were in error. He was actually owed money and an attorney was currently working on the matter.

Board Member Crate asked why Mr. Francois was not asking for an individual Private Investigator license.

Executive Director Ray said Mr. Francois actually had a license in abeyance.

Board Member Crate noted that the background noted that the license had not been renewed, but Executive Director Ray said it was in order.

Board Member Crate asked when Mr. Francois had been approached by Intellicorp to work for them.

Mr. Francois said they had asked him at the end of March. He had signed an agreement with them the beginning of April.

Board Member Crate asked if Intellicorp had made Mr. Francois aware of its past status with the Board concerning the citation of unlicensed activity.

Mr. Francois said he had recently learned of the matter. He said they had told him about working in Nevada without being licensed. He said he gathered that they had made a good-faith effort to try to stay in compliance.

Board Member Crate asked if Mr. Francois was aware of the bid Intellicorp had made involving Harrah's.

Mr. Francois said he was not aware of that.

Board Member Crate said that Mr. Francois' employment contract was dated March 31. He said one of the requirements of the job description was that he had a current individual Private Investigator license and that the matter had received some discussion.

Board Member Crate said he would ask either counsel or one of the proposed officers about an undated bid proposal to Harrah's. He wanted to know approximately when the bid was submitted.

Tony Sanchez said it was at the end of October 2005.

Board Member Crate asked if the bid was submitted to Harrah's in an attempt to do business.

Tony Sanchez said that there was a 15-state R F P. He said the Nevada component was a small part. He said that should Intellicorp be awarded a contract, they would need to obtain a license in Nevada. He said that Harrah's understood at that time that Intellicorp did not yet have a Nevada license.

Board Member Crate asked if any citations had been issued.

Senior Investigator Botello said there were none.

Board Member Crate said one case had to do with perceived unlicensed activity.

He asked Senior Investigator Botello about the date of inquiry.

Senior Investigator Botello said inquiry had been made November 19, 2004 by Jerry Keller, a former sheriff of Clark County.

Board Member Crate asked if there had been correspondence on March 4, 2005.

Senior Investigator Botello said that was correct.

Board Member Crate asked if a bid response had been made in October 2005.

Senior Investigator Botello said it had.

Board Member Crate asked if a citation had been written at that time.

Senior Investigator Botello said he had wanted to issue a citation, but had not.

Board Member Crate asked if that was when the stipulation had been agreed upon between counsels.

Senior Investigator Botello said that was correct.

Senior Investigator Botello said he wanted to clarify an important issue. He said Mr. Sanchez had represented AD Process. That application was held for 2 consecutive Board meetings. ADP had engaged in unlicensed activity. Dean Suppose and Mr. Sanchez were told by the Board that it was permitted for them to do business in Nevada, as long as the work was done through a licensed private investigator and to use that company's letterhead until licensing could be accomplished. In Senior Investigator Botello's opinion, he believes a false impression was made, and that Tony Sanchez thought business could be carried out by Intellicorp, since they were using private investigators already licensed in Nevada to do business. He further stated that Intellicorp used private investigators in Nevada to conduct business when the contract was actually for Intellicorp and not the private investigator. Senior Investigator Botello said he was concerned that other large corporations would believe they would have the same ability ADP had in terms of using an already licensed company to perform the work and not obtain their own license.

Board Member Crate asked if it was appropriate to ask counsel about the particulars about the stipulations.



Chairman Marcher said nothing had been put in writing. He said that a company could use the services of a licensed private investigator, but were not allowed to do so indefinitely, only pending obtaining their own license. He further clarified that company's were to funnel existing business through a licensed private investigator, but needed to obtain a license as soon as possible and not keep soliciting new business for the existing private investigator to perform.

Board Member Crate said his concern was that the company could not solicit business without a Nevada license.

Board Member Spencer said the stipulation was not a means to keep a company from needing to obtain a license, but merely a temporary way to allow companies to obtain a license.

Tony Sanchez said the situation for ADP was not taken as a precedent. He said Intellicorp operates in all 50 states. He said Intellicorp always uses vendors and only need a license in Nevada.

Board Member Crate said to focus on the current topic and not to go back into the history. He asked if Intellicorp was providing services in Nevada.

Mr. Sanchez said not to Harrah's.

Board Member Crate asked if Intellicorp was providing services to anyone in Nevada.

Mr. Sanchez said that no work was being done.

Board Member Spencer asked if Intellicorp had entered into contracts with other private investigators.

Mr. Sanchez said they worked with Axiom (criminal) and USIS (civil).

Board Member Spencer asked if there was a signed contract with Harrah's and Mr. Sanchez said there was not.

Board Member Crate asked if they had revised requirements for a proposal to Harrah's.

Mr. Sanchez said they had not.

Board Member Crate asked if it was an all-or-nothing request.

Mr. Hauswirth said that was the case.

Board Member Crate asked about the stipulation between counsels.

Chairman Marcher said his understanding was that a loose agreement was that they would use a licensed private investigator to facilitate existing contracts, they were not to solicit new contracts and to become licensed as soon as possible. He further stated that he was unaware of anything having to do with Harrah's.

Board Member Crate asked about the dates of correspondence between Intellicorp and the PILB. He mentioned June 2005. He said going back to December 2004 that there was a concern on how Intellicorp was doing business in Nevada.

Board Member Crate said he had a date of November 11, 2004. He asked if that was the first correspondence received.

Mr. Sanchez said it was November 22, 2004.

Howard Walker, general counsel, said the topic of additional customers was not raised in initial discussions. He said he was unaware of any requirements. He said in November 2004. He said that he was unaware of problems until a March 2005 letter received from the PILB said a license was needed. An application

was obtained. He said they had questions about the application with regards to a private investigator putting his or her license in abeyance. They were about to complete the application in May 2005 when they became aware that, perhaps, a license would not be required. Mr. Sanchez put an agreement in the form of a letter and sent it to Senior Investigator Botello or Executive Director Ray. At that time, they were operating under the assumption that a license was not required. After a bid proposal was submitted to Harrah's a concern prompted Harrah's to inquire of Board staff that a license was indeed required for Intellicorp. He said if he had known problems were going to arise, the application would have been completed in 2005.

Senior Investigator Botello said he does not know what information Jose Gomez provided to Mr. Sanchez. He said that he made it clear in 2004 that a license was necessary for Intellicorp to do business. He said at that point Mr. Sanchez began dealing with Mr. Marcher and that they still hadn't applied for a license 2 years later.

