

MINUTES
PRIVATE INVESTIGATORS LICENSING BOARD
SPECIAL MEETING
MAY 9, 2008

MEMBERS PRESENT:

DAVID SPENCER: BOARD CHAIRMAN

DANIEL CRATE: BOARD MEMBER

LOIS WILLIS: BOARD MEMBER

JAMES NADEAU: BOARD MEMBER

RICHARD PUTNAM: BOARD MEMBER

OTHERS:

MECHELE RAY: EXECUTIVE DIRECTOR

JEFF MENICUCCI: BOARD COUNSEL

MICHAEL WYMER: ACTING BOARD COUNSEL AS NEEDED

RENE BOTELLO: SENIOR INVESTIGATOR

KRISTINE MAUTNER: INVESTIGATOR

ELAINE TRENT: ASSISTANT

SWEARING IN: Board Counsel Menicucci swore in all those present who were to testify during the course of the meeting.

Executive Director Ray proceeded with the roll call.

APPEAL HEARINGS:

Michael Buglione with SBS Security Inc. requested an appeal for Citation 124-07B.

Board Counsel Menicucci said he and Mr. Buglione had reached a possible resolution to propose to the Board.

He said Mr. Barber, Mr. Shinderman, and another gentleman had a company called SBS Security. The

company operated in collaboration with Jose Troncoso, a licensee. Mr. Troncoso later separated himself from SBS Security. The security that was being was then taken over by another licensed entity, SAS (Strong Arm Security) with Lloyd Henderson as the licensee. Mr. Henderson took over that business, as SBS Security could not operate on its own. The citation against SBS Security involved allegations that they solicited Mr. Henderson to use his license in an attempt to operate as a security company in Nevada, though the company was not licensed and did not have a licensed qualifying agent. SBS Security has since been dissolved and no longer operates. Board Counsel Menicucci said Mr. Buglione would testify that none of the principals were performing security work in Nevada. Board Counsel Menicucci said there was a previously issued citation that had not yet been paid by SBS Security. Mr. Buglione said his information was that his partner had sent a check to the Board, but as yet it had not been negotiated. Board Counsel Menicucci recommended that the Board allow SBS Security 6 months to insure that the existing citation was paid. Board Counsel Menicucci said that the first citation was C-124-07. Board Counsel Menicucci said during the 6 month period, provided that none of the principals for SBS Security have any further citations for unlicensed activity, the pending citation (C-124-07B) would be dismissed at the end of the 6-month period. Board Counsel Menicucci said the existing citation was for \$2,500; Mr. Buglione and SBS Security would be responsible for insuring that the citation was paid at the end of the 6 months.

Board Member Nadeau asked if the proposition meant the first citation would be paid within 6 months, and then the second citation would be dismissed. He asked if the first citation was not paid, then the second citation would be pending. Board Counsel Menicucci said both statements were correct.

Board Member Crate asked for clarification that SBS Security had indeed been dissolved. Board Counsel Menicucci said that was the information he had received. Board Counsel Menicucci said Mr. Buglione told him the company had dissolved. Board Counsel Menicucci had checked on the Secretary of State's website, which showed the same information. Board Member Crate said Mr. Buglione was taking personal responsibility for the satisfaction of the fine. Board Counsel Menicucci said that was correct. He then asked Mr. Buglione if he intended to insure the first citation was paid, and he said that was true. Board Member Crate asked if Mr. Buglione would be responsible for the payment of the second citation if the first one not paid. Mr. Buglione again

said that was correct. Board Member Crate said he was asking for assurance, as SBS Security was no longer in business and, therefore, would not be available pay the citation. Mr. Buglione said he would be personally responsible for payments.

Board Member Nadeau moved to accept and implement the terms of the agreement as outlined by Board Counsel Menicucci. Board Member Crate seconded the motion, which passed.

Anthony Davis, AD Entertainment Services, appealed Citation 103-07. Board Counsel Menicucci said he had a similar proposal for the Board regarding the appeal of Mr. Davis, AD Entertainment Services. Board Counsel Menicucci said two citations existed. The one under appeal was C-103-07. A subsequent citation, C-103-07B, was issued to Mr. Davis and his company. Board Counsel Menicucci said the second citation involved different circumstances and had not been appealed. Board Counsel Menicucci said the evidence for C-103-07 showed that Mr. Davis had been approached by Senior Investigator Botello in early September 2007 during the MTV Music Awards at the Palms. Mr. Davis was cited for conducting unlicensed security services; it was believed he was operating under Anthony Davis Entertainment Services, had billed MTV, and received compensation for his services. Board Counsel Menicucci said Mr. Davis said he was operating as an employee of a licensee, SOS Security, he was a registered employee for the company, and he had a sheriff's card on his person at the time. Board Counsel Menicucci said his proposal in the matter was that Mr. Davis and Anthony Davis Entertainment Services would pay the citation that was not appealed, C-107-07B, within 6 months. He said the current citation would be adjourned for 6 months. At the end of the 6 months, if the citation amount of \$2,500 was fully paid, and if Mr. Davis and his company had no further citations during the time period, the citation would be dismissed. Board Counsel Menicucci said if either condition failed to occur, the citation would be pursued, and the fine would be \$5,000. Board Counsel Menicucci noted that Mr. Davis could continue to appeal the citation and present his case as to why he was not liable. He said the Board would be able to pursue the matter if the agreement was not satisfied in the 6-month period.