Mr. Walker said that in their dealings with Mr. Marcher they had the impression that they could engage in business.

Board Member Spencer asked if they were licensed in other states.

Mr. Walker said they had no licenses in other states. He said the parent corporation was licensed in every state. He said it was not their intent to interfere or go against Nevada requirements. He again stated that in June 2005 they were under the impression that they did not need to be licensed.

Board Member Spencer asked if, until recently, no one from the PILB had told them they needed a license.

Mr. Walker said Senior Investigator Botello made it clear that they needed to be licensed. He said it was unclear that they could follow other procedures that would make licensing unnecessary.

Mr. Sanchez said that a letter addressed specific topics. If they received a contract with Harrah's, they would apply for a license.

Board Member Spencer asked if it was now clear on licensing requirements and Mr. Sanchez said they were aware of them.

Board Member Spencer asked when Mr. Sanchez began to work with Intellicorp and he said it was in May 2005.

Board Member Spencer asked Mr. Sanchez if there was any doubt in his mind that Intellicorp needed a license.

Mr. Sanchez said in their minds they were responding to the requirements by using already licensed private investigators to perform the work. He said they tried to address every concern and several letters were sent back and forth.

Mr. Walker said they did not want to challenge the Board's authority.

Board Member Spencer said he was not happy with the way Intellicorp had conducted its business, but his criticism was not directed in any way at Mr. Francois.

Board Member Crate asked Senior Investigator Botello if there was a citation.

Senior Investigator Botello said he prepared a citation March 14, 2005 that was never sent. He said the citation was based on their website and understood

they were entering into contracts. He further stated he did not want companies to avoid becoming licensed by continually using licensees instead.

Board Member Crate went over the time-line. He said in November 2004 there was reason to understand Intellicorp was providing services in Nevada. During March 2005 Senior Investigator Botello begins to investigate. He said Senior Investigator Botello went into lengthy detail advising Intellicorp what they should do. He said between March and June 2005 that Mr. Sanchez had the opportunity to acknowledge a license was necessary, but instead Mr. Sanchez opted to continue using licensees rather than obtain Intellicorp's own license.

Mr. Sanchez said he had received a letter March 4 from Senior Investigator Botello, Mr. Walker had responded 10 days later, and Senior Investigator Botello sent a letter 4 days later outlining areas of concern. He again stated that a citation was never received.

Board Member Crate stated that Intellicorp should have approached Mr. Francois much sooner in a good faith attempt to obtain licensure.

Chairman Marcher said that Intellicorp should have begun application process sooner, but had the misunderstanding that they could continue to use current licensees to do the work

Senior Investigator Botello said the point was that Intellicorp had attempted to enter into a contract with Harrah's 2 years ago. He said as soon as his responses were not favorable to Intellicorp, they then began trying to deal with Executive Director Ray. When her responses were not what they wanted, they began dealing with Mr. Marcher. He called it "shopping" for a favorable response.

Board Member Spencer said it seemed to him that when an investigator tells a company what's needed, they should abide by that.

Executive Director Ray said the Board had told Intellicorp they needed to be licensed, but the application did not come in a timely manner.

Mr. Walker said he thought they were in compliance with the Board's directives.

Mr. Sanchez said that they were not asking the Board to condone their activity.

He said they were trying to do the right things. He offered to pay any fines the Board might see fit to levy.

Chairman Marcher asked if he was referring to the Harrah's issue, to which he replied yes.

Board Member Crate said that issue was in the past. They were dealing with a willful attempt to circumvent becoming licensed.

Board Member Gonzalez said it was very gracious to offer to pay a fine.

Board Member Crate said there was correspondence regarding Intellicorp and Harrah's that Intellicorp bid on work in Nevada with Harrah's but were not granted the contract with Harrah's. He said Intellicorp should have applied for a license first and then solicited business and not the other way around.

He further stated that a violation had occurred with their unlicensed activity.

Board Member Spencer said he was not in favor of levying a fine at this time because of the perception that a license could be bought.

Board Member Gonzalez brought up the point that Intellicorp not needing a license in other state. He mentioned their competitors and the fact that they are

licensed. He asked Mr. Walker why he didn't believe Intellicorp needed a license in Nevada since the other companies did.

Mr. Walker again stated he was not aware of the licensing requirement.

He said that other companies were performing work using existing licensees and believed they did not need a license.

Board Member Crate moved that INTELLICORP RECORDS INC be denied a corporate Private Investigator license based on NRS 648.100(3)(F). While unlicensed performed any act for which a license is required by this chapter as stipulated by counsel and the applicant and the solicitation of business with Harrah's without prejudice for any future application, but as a matter of record that this infraction occurred and that a license was denied based on the unlicensed activity, subject to all statutory and regulatory requirements, and that JOHN FRANCOIS be denied qualifying agent status for INTELLICORP RECORDS INC without any reflection on the status or integrity on his license held in abeyance in good standing.

Board Member Spencer seconded the motion.

Board Member Gonzalez clarified that Mr. Francois' license was in abeyance and could be taken out and activated as he chooses.

The motion carried.

Chairman Marcher clarified that the motion carried without prejudice and the applicant may re-apply and would need to work with Executive Director Ray in the re-application process.

STEVEN MORGAN dba SATISFACTION SERVICES applied for an individual Private Investigator license.

Mr. Morgan said he was from Chandler, Arizona and president of a mystery shopping company called Satisfaction Services. He stated his company had been in business for about 3 years and that Satisfaction Services in Florida had been in business for 15 years. He said his company had been cited for not being in compliance. He said he wished to become licensed to comply with state law and had been using outside services to perform his company's mystery shopping work. He said his company did not do a vast amount of work in Nevada, but wanted to become licensed to perform the work they did have.

Board Member Crate asked if the citation had been fully paid.

Executive Director Ray said the citation was paid in full.

Board Member Crate asked about the status of Mr. Morgan with Satisfaction Services at the time the citation was issued.

Mr. Morgan said he owned the Phoenix office at the time the second citation was issued.

Board Member Crate asked about his status at the time of the first citation.

Mr. Morgan said he was not affiliated with Satisfaction Services at the time of the first citation.

Senior Investigator Botello asked if Mr. Morgan was the scheduler for the Florida operation.

Mr. Morgan said he was the scheduler during the second citation, but not the first.



Mr. Morgan said he bought the Phoenix office 3 years ago.

Board Member Crate asked how long he had been employed by Satisfaction Services and Mr. Morgan said it had been well over 10 years.

Board Member Crate stated that Mr. Morgan did have a relationship with Satisfaction Services during the time the cease and desist letter was sent.

Mr. Morgan again said he had been performing mystery shopping for years but was not the scheduler during that time.

Board Member Crate asked if Mr. Morgan was aware of the cease and desist letter and he said he was not aware of the first one.

Board Member Crate asked about T-Lux Inc.

Mr. Morgan stated he was vice-president of operations.

Board Member Crate asked what type of business Tea-Lux provided.

Mr. Morgan said it was a business similar to Starbuck's which involved marketing many different teas from around the world. He said the concept never took off.

After opening a number of stores, the company filed for bankruptcy.

Board Member Crate noted that Mr. Morgan listed several other employers during the time that overlapped with his employment with Satisfaction Services.

Mr. Morgan said he performed mystery shopping on the side in addition to his regular jobs.

Board Member Crate asked about Mr. Morgan's role as vice-president of the restaurant retail division with Ghirardelli Chocolate, with Tea-Lux and the general manager of Super Salad. He noted that these jobs seemed to indicate a large level of responsibility and asked how Mr. Morgan had time to perform mystery

shopping duties at the same. He also noted that while Mr. Morgan was the vice-president for one company he was performing mystery shopping duties for another.

Mr. Morgan said he performed the mystery shopping on his own time while he traveled extensively.

Board Member Crate asked Senior Investigator Botello if he took into consideration the way Mr. Morgan had accounted for his hours of experience. Senior Investigator Botello said he had.

Board Member Crate asked about Mr. Morgan's participation in the response to the citation issued to Debra Albert in November 2005.

Mr. Morgan said he received the citation and forwarded it to the main office for their response.

Board Member Crate said that Mr. Morgan showed in his documents that he had been the owner of the operation since January 2004. He asked Mr. Morgan if the citation should have been directed to him, rather than the Florida operation.

Mr. Morgan said the franchisor was located in Florida, with franchises in other states. The franchises all used the same database to schedule shoppers.

He said he scheduled shops for his office while other franchises were also scheduling shops. He said his office only had one client in Nevada.

Board Member Crate asked if Mr. Morgan was the scheduler or the owner in 2005, and he said he was both.

Board Member Crate asked how he scheduled people to work in Nevada.

Mr. Morgan said the names were in the database. He said people register to work by zip code.

Board Member Crate asked what his obligation was that he could, in fact, send people to work in the Nevada locations.

Mr. Morgan explained that he was not aware at the time that he should not be scheduling work in Nevada. He said that in other states the shoppers are independent contractors.

Board Member Crate said that the territory in Mr. Morgan's franchise agreement was Arizona.

Mr. Morgan explained that Arizona was a protected territory, so that if someone else were to schedule a shop in Arizona he would be paid an additional royalty. He said he could also do business in other territories as well.

Board Member Crate asked if Mr. Morgan would need to be granted a franchise for Nevada if he were to receive a license.

Mr. Morgan said that would not be the case. He said he was able to sell his product to anyone in the country.

Mr. Morgan stated that anyone who received the territory in Nevada must be licensed in Nevada.

Board Member Crate said it seemed that Mr. Morgan relied on Florida to sell, research, and determine how he could operate.

Mr. Morgan stated that he was not aware that Nevada had different requirements than other states and probably should have done more research in that area.

Board Member Crate said that Mike Albert indicated in correspondence that Mr. Morgan wanted to open a branch of the Phoenix office in Nevada.

Mr. Morgan said he thought Mr. Albert might like for that to occur, but Mr. Morgan had no plans to do so.

Board Member Crate asked what Mr. Morgan's responsibility was that scheduled individuals in Nevada.

Mr. Morgan said he was scheduling people to work in Nevada. He said they had been using Howard Services for some time.

Board Member Crate asked if Mr. Morgan was involved with scheduling with Howard Services and he said he was.

Board Member Nadeau discussed the time-line of events. He noted that Mr. Alberts had received a citation in 2002. He asked for the disposition of that citation.

Senior Investigator Botello said that no fine had been paid and the company denied it was involved in mystery shopping in Nevada. He said he had issued the initial citation.

Board Member Nadeau asked if the company had only received a cease and desist letter in 2002 and no citation.

Senior Investigator Botello said that was correct.

Board Member Nadeau asked if Senior Investigator Botello had issued an initial citation in 2005 to Mr. Albert and he said that was correct.

Board Member Nadeau asked Mr. Morgan if he was the scheduler during the time the citation was issued and he said he was one of the schedulers.

Board Member Nadeau noted that Mr. Morgan was still scheduling in 2005 when the company had been told in 2002 that they needed to be licensed.

Board Member Nadeau asked Mr. Morgan if he had been told in February 2005 that he needed to be licensed to schedule people in Nevada.

Mr. Morgan said that was true. He said he was scheduling people in Nevada up to that point. He said they stopped scheduling people in March.

Board Member Nadeau asked for a further response from Mr. Morgan on the public comment document issues.

Mr. Morgan said there was a problem with sending checks for payment to the shoppers. He said the address contained an incorrect digit and the checks were not going to the proper place for a period for 4-5 months. He said he never received any past-due invoices. He had also experienced a problem with his bank and had not been made aware that his assets had been frozen. He then had to re-finance his home to pay thousands of dollars. He had been working with Tom Mills to work out the re-payment. He said he was on track with repayment and the amount was almost paid down. He said nothing fraudulent had occurred and was unsure why the letter had not been sent to him and that some information contained in the document was incorrect.

Board Member Gonzalez asked about the checks and the incorrect address and the fact that Mr. Morgan had not received any past due notices. He asked if the bank had notified him.

Mr. Morgan said he should have noticed the error that 4-5 month's worth of checks had not been cashed and took responsibility for not doing so.

Board Member Crate asked how Mr. Morgan accounted for the required number of hours of experience.

Mr. Morgan explained that the hours were accumulated over a ten-year span.

Board Member Crate said that in a ten-year period there was a potential for 20,000 hours worth of work. The Board requirement was 10,000 in a five-year period. He noted that Mr. Morgan had held several high-level positions during that time and asked how he could devote 20 hours per week to accumulate the hours claimed.