Board Chairman Spencer asked about the issue with SOS. Board Counsel Menicucci explained that SOS had entered into an agreement with Mr. Davis and his company for a very short period of time to provide Mr. Davis

an ability to work an event. SOS made sure Mr. Davis was an employee and received a work card. Mr. Davis was working the event and had a prior arrangement with MTV and Viacom, who wanted him to provide security services. The principal of SOS sent Senior Investigator Botello a letter in which he stated that he felt Mr. Davis breached the agreement by billing MTV separately and SOS did not feel they were properly compensated for the services it provided for the event.

Board Member Crate asked how much time elapsed between the 2 citations. Senior Investigator Botello said the MTV Music Awards occurred early September 2007, when the first citation was issued. He said the second citation was issued for contract security services provided at the Orleans for events which took place December 2007, January 2008, and February 2008. Board Member Crate asked if the first citation had already been issued and received by the time the second citation was issued, and Senior Investigator Botello said it had. Board Member Crate asked Board Counsel Menicucci to further clarify the proposal he was presenting to the Board. Board Counsel Menicucci said the proposal outlined that Mr. Davis would pay the first citation, which was not under appeal within 6 months, Mr. Davis would not incur any further unlicensed activity citations during the 6-month period, and the second citation which was being appealed would be dismissed at the end of the 6-month period.

Board Chairman Spencer said he had a question for Board Counsel Menicucci regarding SOS. Board Chairman Spencer said SOS hired Mr. Davis to perform a duty, but then SOS withdrew Mr. Davis's ability to operate. Board Chairman Spencer said it would appear to be a civil matter between the Mr. Davis and SOS. Board Counsel Menicucci said the Board must decide whether Mr. Davis was operating as an employee of SOS and was paid by them, or as a private contractor. Board Counsel Menicucci said Mr. Davis pointed out to him that matters which occurred during the second citation actually predated the citation currently under discussion. He noted that some of the events contained in the citation occurred in 2006, some earlier in 2007, and some occurred later.

Board Member Nadeau said the Board would take action on the second citation in the settlement. He said the second citation would be paid at the \$2,500 level as though it were the first, because the activity done during the second citation actually took place before the activity of the first citation. He said that was the cause of

confusion. Board Counsel Menicucci agreed, and said Mr. Davis would be in jeopardy of receiving the \$5,000 citation if the Board proceeded if the agreement was not fulfilled.

Board Chairman Spencer said his concern was that Mr. Davis violated NRS 648 by working at the event in the first place. He said he felt the issue of the work card and its retroactive removal was between Mr. Davis and SOS. Acting Board Counsel Wymer said there was a difference between the money issues and the jurisdictional and licensing issues. He said, irrespective of the dollar amounts involved, the question before the Board was whether or not a required license was in place when the work was performed. He said the only way to make that determination was to have a hearing.

Board Member Crate said SOS had suggested that Mr. Davis was working as a private consultant. He asked if staff had received a complaint from SOS regarding unlicensed activity. Senior Investigator Botello said SOS contended that there was a breach of contract. He said SOS said Anthony Davis Entertainment Services had sub-contracted with them and asked them to take on Anthony Davis Entertainment Services' personnel. Board Member Crate stopped Senior Investigator Botello and said the comments were more appropriate for a hearing. He asked again about a complaint from SOS. Senior Investigator Botello said he had received a letter from SOS to that effect. Board Member Crate asked Mr. Davis why he had not paid the September 2007 citation. Board Counsel Menicucci said that was the citation that was under appeal. He again explained that the second citation, C-103-07B, was issued February 26, 2008 for events which occurred in 2006, 2007, and 2008. Board Member Crate said the second citation did not duplicate the first citation, and Board Counsel Menicucci agreed. Board Counsel Menicucci explained that the first citation, which was currently under appeal, was issued September 17, 2007 and related to Mr. Davis's presence September 5, 2007 and September 9, 2007 at the Palms Hotel in Las Vegas.

Board Member Nadeau moved to accept the terms of the settlement agreement as stated by Board Counsel Menicucci inasmuch as Mr. Davis, Anthony Davis Entertainment Services, pay C-103-07B at the fine level of \$2,500, that C-103-07 be stayed pending the payment of C-103-07B, and if Mr. Davis or Anthony Davis Entertainment Services does not fulfill the agreement, then C-103-07 would be imposed at a level of \$5,000. Board Counsel Menicucci said a hearing would be scheduled for an appeal. Board Member Nadeau agreed and

said the motion was made with the understanding that the fine would be \$5,000 if the payment of \$2,500 was not made, if the appeal was denied. Mr. Davis said he understood. Board Member Willis seconded the motion.