Mr. Morgan said in Nevada it would be difficult to accumulate the hours. He said the hours were claimed while going out to dinner and it took about an hour to submit each report. He had been traveling extensively and would have gone to dinner anyway.

Board Member Crate asked how much time was accrued during each shop.

Mr. Morgan said the time for travel to and from the establishment, the time to actually order and complete the meal, and the time submitting the report.

Board Member Crate considered that each shop might take 3 hours at a time and asked Mr. Morgan if he did that daily, which would account for 21 hours a week.

Mr. Morgan said he did not, but often performed lunch and dinner shops on the same day. He also shopped on weekends.

Board Member Crate said he would have to perform a shop every day, seven days a week.

Mr. Morgan said he didn't do so every single day.

Board Member Crate asked if he did one shop per week, and Mr. Morgan said he did much more than that.

Board Member Crate asked how he was compensated for the mystery shopping. Mr. Morgan said he was mostly reimbursed, while sometimes there was a small fee involved. He said he also performed retail shops.

Board Member Crate asked if Mr. Morgan had any of his reports returned to him. Mr. Morgan said he had not.

Board Member Crate asked if he had ever been asked to return to an establishment for a follow-up visit.

Mr. Morgan said he had been asked to re-visit a place, particularly if the score seemed lower than usual. He said he had never received one of his reports as improper.

Board Member Spencer said the hours accumulated and noted that travel time did not count as investigative time.

Mr. Morgan stated that most shops scheduled were within an hour's drive.

Board Member Spencer asked if he felt he had the proper number of hours accumulated.

Mr. Morgan said he went back 10 years and he felt he did have the hours. He said he had kept track of reimbursements over the years.

Chuck Kennerson said he was contacted in February 2004 by Mr. Morgan about performing mystery shops in Nevada. Mr. Kennerson said he went into great detail to inform Mr. Morgan about the Nevada requirements for mystery shopping. He said he never heard from Mr. Morgan again. Several shoppers

informed Mr. Kennerson that Mr. Morgan was scheduling shopping in Nevada. Kennerson said he had 3 of his employees sign up on Satisfaction Service's website. One shopper never received pay and the other two had to wait 120 days to receive payment. Mr. Kennerson said the applicant showed very little investigative experience.

Peter Maheu protested the accumulation of hours for the applicant due to the precedent he said was set at the previous Board meeting. He said he didn't believe any mystery shopper could accumulate the proper number of hours. He asked that action be waived until other agenda items could be discussed.

Chairman Marcher said the Board would decide how to proceed. He believed that the Board had sufficient information.

Mr. Morgan denied having a conversation with Mr. Kennerson. He said he was aware of the citation and that Senior Investigator Botello had provided him with a copy. He said he was unaware of non-payment for any employees and that it was his policy to make sure payment was made promptly.

Board Member Spencer asked if Mr. Morgan had conducted unlicensed activity in Nevada.

Mr. Morgan said he could not imagine continuing to perform unlicensed activity after receiving a citation.

Board Member Gonzalez said that Mr. Kennerson said he had conversed with Mr. Morgan.

Mr. Kennerson said the information had occurred via e-mail and not by phone or face-to-face conversation.



Board Member Gonzalez asked about the actions taken by Mr. Kennerson and he reiterated the account of his 3 employees signing up to work with Satisfaction Services. He said it had occurred in December 2004.

Board Member Nadeau moved to deny an individual Private Investigator license for Steven Morgan dba Satisfaction with explanation to follow upon a second to his motion.

Board Member Crate seconded the motion.

Board Member Nadeau said the basis for the denial was the unlicensed activity. He stated that Satisfaction Services had two indications of unlicensed activity even after receiving the cease and desist letter and citation from the PILB. He said that Mr. Morgan admitted that he had been advised previously to the 2005 citation and was aware of the requirements for Nevada.

Board Member Crate said that Mr. Morgan bore the responsibility for the infraction as it happened on his watch. He also said he was not comfortable with the hours of experience.

Board Member Gonzalez said he was uncomfortable with the non-payment of employees.

The motion carried and the license was denied.

**PRIVATE PATOLMAN:**

TRIPLE CANOPY INC applied for a corporate Private Patrolman license.

Michael McPeake said he was retired from the Army. He had joined the air marshals as a trainee. He wished to become licensed to perform homeland security for Nevada. He said John Peters had resigned within the last 10 days.

Board Member Spencer moved to grant TRIPLE CANONY INC a corporate Private Patrolman license, to grant an individual Private Patrolman license to MICHAEL McPEAKE so that he may become the qualifying agent, and to approve THOMAS KATIS, MATTHEW MANN, IGNACIO BALDERAS, LEE VAN ARSDALE, and JULIET SIMPSON as corporate officers, subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion.

Board Member Crate thanked Mr. McPeake for his service.

The motion carried.

GLOBAL SECURITY CONCEPTS INC applied for a corporate Private Patrolman license.

FARDIN KHAN said he began in 1991 in the security business. He said he was a security officer from 1991-1996. In 1997 he began working in the corporate office in the accounting department in payroll, accounts payable and accounts receivable. In 2001 he began working in the commercial accounts division.

Board Member Crate asked if Mr. Khan had a Nevada unarmed security work card.

Mr. Khan said he joined Global Security Concepts he was advised to obtain a sheriff's card in preparation for obtaining a Nevada license.

Board Member Crate asked if Mr. Khan worked for Mr. Steven Baker, to which Mr. Khan said he had not, nor had performed any work in Las Vegas.

Board Member Crate moved to grant GLOBAL SECURITY CONCEPTS INC a corporate Private Patrolman license, to grant FARDIN KHAN an individual

Private Patrolman license so that he may become the qualifying agent, and to approve FARDIN KHAN and ALEX UDLER as corporate officers, subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion, which carried.

APA SECURITY NV INC applied for a corporate Private Patrolman license.

BYRON BISHOP was not present at the Board meeting.

Chairman Marcher noted that the application was incomplete.

Executive Director Ray said a balance was owed and remained unpaid by the applicant.

Board Member Crate stated that the item had been continued from previous Board meetings and had not met the deadline.

Executive Director Ray explained that one additional continuance had been granted at the March 2006 meeting for the applicant.