Board Member Crate said he was not sure why the Board would wish to accept the settlement. He said there were many issues involved, including consulting, repeated offenses, and allegations from a licensee. He said he would prefer to schedule a hearing on the matter, even though an appeal may be sustained. He said he was aware of different reports and a number of citations were issued regarding Viacom and MTV from the September events. He said a licensee was involved and there was a history of unlicensed activity potentially with Mr. Davis and Anthony Davis Entertainment Services. He said he would probably vote against the motion because he would be interested in the information that could be learned during a future hearing.

Board Chairman Spencer said he did not disagree with Board Member Crate. He said he was still concerned that he did not believe SOS could retroactively pull its authorization for Mr. Davis to operate under their license. He referred to Acting Board Counsel Wymer's comment that payment was a separate issue. He said if that was the case, then one citation must be dismissed, as it would have no merit. Board Counsel Menicucci said then the second citation would actually become the first. Board Member Crate said he would disagree that compensation was not an issue and if Mr. Davis was working under SOS's license or not. He said he did not know the date of the complaint by SOS. He said if it was discovered that side-business was being performed, it would be relevant that unlicensed activity was occurring. He said SOS could be concerned that Mr. Davis was receiving compensation from them, and, therefore, they were responsible for his activity, and he may have gone outside the agreement and conducted unlicensed activity. He said compensation was an issue.

Board Chairman Spencer said he did not know at what point billing occurred.

Acting Board Counsel Wymer said if SOS had a contractual dispute with Anthony Davis Entertainment Services, that matter should be resolved in court. He said the question of compensation was a relevant consideration in licensing, but the Board should focus on what was required at the time the services were rendered. He said if the services were rendered under the umbrella of someone's license, then that consideration must be taken into account by the Board. Board Counsel Menicucci said Mr. Davis told him he may be able to answer some of the Board's concerns.

Mr. Davis said at the time of the agreement with SOS, he had worked with Viacom and MTV for years. He said he had received compensation from them. He said Nevada had stricter licensing requirements, of which they became aware at the 11th hour. He said a relationship had been formed with SOS in an effort to comply with the statutes. He said the billing arrangements had been ongoing, and it was not intentional to slight SOS. Mr. Davis said the information submitted to the Board by SOS was unrelated to Mr. Davis. He was not aware SOS had spoken to Senior Investigator Botello. Board Member Crate asked Mr. Davis if he had a separate standing agreement with Viacom and MTV. Mr. Davis said there was not a separate agreement, but a standing agreement, as he had worked with MTV all over the world. Board Member Crate again asked if that agreement was separate from any agreement Mr. Davis had with SOS. Board Member Crate asked if Mr. Davis solicited SOS to provide services, or if SOS recruited him as an employee. Mr. Davis said he believed it was mutual. He said SOS was a contractor with MTV in New York and Los Angeles. Board Member Crate asked how SOS became aware. Mr. Davis said SOS and Anthony Davis Entertainment Services were aware of each other, due to their relationships with MTV/Viacom. Board Member Crate asked if he approached SOS. Mr. Davis said he was not saying that, but again stated the relationship was mutual. Board Member Crate asked if Mr. Davis attempted to approach other licensees to provide services at the MTV awards. Mr. Davis said that was possible. Board Member Crate said those were his concerns regarding the citation the Board was considering. He said he was more interested in particulars than just the fines. He said he was not comfortable with waiving the citation. Board Chairman Spencer said he was also interested in those issues. Board Member Nadeau said, in support of the motion, there was ongoing unlicensed activity that preceded the citation concerning SOS. He said the Board was discussing the unlicensed activity and was giving Mr. Davis and Anthony Davis Entertainment Services notice that a citation had been issued and that any future unlicensed activity would be held at a higher standard by the Board. He said he understood the issues concerning the contracts, but he wanted Mr. Davis to be aware of the fact that unlicensed activity was unacceptable by the Board. He said by upholding the initial citation, the Board had made the point clear and that Mr. Davis would need a contract in the future to provide services in Nevada.

Board Chairman Spencer asked for Mr. Davis's understanding of payment regarding SOS. Mr. Davis said he did not recall. He said he did not believe payment was specifically stipulated in the agreement. Board Chairman Spencer asked Mr. Davis if he it would stand to reason that if he were operating under someone else's license, he would compensate that licensee. Mr. Davis said that was correct. Board Chairman Spencer asked if Mr. Davis handled the negotiations, and he said he had done so. He again asked Mr. Davis to explain the financial arrangement. Mr. Davis said he did not recall specifics of the arrangement. Board Chairman Spencer asked Senior Investigator Botello to explain what was said by SOS regarding the matter of compensation. Board Member Crate said the motion on the floor was to accept or reject the negotiated settlement, and to proceed further would be a discussion of the appeal itself. He asked Board Counsel Menicucci for direction. Board Counsel Menicucci said the Board was beginning to discuss the merits of the citation, rather than the settlement. Board Member Crate said he would not necessarily say an appeal might not be upheld. Board Chairman Spencer called for a vote.