Board Member Crate moved to deny a corporate Private Patrolman license to APA SECURITY NV INC, to deny an individual Private Patrolman license for BYRON BISHOP, and to not approve BYRON BISHOP as a corporate officer based on NRS 648.100 section 3h which reads "Refused to provide any information required by the Board", subject to all statutory and regulatory requirements.

Board Member Gonzalez seconded the motion, which passed.

**CANINE HANDLER:**

PACIFIC SHEILD PROTECTIVE SERVICES INC applied for a corporate Canine Handler license.

WILLIAM HOOKER appeared before the Board with Goose, his canine partner. Mr. Hooker stated that he joined the United States Air Force in 1990 in the canine section. He had been an explosives dog handler and eventually became a trainer. He had worked during the tenure of three Presidents. He said he trained Goose daily or every other day.

Board Member Crate moved to grant PACIFIC SHIELD PROTECTIVE SERVICES INC a corporate Canine Handler License, to grant WILLIAM HOOKER an individual canine handler license so that he may become the qualifying agent, and to approve WILLIAM HOOKER as the corporate officer, subject to all statutory and regulatory requirements.

Board Member Nadeau seconded the motion, which carried.

**PRIVATE INVESTIGATOR AND PRIVATE PATROLMAN:**

CYNTHIA BAZIN applied for an individual Private Investigator license and an individual Private Patrolman license.

Cynthia Bazin said she had 12 years of experience in security and completing internal investigations and 9 years with security patrol and investigations. She worked for Sprint for a short time in their fraud division. She also had worked in the hotel security industry. She had a Bachelor's Degree in Criminal Justice and a Master's Degree in Psychology.

Board Member Gonzalez asked Ms. Bazin the names of the casinos for which she had provided security.

Ms. Bazin listed the Plaza, Las Vegas Club, Western Hotel and Casino and the Golden Spike.

Board Member Gonzalez moved to grant CYNTHIA BAZIN an individual Private Investigator license and an individual Private Patrolman license, subject to all statutory and regulatory requirements.

Board Member Nadeau seconded the motion, which passed.

**PRIVATE INVESTIGATOR, PRIVATE PATROLMAN, PROCESS SERVER:**

QUEST ASSOCIATES LTD requested a Process Server license, a corporate Private Patrolman license, and an individual Private Investigator license.

SCOTT KABRIN said he was retired from the United States Air Force and had worked in Special Forces. He had worked his way up to Chief of Police. He had worked in counter-terrorism investigations and retired in 1987. He had worked for the Nugget in security and then for the Peppermill. He also mentioned his volunteer work with the Washoe County Sheriff's Department and instructor for homeland security classes.

Board Member Gonzalez asked if there was any conflict with the name of Quest Associates and the Quest laboratories. He said there was a bit of confusion at times.

Board Member Nadeau asked what his company was doing at the present time.

Mr. Kabrin said they performed private investigator and process server work.

Senior Investigator Botello noted that Mr. Kabrin had been approached by vendors at the JCK show in Las Vegas, but he had steadfastly refused to participate in any way, which showed a high level of integrity.

Executive Director Ray said the corporate license would be Mr. Kabrin's and therefore the license number did not need to be read into the record.

Board Member Gonzalez asked if the license numbers would be 1253A, B, and C and Executive Director Ray said that was true.

Executive Director Ray said there would be no license number or numbers tied to the motion.

Board Member Nadeau moved to grant QUEST ASSOCIATES LTD qualifying agent status for SCOTT KABRIN for the Private Investigator license, qualifying agent status for MARY KABRIN for the Process Server license, to grant QUEST ASSOCIATES LTD a corporate Private Patrolman license, to grant an individual Private Patrolman license to SCOTT KABRIN so that he may be the qualifying agent, and to approve SCOTT KABRIN and MARY KABRIN as corporate officers, subject to all statutory and regulatory requirements.

Board Member Spencer seconded the motion, which carried.

#### **ADMINISTRATIVE BUSINESS:**

PETER MAHEU and MIKE KIRKMAN requested a declaratory order with reference to the licensure of Pamela Pennini during the March 2006 Board meeting. The order stated that the issuance of the license was unlawful ad hoc rulemaking and the license should be null and void.

Chairman Marcher said a decision would be made for the matter Richard Small was the attorney for Mr. Maheu and Mr. Kirkman.

Mr. Small said he was representing Mr. Maheu and Mr. Kirkman because of the issuance of a Private Investigator license to Pamela Pennini as a mystery shopper. He said that the workshop to create a sub-category had not taken

place at the time the license was issued and the license for Ms. Pennini should be set aside.

Chairman Marcher said when the acting chair of the March 2006 meeting asked Ms. Pennini if she would agree to restrict her license to mystery shopping only and she had agreed. He said that the Board had indicated to mystery shoppers in the past to stay in their area of expertise and not try to perform work for which they were unqualified.

Chairman Marcher noted that the Board had made the motion to grant a Private Investigator license restricted to mystery shopping.

Chairman Marcher asked if the group thought she should not have been issued a restricted license or if they felt she shouldn't have been licensed at all.

Chairman Marcher asked if there were any questions about Ms. Pennini's qualifications or hours.

Susan Lee, Board Counsel, stated that the petition before the Board to issue a declaratory order was for three things: (1) the Private Investigator license issued to Pamela Pennini on March 22, 2006 was an unlawful ad hoc rule making and that Ms. Pennini was not qualified for that license; (2) the license be declared null and void (3) the Board provide an interpretation and/or applicability of NRS Chapter 648 or NAC Chapter 648 for the issuance of license.

Chairman Marcher noted for the record that Ms. Pennini had been notified that this issue was to be discussed and had opted not to attend the meeting.

Ms. Lee addressed the first part of the request by saying the fact that Ms. Pennini was a mystery shopper did not disqualify her from obtaining a license, as that

activity fell under the Private Investigator license. She stated that the Attorney General's Office offered an opinion May 11, 1993 which concluded that mystery shopping "falls under the definition of private investigator activity" and that mystery shopping is an activity performed in a surreptitious manner. The activities of those engaged in mystery shopping warranted obtaining a license from the state as their findings could affect the livelihood of employees. The ruling of the First Judicial Court in the case of Landmark Protection Service (97-014 84 A) supported the conclusion of the opinion just referenced. She said the court held that tenant screening constituted private investigator work. She said the court found that it was clear the legislator intended that companies who investigated and obtained information for profit were subject to the laws governing private investigators. With regards to the point of granting Ms. Pennini a limited license constituting ad hoc rulemaking, Ms. Lee disagreed. She read 648.030 sub 2 "The Board shall classify licensees according to the type of business in which they are engaged and may limit the field and scope of the operations of a licensee to those in which he is classified." She said the fact that the Board had not yet adopted an NAC that explicitly sets forth the category of mystery shopper and set limitations on that field did not mean that the Board did not have the authority to issue a limited license. She said the purpose of the regulations is to enable to Board to carry out the provisions of the chapter. Authority comes from the NRS, not the NAC. She said the conclusion was supported by the LCB (Legislative Counsel Bureau) on December 6, 2005 via e-mail that the Board did not have to change its regulations to state the power of



the Board to classify licensees according to the type of business in which the individual was engaged and the scope of operations. Ms. Lee said the LCB said the Board already had that power pursuant to the NRS. She said a lengthy public discussion on the topic was held October 25, 2005. She said the LCB said the Board was not required to change their NAC. She said the Board could change the NAC to offer clarification, but was not required adopt an NAC as they already have the authority to limit the field and scope of licensees. With regard to the second part of the petition, Ms. Lee said the license issued to Ms. Pennini was proper exercise of the Board's authority. She said that even if the Board accepted the notion that a limited license was ad hock rulemaking, the only remedy would be to remove the limitation, not deny the license. Ms. Lee reiterated that the district courts and the LCB stated mystery shoppers must be licensed as Private Investigator. She said the only recourse would be to issue Ms. Pennini a license without restriction.

She said the Board did have the authority to place limitations on licenses.

Mr. Small referenced the 1993 opinion. He said that a policy was generated. He said even though the Board had statutory power, they should create a regulation and should fully define the licenses. He said the topic would have an affect on people in the future.

Chairman Marcher said mystery shopping falls under Private Investigator. He said 3 branches of government indicating that it is private investigator work.

He said if he had chaired the Board in March 2006, he would have steered the applicant to stay within mystery shopping only. He said he could not recall any

complaints so far involving a mystery shopping stepping outside of his or her scope of practice. He said the LCB didn't think a new regulation was needed. He further stated that a license that has been granted cannot be voided as the licensee has constitutionally-protected rights. He said Ms. Pennini would have to be given due process. He said they would have to have a basis for revoking the license, which he didn't believe existed.

Board Member Crate said the intent of the motion to limit the license to mystery shopping only was with the interest of the general public in mind to avoid confusion as to the extent of the duties of private investigator and to let the public know there was no scope beyond that of mystery shopping for the license. He further said that a new category was not created, but limited the category.

Chairman Marcher said the applicant was not complaining about the limitation.

Board Member Nadeau said there was no other alternative but to grant Ms. Pennini a private investigator license.

Chairman Marcher said either grant the license and admonish the licensee to stay within their field of expertise or make the process more formal, which was what the Board did with Ms. Pennini. He said that is what prompted the petition.

Board Member Crate said, when appropriate, the license itself would show limitations for the information of the public.

Chairman Marcher said when language was sent initially to the LCB, they sent it back and said the Board didn't even need a new regulation. He said the Board needed to either grant the petition or deny it and explain the reason for denial.

Board Member Crate said he was inclined to respond that he was comfortable with the motion as made in the March 22, 2006 meeting to grant Ms. Pennini's license and would use that type of motion in the future for clarification purposes to be specific in limitations.

Board Member Gonzalez said he saw no merit in pulling or denying the license granted to Ms. Pennini.

Board Member Spencer said the counsel for the Private Investigator said it had evidence counter to what the Board received for qualifications in granting Ms. Pennini a license.

Chairman Marcher said that was not relevant to the discussion and that he believed Mr. Maheu attended the March meeting.

Mr. Small said that Mike Kirkman told him that Pamela Pennini admitted she was not qualified to be a private investigator but was qualified as a mystery shopper. Chairman Marcher again stated that mystery shoppers must be licensed by the Board. He said he did not disagree that she may not be qualified to do all the duties as a private investigator, so that's why her license was limited to mystery shopping only.

Board Member Crate said he didn't believe accepting the request of the petitioner would be in the best interests of the public. He said counsel's references to the authority of the Board and the fact that the motion was made in the way it was showed the intent was the best interests of the general public.

Peter Maheu said there was no way a person working as a mystery shopper could acquire 10,000 hours of experience in 5 years.

Chairman Marcher said the Board determined that Ms. Pennini had the adequate amount of hours and the Board would not go back and re-visit that point.

Board Member Crate moved that the petition for declaratory order be denied based on counsel's recommendations, the substance of the quoted regulations, the LCB statement that the Board had the authority and the best interests of the general public and there would be no positive value or result in granting the petition.

Board Member Gonzalez seconded the motion with comment. He said Bob Auer chaired the March meeting did ask Ms. Pennini to place a limitation on her license and she agreed.

Board Member Spencer said he was not present at the March meeting and Chairman Marcher said that did not prevent him from voting at this time since the minutes contained what occurred at that meeting.

The motion carried and the petition was denied.

Chairman Marcher said the Board would provide an order as to why the petition was denied within 30 days.

**Public Comment:**

Al Kaplan asked how Ms. Pennini advertised her business.

Board Member Crate said she did not advertise as a private investigator, but as a mystery shopper only.

Chairman Marcher said the Board could discuss the issues brought up at public comment, but no action could be taken at this time.

Board Member Crate said the Freeman Group advertised as a consulting firm for the hospitality and tourism industry, not as private investigators.

Chairman Marcher said since the company held a private investigator license it would not be in violation for them to advertise as private investigators, but when the Board admonishes or restricts a license to mystery shopping, that company should stay within those boundaries. He said there had never been a case where a mystery shopping company had attempted to perform private investigator duties and been cited for that. He said the point was a non-issue.

Al Kaplan said the Board was allowing a company the ability to advertise as private investigators when they were not qualified.

Chairman Marcher said if the company did perform duties for which they were not qualified, the company could receive an administrative complaint and be in jeopardy of losing their license to perform mystery shopping.

Al Kaplan said the restriction should be clearly shown. He also suggested that the Board create a separate category of license for mystery shoppers.