Board Member Willis and Board Member Nadeau voted for the motion, while Board Member Crate, Board Member Putnam, and Board Chairman Spencer voted against the motion. The motion was defeated.

Board Member Crate asked if Mr. Davis or Board Counsel Menicucci were prepared to present further information regarding the appeal. Mr. Davis said he would prefer a continuance so he could be represented by counsel. Board Chairman Spencer said the witnesses were not present. Board Counsel Menicucci said witnesses could be assembled at a later time. He noted that Mr. Davis said he would like to subpoena witnesses to appear to testify. Board Counsel Menicucci said he would not oppose a continuance. Board Member Crate asked if Mr. Davis would be willing to address both citations at a future meeting, or if he would prefer they be kept separate. Board Counsel Menicucci again stated that C-102-07B was not under appeal, and that the time for an appeal had elapsed. He noted it had not been paid yet. He said references made regarding that citation would have to be relevant to the citation under appeal, and he was not sure if that was the case. He said the citation today that was under appeal stood on its own. Board Member Crate said he recognized that Mr. Davis probably had a reasonable expectation the matter would be resolved today. He moved to calendar the agenda item until the next Board meeting and/or the convenience of Mr. Davis, staff, and Board counsel, not to exceed

the September 2008 meeting, subject to all statutory and regulatory requirements. Board Chairman Spencer seconded the motion.

Board Member Nadeau noted that Mr. Davis and Anthony Davis Entertainment Services had received a second citation. He said that fine level was \$5,000. He asked if that amount would be applied.

Executive Director Ray said it would depend on the outcome of the appeal hearing in order to determine the actual second citation. She said it may not be considered a second citation. Board Member Nadeau said Mr. Davis was appealing the first citation and the time had elapsed to appeal the second citation. He asked how the fine would be implemented. Executive Director Ray said that was a good question.

Board Counsel Menicucci said if the first citation was found invalid, then the second citation would then become the first.

Board Member Nadeau asked for an explanation of the final outcome. He asked if the Board would wait for payment of the second citation pending the outcome of the first citation. Board Chairman Spencer explained that the amount of the second citation was dependent upon whether or not the first citation was upheld. Board Member Nadeau asked if the need to wait for the outcome of the appeal to determine the amount of the second citation needed to be part of the motion.

Board Member Crate said if necessary, he would amend his motion accordingly. Board Chairman Spencer seconded the amended motion. The motion carried unopposed.

Senior Investigator Botello said it would be helpful to accommodate Mr. Flanagan's appearance, as he would travel a long distance to appear before the Board. Board Member Crate said that was incorporated into his motion regarding all parties involved. Board Member Crate said Mr. Flanagan could provide a notarized statement. Board Counsel Menicucci said there were other avenues that could be pursued, including a telephone deposition with Mr. Flanagan. Board Counsel Menicucci said there would probably be logistical concerns, as the next 2 Board meetings were scheduled to be held in Carson City.

Samuel Ever appealed unlicensed activity citation C-002-08. Board Counsel Menicucci presented his exhibits. He asked Mr. Ever if he had any objections to the exhibits, but he had none. Board Counsel Menicucci said the

citation was issued because Mr. Ever had placed an ad on craigslist seeking applications for employees. He noted Mr. Ever was not licensed by the Board and had no authority to engage in activity which required a license. He said the ad showed the response was to be sent to sammyofsummitservices@yahoo.com. He said that act was the cause of the citation, which he appealed. Board Counsel Menicucci said the issue before the Board was if the advertisement for employee constituted unlicensed business activity and if the citation should be upheld. Board Counsel Menicucci asked Mr. Ever if he posted an ad for security services on craigslist. Mr. Ever said he had done so. Board Counsel Menicucci asked Mr. Ever why he had placed the ad. Mr. Ever said when he received the e-mail address, sammyofsummitservices@yahoo.com, he was employed by Summit Services, a licensee. He said he was laid off in late November. He said the company no longer was in business in Nevada, but were located in New Mexico. He was hired by St. Moritz in January 2, 2008. He was not given a company e-mail at that time. He was told, as the operations manager, he was told to obtain employees. He said the only way he could acquire employees without advertising funding was to utilize craigslist. He said he did not think it was wrong to use the e-mail. He said when Robert Hamic learned Mr. Ever was using the e-mail address, he called Mr. Ever an idiot in an e-mail and said he was pursuing business under Mr. Hamic's company name, which no longer existed in Nevada. Mr. Ever said he had made an honest mistake. Mr. Ever said as soon as he received that e-mail from Mr. Hamic, he deleted the entire e-mail immediately. He then received his own business e-mail for St. Moritz and began using it. He said St. Moritz then decided to utilize Career Builder and Monster for employees. Board Counsel Menicucci asked Mr. Ever if, during the time he posted the ad until the present date, he had ever performed any security services on his own. Mr. Ever said he had not done so and he did not own a company. He said he was unemployed at the moment, as he had resigned from St. Moritz. He said the citation noted "personal gain", but he had only placed the ad to try to recruit employees for St. Moritz. Board Counsel Menicucci asked if Mr. Ever was not licensed with the Board. Mr. Ever said he worked for AlliedBarton for 2 weeks and resigned. He was hired by Securitas and was registered, but never physically worked for Securitas. Two days before he was to begin work, he called and told them he had accepted employment elsewhere. He said he was currently unemployed. Board Counsel Menicucci said he had been registered as an employee, and Mr. Ever agreed. Board Counsel Menicucci asked if Mr. Ever was "testing the

waters” to see if he could start his own company. Mr. Ever said that was not true, but he had merely been in the process of hiring employees for St. Moritz. Board Counsel Menicucci asked if Mr. Ever had used the “summitservices” e-mail because that was the only one he had, and Mr. Ever agreed. Board Counsel Menicucci asked if Mr. Ever had received responses to the ad. Mr. Ever said people had called or e-mailed him regarding the ad. He said no one who called asked about Summit Services; he said a few asked for the name of the company, and he told them it was St. Moritz Security, not Summit Services. He told them Summit Services no longer existed in Nevada. He said he told those people exactly what he told the Board as to why he used that e-mail. Mr. Ever said he did have paystubs which showed he did work for Mr. Hamic in Las Vegas. Mr. Ever said he admitted he had placed the ad, but it was an honest mistake. He again said the minute he received the e-mail from Mr. Hamic about using the name of Summit Services, he deleted the whole e-mail account. He received the citation a couple of days later. He said he had not advertised since, nor did he plan to do so in the future.

Board Counsel Menicucci asked if Mr. Ever realized that Summit Services was a licensee of the Board. He said he knew that. Board Counsel Menicucci asked if Summit Services was still doing business in Nevada when he placed the ad on craigslist. Mr. Ever said a lay-off was announced the Wednesday night before Thanksgiving. All employees were told to go home, as the Summit Services had lost the contract.

Board Member Nadeau asked Mr. Ever about the craigslist ad. He asked what computer Mr. Ever used. He said it was his own personal computer. He again noted that he was the operations supervisor for St. Moritz. He said his title was “supervisor” at the company. He said he had explained to Senior Investigator Botello that he had not been registered with the PILB during his time at St. Moritz. He said adequate funds had not been provided to register all employees and the 10-day requirement had not been met. He said he worked for St. Moritz from January 2 to March 11, 2008. Board Member Nadeau again asked if St. Moritz had not provided a computer for Mr. Ever to use, and he again said he used his personal computer at his home. He said he also took his own personal laptop computer to work. He said he believed the company had secured computers since he left the company.

Board Chairman Spencer asked Senior Investigator Botello if he had contacted St. Moritz, and he said he had not done so. He said he had contacted Summit Security. Executive Director Ray said she had seen Mr. Ever's name on correspondence from St. Moritz. She said she could not answer if Mr. Ever had ever been registered. She said there had been some problems with St. Moritz, but she felt they were beginning to follow regulatory requirements. Senior Investigator Botello said he did learn that Mr. Ever worked for St. Moritz.

Board Member Crate asked if Mr. Ever had contacted St. Moritz to provide a letter of explanation that he was working on their behalf. Mr. Ever said he had not, but had received welfare forms for which St. Moritz had provided information (his salary and dates he worked). Board Member Crate said it would have been a simple matter for purposes of the citation to obtain such a letter from someone at St. Moritz verifying that he had placed the ads on their behalf. Mr. Ever said that Vince Calderon was aware that Mr. Ever had placed the ads on craigslist. He said Mr. Calderon had never heard of craigslist, but was impressed with the response. Mr. Calderon told him to continue using craigslist as a money-saving tool. Mr. Ever said St. Moritz still posted on craigslist advertising for high end security employees. Board Member Crate again asked if Mr. Ever had any proof, other than his verbal statements, that he was actually working for St. Moritz while he was using the Summit Security name in the e-mail. Mr. Ever said he did not, but he could request that Mr. Calderon send a letter stating that Mr. Ever did work for St. Moritz at the time the craigslist ads were posted. He said the paystubs were also proof.

Board Member Crate asked Executive Director Ray if she recalled the nature of the correspondence which showed Mr. Ever's name. She said she saw his name on a list of employees provided by St. Moritz in an effort to comply with Board requirements. Mr. Ever said he believed when he resigned, St. Moritz sent a form or letterhead to the Board stating that Mr. Ever no longer worked for them, though he was not 100% certain.