Chairman Marcher reiterated that's what the Board had been discussing and what they were moving toward in future motions to grant licenses.

Frank Petrasich said the Board just passed a regulation stating that all licensees must show their license number on all advertising, letterhead, business cards and the like. He said it was not appropriate to allow mystery shoppers to advertise as private investigators.

Chairman Marcher closed the public comment portion of the meeting.

## **APPEAL HEARINGS:**

CAL NEVA TRANSPORT AND TOW INC was issued unlicensed activity citation number 05-115. DAIANA APPILCUETA requested an appeal hearing regarding the citation.

Gina Session joined the Board for the Appeal Hearing portion of the agenda.

Ms. Session asked Ms. Appilcueta if she had any objection to the introduction of each exhibit item, and she had none. Board Counsel Lee said that Cal Neva Transport and Tow had engaged in unlicensed activity. Board Counsel Lee distributed several exhibit items in support of her statement. The exhibits had to do with the citation, the ticket issued, an invoice for a vehicle to be picked up and similar documents pertinent to the citation.

Senior Investigator Botello said he had spoken with Ms. Appilcueta and she had said she was not a reposessor.

Ms. Appilcueta gave her account of the business in which she was engaged.

She claimed she was not a reposessor, that she did not search for cars, and that she merely picked up automobiles when she was asked and provided with a pick-up address. Mr. Bondi also spoke about the business, the job done by the company, and gave reasons why he didn't believe the citation was valid.

There was a good deal of discussion between the Board and the owner of Cal Neva on what transpired leading up to the citation.

Mr. Bondi mentioned that the company worked only for the state at the present time.

Board Member Gonzalez made a motion to dismiss citation #05-115 for Cal Neva Transport and Tow Inc.

Board Member Spencer seconded the motion.

The motion carried 3-1 with Board Member Crate opposed.

Chairman Marcher said Ms. Appilcueta did not owe the Board any money, but admonished her to be careful of future actions to avoid a future citation.

NATIONAL TENANT NETWORK received a citation, 05-093, and ROBERT RHINESMITH requested an appeal hearing for that citation.

Board Counsel Lee called Jeff Chandler, Nevada Court Services, to speak.

Mr. Chandler explained that he ran a process serving agency and how it was learned that National Tenant Network was found to be performing unlicensed activity.

Board Counsel Lee provided exhibits to accompany reasons given to uphold the citation. Ms. Session asked Mr. Rhinesmith if he had any objection to each exhibit as it was presented before the Board, and he said he did not.

It was discussed the Ken Kreider had been the investigator at the time the citation was issued and not the current investigator (Senior Investigator Botello).

The notes he made during the course of the event leading up to the citation were discussed.

Senior Investigator Botello said he was not able to provide all the information being discussed, partly because he was not the investigator at the time and also the fact that the events were not fresh in his mind due to the passage of time.

Mr. Rhinesmith said he did not contest the cease and desist letter, but did object to some of the language contained in it. The letter had been written by then-Executive Director Carol Hanna, who had since retired from the Board. The portion Mr. Rhinesmith disagreed with was the part referencing a strong verbal admonishment from Mr. Kreider. Mr. Rhinesmith stated that he had never received such a verbal admonishment from Mr. Kreider.

There was contact between Mr. Rhinesmith and the Board prior to the citation. It was discussed that Ken Kreider had promised to provide Mr. Rhinesmith with further information, particularly regarding NRS 80.015, but did not do so, even after several attempts on the part of Mr. Rhinesmith to reach him.

It was also discussed that Mr. Rhinesmith never got a copy of NRS 80.015 until Senior Investigator Botello sent him the citation. He also said he had changed his website in an attempt to comply with the Board's directions.

Senior Investigator Botello believed Mr. Rhinesmith had already been advised about unlicensed activity at the time he issued the citation.

Mr. Rhinesmith stated it was never his intention to perform illegal activity in Nevada.

Chairman Marcher said it would be advantageous to contact Ken Kreider in the future should any appeals be made so he could answer the questions himself.

Board Member Crate said he didn't know why the burden shifted back to Mr. Kreider once Ms. Hanna had made a determination and Mr. Rhinesmith decided to contact him once again.

Board Member Crate made a motion to uphold the citation as issued.



Chairman Marcher said the motion died for lack of a second.

Board Member Spencer moved that the citation not be upheld.

Board Member Gonzalez seconded the motion.

Board Member Spencer and Board Member Gonzalez voted for the motion.

Board Member Crate and Board Member Nadeau voted to uphold the citation.

Chairman Marcher voted with Board Member Spencer and Board Member Gonzalez for the motion to dismiss the citation, and the motion passed with a vote of 3-2.

Board Member Spencer moved to adjourn.

Board Member Gonzalez seconded the motion, which carried.

MINUTES  
PRIVATE INVESTIGATORS LICENSING BOARD  
INTENT TO ACT UPON A REGULATION, WORKSHOP AND HEARING  
JUNE 21, 2006

The first proposed amendment was to NAC 648 as it relates to private investigators' authority to serve process in conjunction with an existing investigation (LCB File #R016-05).

JEFF CHANDLER said he was a process server. He said the Board was always talking about protecting the public, by providing insurance. He said he specialized in the eviction and lock out business, though they also serve other forms of process. He said he is required to be licensed as a process server and would not be allowed by NRS to perform other duties without obtaining a license; therefore, he was opposed to the idea of allowing a private investigator to serve process without obtaining a process server license. He believed the issue that

private investigators did not have time to seek out a process server and needed to do the work themselves was invalid.

MARK ZANE disagreed with Mr. Chandler. He explained that the discussion didn't affect him personally as he had both a private investigator and a process server license. He said there are occasions when it would not be expedient for a private investigator to find a process server. He said at times it is only expedient to serve process immediately when a person was found, rather than waiting to hire a process server to do that. He did say he would agree with limiting the process served to subpoenas only. He didn't feel any other documents needed to be allowed to be served by private investigators.

Executive Director Ray noted that the language had originally stated that word "subpoena" had originally been used in the language.

MIKE YEPKO said he had been licensed since 1999. He said he had then applied for a private investigator license in 2000. He said he saw a great potential for abuse by private investigators if they were allowed to serve process. He said the only process that should possibly be served would be a subpoena to impel a hostile witness. He believed the reason given by private investigators for expediency of serving process was invalid. He said he believed a private investigator should be able to afford a process server license.