Board Member Crate asked if Mr. Calderon had hired him, and Mr. Ever said that was correct. He said Mr. Calderon and Paul Harris had hired him after a 20-minute interview. Board Member Crate asked if Mr. Calderon or Mr. Harris would have any reason not to substantiate his statement. Mr. Ever said he believed they would concur with his statements. He said they were aware of the craigslist post and the dates he was employed. He said he told Mr. Calderon about the citation and he laughed it off. Mr. Ever said Mr. Calderon personally knew

Mr. Hamic. Board Member Nadeau asked if, subsequent to the notification by Mr. Hamic on January 15, Mr. Ever took the Yahoo e-mail address down. He said he had done so immediately. Board Member Nadeau asked if Mr. Ever had created a new e-mail account, and Mr. Ever said he had not. Board Member Nadeau asked if he had provided any more advertisements. Mr. Ever said the only e-mail he currently had was his own personal e-mail address.

Board Chairman Spencer asked if Mr. Ever was currently employed. Mr. Ever said he was currently unemployed. He said he had applied with the Department of Transportation.

Board Member Crate asked Mr. Ever when Mr. Ever had last taken the 22-question exam. Mr. Ever said he took the test when he was employed at Interstate Security. He said he also was given the exam at AlliedBarton August 2007. He again mentioned that St. Moritz had not provided funding to send in registrations.

Board Counsel Menicucci presented a summary to the Board. He said there was a legal issue as to whether or not advertising for employees constituted the type of advertising would statutorily require licensure. He said a good case could be made that the action did fall under NRS 648 because the statute states that a person shall not engage in advertising and not advertise a business as a licensed business without a license. He said a person could receive benefit merely by advertising for employees. He further stated Mr. Ever had engaged in a form of advertising. He said another issue was that Mr. Ever placed the ad while he was employed by a licensee and was not misrepresenting as to who was actually hiring employees, and Mr. Ever discontinued the practice once Mr. Hamic made a complaint. Board Counsel Menicucci said it appeared Mr. Ever had not received any money or performed actual investigative or security services on his own, but was functioning as an employee of a licensee.

Board Chairman Spencer moved that the citation not be withheld, subject to all statutory and regulatory requirements. . Board Member Nadeau seconded the motion, with clarification that the citation not be upheld.

Board Member Crate asked if an amendment would be considered to include that a representative from St. Moritz would provide confirmation in writing. Board Chairman Spencer said he made the motion for discussion purposes. Board Chairman Spencer agreed to the amendment as suggested by Board Member Crate.

Board Member Nadeau said he was comfortable with his second, but the matter would need to be revisited by the Board if a conflict presented itself from the statement to be provided by St. Moritz. Board Chairman Spencer said the dismissal of the citation would be subject to verification of that employment by staff, at which time the citation would be dismissed.

Board Counsel Menicucci said Mr. Ever said he was not on the best of terms with St. Moritz. Mr. Ever said that was one of the reasons he left the company. He again stated he had paystubs as proof of his employment with St. Moritz. He began to explain problems with the qualifying agent, but Board Member Crate interjected that he had specifically asked Mr. Ever if Mr. Calderon or anyone at St. Moritz would have any problem with the confirmation of his employment and Mr. Ever had said that would not be a problem. Mr. Ever said St. Moritz was aware of the craigslist ad. He said the question was whether or not the company would actually vouch for his employment with them. Board Member Crate said Mr. Ever could have been working for St. Moritz, but planning to start his own company at the same time. Board Member Crate said St. Moritz needed to vouch for the fact that the ad was placed for their benefit and not that of Mr. Ever.

Board Chairman Spencer said he would like to restate his motion. Board Member Nadeau said he wished to withdraw his second. Board Chairman Spencer moved that the citation not be upheld, pending the verification of Mr. Ever's employment, either through paystubs and/or statements from St. Moritz; rather than handle the matter by letter, Board Chairman Spencer asked Investigator Mautner to contact the parties involved, explain the situation to them, and attempt to gather the necessary information, subject to all statutory and regulatory requirements. Board Member Crate said his concern with the motion was that it only asked for confirmation of employment. He said the issue for him was whether or not the ad was placed for St. Moritz's benefit, and not the issue of Mr. Ever's employment. He said St. Moritz could say they knew nothing about the ad and Mr. Ever quit working for them in order to start his own business. He said the Board needed to determine why the ad was placed. He said Mr. Ever's employment seemed to be a separate issue. Board Member Nadeau agreed and that was part of his concern with the initial motion and if the matter appeared again before the Board and there was some conflict with St. Moritz's information. He said there were two issues; one was whether Mr. Ever was in

fact operations manager or supervisor with St. Moritz and if he was empowered with recruitment duties. He said if St. Moritz would not affirm that fact, then the matter would come before the Board once again.

Board Chairman Spencer said he would remove his motion entirely.

Board Member Nadeau moved to uphold the appeal pending confirmation of employment status of Mr. Ever with St. Moritz with regard to his recruitment responsibilities; if that could not be verified or affirmed, the matter would be revisited by the Board. Board Chairman Spencer asked what Board Member Nadeau meant by upholding the appeal. Board Member Nadeau said he was accepting the appeal, but asking for verification. Board Counsel Menicucci further explained that the motion was taking Mr. Ever's side pending confirmation of what he had testified to the Board. Board Member Nadeau asked Board Member Crate if the motion addressed his concerns. Board Member Crate said he believed so, as long as the ad specific was addressed as written in the citation. Board Member Nadeau said confirmation was needed that Mr. Ever was empowered to recruit on behalf of St. Moritz. Board Member Crate seconded the motion.

Board Member Putnam asked Mr. Ever if St. Moritz had authorized him to place the ad, and Mr. Ever said that was correct. Board Member Putnam said he had done so with St. Moritz's knowledge and consent; Mr. Ever agreed. He said he travelled to the boss's house, showed him the craigslist ad, was told it was a fabulous idea and to continue the ad. He explained the boss was Mr. Calderon.

Board Member Crate asked why in his response to Senior Investigator Botello, Mr. Ever made reference to Summit Services, but not St. Moritz. Mr. Ever said he wrote his response that way because the citation concerned his use of Summit Services in his e-mail address while advertising for employees. He said he did not feel there was a need to include his employment with St. Moritz, as they were not mentioned in the citation.

Board Chairman Spencer asked Mr. Ever if he had ever mentioned advertising on behalf of St. Moritz to Senior Investigator Botello. Mr. Ever said he believed he had spoken to both Senior Investigator Botello and Executive Director Ray about how to appeal the citation; he also consulted with Dennis Erickson. Board Chairman Spencer asked if he mentioned St. Moritz to either Executive Director Ray or Senior Investigator Botello. He said he could not remember.

Board Chairman Spencer asked for a vote on the motion, which passed unopposed.

Board Counsel Menicucci asked Executive Director Ray to advise the Board on the status of notifications for both **Spartaco Galli** and **William Steele of Steele Guard Security**. He noted that both notifications regarding the appeals were sent by certified mail, which he believed satisfied the service requirement. Executive Director Ray said the office had received confirmation that the notice had been received by Spartaco Galli. She said regarding Mr. Steele, the office had only received proof the notification was mailed, but no confirmation of receipt had been sent to the office, nor had the letter been returned.

Board Chairman Spencer moved to uphold the citation for Spartaco Galli. Board Member Putnam seconded the motion. The motion carried unopposed.

Board Chairman Spencer moved to postpone the appeal hearing of the citation for William Steele, until such time as Board staff could determine that the citation was properly delivered, to be considered at a later date.

Board Member Nadeau seconded the motion for discussion purposes. He asked if Mr. Steele knew he had received the citation. Board Chairman Spencer said Mr. Steele knew he had incurred a citation. Board Member Nadeau then said Mr. Steele had not received notification regarding the appeal hearing. Executive Director Ray and Board Chairman Spencer both said that was correct.

Board Member Crate asked for the date of the citation for Mr. Steele. He said what was more relevant was the date of the appeal request. Board Counsel Menicucci explained that the citation was issued December 6, 2007. He said Mr. Steele responded with a letter dated January 6, 2008.

Board Member Crate asked if there was sufficient information given in his response letter that the Board could accept as his argument and discuss, even in his absence. Board Counsel Menicucci said he believed the Board could proceed if it wished, as the required notices had been given. He said NAC 648.439 involved service of citation. He said that statute noted registered or certified mail, but did not discuss return receipts or the need to have them in hand at hearings. He said he felt the same rule would apply to notices of appeal. He said the Board could make a ruling subject to reopening the matter if Mr. Steele showed good cause that he failed to receive notice of the hearing.

Board Member Willis asked when the notification of today's hearing was sent to Mr. Steele. Senior Investigator Botello said it was sent April 3, 2008. Board Member Crate asked if a return receipt was requested, but not

received. Senior Investigator Botello said that was correct. Board Member Willis asked if the address was local, and Senior Investigator Botello said the letter was sent to Tennessee. Board Member Nadeau asked if Board staff had not received either the receipt or the correspondence back. Executive Director Ray said that was true. Executive Director Ray explained that when a certified letter was sent, the United State Postal Service always made 3 delivery attempts before returning the correspondence to the sender. She said it took time to have the correspondence sent back by the USPS. Board Chairman Spencer said his motion stood as stated.

Board Member Crate asked what recourse the Board had if a receipt was never returned/received by Board staff. Senior Investigator Botello said local law enforcement could serve the papers. Board Counsel Menicucci said Board staff could send another mailing. Board Member Crate said he appreciated counsel's advice. He also recognized that if the letter of appeal sent by Mr. Steele was reviewed, the Board could make it subject to Mr. Steele's request to reopen the matter, and he would have the benefit of the finding on his appeal. He said personally he did not wish to put the matter of over the course of several months.

Board Chairman Spencer withdrew his motion.

Board Counsel Menicucci asked if the Board wished to see the exhibits. Board Member Crate said he would like for Counsel to make his presentation. Board Counsel Menicucci stated he was offering the exhibits to be admitted before the Board in the case of Mr. Steele. Board Chairman Spencer said Acting Board Counsel Wymer wished to make a statement for the record.