DEBORAH SCHUFF, June's Legal Service, said she saw no reason for private investigators to have documents other than a subpoena to deliver. She agreed with Mr. Yepko's statements.

KRISTOPHER NICHOLSON, Legal Express, said he held both a Private Investigator license and a Process Server license for the reasons being discussed. He said he also agreed with Mr. Yepko. He said if the verbiage was restricted to “subpoena” there would still be the possibility for error and abuse. He said if an individual wanted to serve process, he or she should apply for a Process Server license and pay the fees. He stated that NRS 648.063 says that an unlicensed person who performs a single act for which a license is required has engaged in the business for which the license is required and, unless exempt from licensing, has violated NRS 648.060.

ROY McMAHAN, Legal Process Service, Inc. stated that he agreed with the previous speakers. He said private investigators should not be able to perform process server duties without a license.

Chairman Marcher said he would close the workshop on this regulation.

Chairman Marcher said that the second regulation dealt with NAC 648.388 regarding the Board’s discretion in granting an exemption to licensees for the purpose of hiring off-duty peace officers (LCB File # 107-06).

Executive Director Ray said the proposed change was very simple. She said the word “will” would be changed to “may” in Subsection 2.

Chairman Marcher clarified that the change would allow the Board more discretion from mandatory language to allowing the Board to decide whether or not to grant a requested exemption.

As there was no public comment, Chairman Marcher closed the workshop on the item.

The third proposed amendment was to NAC 648.265 involving a person serving as the qualifying agent for more than one corporation or maintaining an individual license while being the qualifying agent for one or more corporations in the same category of license.

Frank Petrasich, BlueTree, commented on the topic. He said that requiring all out-of-state corporations to be licensed would require more staff for the PILB, more money in the budget and would require 2,500 to 3,000 companies to be licensed in Nevada. He felt that would create too much competition. He then mentioned mystery shopping. He noted that ChoicePoint was now licensed and no longer used licensed private investigator. He also noted that allowing qualifying agents to continue before August 15, 1981 showed that it did not harm the public in any way or else the practice would be stopped. He said allowing a licensee to represent more than one company was an unfair advantage. He again stated that the 2,500 to 3,000 companies who would need to be licensed would cause great competition for those who were already licensed in Nevada. He offered his own language for the NAC that he believed the Board should use. Al Kaplan commented that he believed Frank Petrasich had a valid concern. He said the issue presented the possibility for potential abuse.

Mr. Petrasich said part of the problem in licensing out-of-state companies was there was no requirement to open a Nevada office; therefore, there were no record-keeping capabilities of each company by the Board. He said the Board couldn't check on employee status and that each company should be required to

maintain a Nevada office and keep all the proper documentation required by other licensees.

Chairman Marcher closed the workshop on the item.

The fourth item concerned clarification of the current authority given the Board related to the scope of practice for licensees pursuant to NRS 684.030(2).

Chuck Kennerson asked if the Board needed to define the different types of license, along with limiting the scope of practice.

Chairman Marcher said the issue of mystery shopping and tenant screeners brought about the discussion of limiting the scope of practice. He said there was an argument that the regulation may not need to be changed at all. He stated that mystery shoppers must be given a Private Investigator license because, but the Board could limit the licensee to mystery shopping only and that limitation must be shown on the license.

Mr. Kennerson asked about the difference between customer service mystery shopping and integrity mystery shopping that falls under the Private Investigator license.

Chairman Marcher answered that the regulation being discussed was not designed to do that. He said the regulation was to give the Board the clear authority to place limitations on certain categories of licenses.

Peter Maheu said he was concerned with creating a sub-category when the Board had not yet defined the job of a private investigator. He asked for a definition of the 10,000 hours of experience. He said that the accumulation of hours could have very little to do with actual investigation. He said that more

than one discipline made a profession. He said different jobs were being encompassed under the Private Investigator license that could lead to many sub-categories.

Chairman Marcher said that the Board would eventually need to overhaul NRS 648 and the legislature should make comprehensive changes.

Ruth Kaplan said she did not understand granting a license to someone who was unqualified. She said she (Pamela Pennini) should work for a licensed Private Investigator if she wanted only to be a mystery shopper. She felt the Board should admit a mistake had been made in granting a license to Ms. Pennini.

Al Zajic, Alan Zajic-Security Consultants, noted that a security consultant could be either a Private Investigator or a Private Patrolman. He said he really didn't act as either. He said he was a consultant and acted as an expert witness. He said he felt the Board should push for legislative changes. He said if changes were not made, the Board would be arguing the topic every Board meeting. He said he did not feel more sub-categories should be made. He said technology had changed the business over the years. The limiting of a person's license should be carefully evaluated first.

Chairman Marcher closed the workshop on the regulation.

The fifth proposed amendment to NAC 648.360 concerned approved instruments in conducting polygraph examinations.

Chairman Marcher asked if there was any public comment in either Carson City or Las Vegas, but there was none. He closed the workshop on the regulation.

Chairman Marcher said the meeting would move to the hearing portion for the potential adoption of the proposed regulation changes. He said that LCB R016-05 relating to the issue of allowing Private Investigator to serve legal process.

Chairman Marcher said there was much discussion during the workshop involving changing the phrase “legal process” to “subpoena”, which was the language originally used when the change was first being discussed.

He said the Board couldn’t change a regulation up for a vote if the change was substantial. He said putting a limitation on what a Private Investigator could serve was not a substantial change.

Board Member Nadeau said he would support using the term “subpoena” and not “legal process” in the regulation.

Board Member Nadeau moved to adopt the regulation with the original language of “subpoena” and not “any legal process”.

Board Member Gonzalez seconded the motion.

The motion carried with 3 ayes and 1 nay (Board Member Spencer was the sole opposing vote).

Chairman Marcher said the regulation was adopted and would go to a legislative sub-committee.

Chairman Marcher said the next change for the Board’s vote was LCB 107-06, changing one word in the regulation regarding exemptions for peace officers.

Board Member Nadeau asked about the adoption of the regulation.

Chairman Marcher said the Board was amending a regulation, not adopting a new one.



Board Member Nadeau moved to adopt LCB #107-06.

Board Member Crate seconded the motion.

The motion carried unopposed.

Chairman Marcher closed the public hearing on the adoption of regulation.