Acting Board Counsel Wymer said, while representing other state agencies in similar disciplinary matters, practice had been that if there was no confirmation that an individual received service, he did not believe that service was properly effected. He said if the Board chose to proceed, it would do so at the risk that any order entered would be a void order, on the basis that there was no confirmation of service.

Board Member Crate said the worst case scenario would be that the Board would need to rehear the issue when Mr. Steele made himself available.

Board Member Nadeau asked if counsel would be more comfortable if the Board waited until confirmation was received by the USPS before proceeding. He said it was unknown if the letter was refused or the reason there had been no confirmation sent to Board staff. Executive Director Ray said Board staff had proof the document

was actually mailed. She said neither the green postcard showing the letter had been received by Mr. Steele nor the document itself had been mailed to Board staff. Board Member Nadeau said the individual could be out of the country or there could be other extenuating circumstances as to why the confirmation or letter had not been returned. He said he was reluctant to proceed.

Board Member Crate said he agreed and there was no harm in waiting. He withdrew his initial motion and moved to reschedule the matter for the June 18, 2008 Board meeting. He said that would allow time to receive the confirmation. Board Member Nadeau seconded the motion, which passed unopposed.

Board Counsel Menicucci noted that the return receipt for the notice of hearing had been received for Spartaco Galli. Board Chairman Spencer said that citation had been upheld.

DISCIPLINARY HEARING/SETTLEMENT:

John Balicki, PRC Security and Investigations, Inc., #1008 and #1008A appeared on the agenda for discussion and possible approval of a settlement agreement for various complaints against him.

Board Counsel Menicucci said he had discussed the matter with Mr. Balicki. Board Counsel Menicucci said Mr. Balicki currently held a Private Patrol license and a Private Investigator license in Nevada. Board Counsel Menicucci said a complaint was filed against Mr. Balicki, which alleged he had improperly utilized employees and had employee complaints against him. It was said Mr. Balicki allowed someone to “borrow” a license in two separate instances, one at the World Market Center, and the other at the NBA All-Star Tournament. Board Counsel Menicucci said Mr. Balicki agreed to the following: Mr. Balicki would surrender his Private Patrol license, pay \$250 as an administrative fine within 6 months, Mr. Balicki would not seek re-licensing (either on his own or on behalf of another corporation) for a period of 2 years, within 60 days he would report to the Board regarding all the employee complaints to show how they had been resolved, or would provide the Board with the authority to obtain the information from the Labor Commissioner directly, he would retain his Private Investigator license in Nevada and qualifying agent status for PRC Security and Investigations, Inc. for investigative purposes only, and finally that Mr. Balicki would not have any further difficulties during the period of the stipulation. Board Counsel Menicucci said Mr. Balicki had indicated that he was experiencing financial difficulty

and that was the reason he requested the reduced fine amount. Board Counsel Menicucci noted all the incidents in the complaints centered on the Private Patrol license that Mr. Balicki held. Board Counsel Menicucci again said Mr. Balicki would like to keep the Private Investigator license, but would surrender the Private Patrol license if the Board accepted the stipulation.

Board Member Crate said his only suggestion would be if Board Counsel Menicucci thought Mr. Balicki would agree to remove the word "Security" from his company name. Board Counsel Menicucci said he believed Mr. Balicki would agree to that. He said it could be handled a couple of ways. Board Counsel Menicucci said he told Mr. Balicki he would present the matter to the Board today and it would not be necessary for Mr. Balicki to appear in person. Board Counsel Menicucci said if the Board refused to accept the settlement, the hearing would be re-scheduled. Board Counsel Menicucci said the Board could also, by its own authority, advise Mr. Balicki that he could no longer advertise security as part of his business services offered in Nevada once he surrendered the Private Patrol license. Board Counsel Menicucci said the Board could seek to amend the current stipulation, or could simply advise Mr. Balicki that the stipulation had been accepted and he could no longer advertise that he offered security because his Private Patrol license had been surrendered.

Board Member Crate said he would like to see every effort made on the part of Mr. Balicki to strip any reference of security from his company name. Board Member Crate asked if Mr. Balicki might also agree to not be employed by another licensee in a Private Patrolman capacity. Board Counsel Menicucci said he believed Mr. Balicki would accept that, but it had not been discussed specifically. Board Member Crate said he would like to have those two additional assurances that there was no relationship with the Private Patrolman industry and Mr. Balicki for 2 years.

Acting Board Counsel Wymer said he believed the only thing the Board could consider today was if it wanted to accept the stipulation. He said if they did not wish to accept it, the matter should be re-scheduled and the respondent brought before the Board to attempt to negotiate with him at that time, or whatever terms the Board wished to impose could be communicated to disciplinary counsel and negotiations could proceed from there.

Acting Board Counsel Wymer said he recommended that the Board either accept or reject the stipulation, and if it was rejected, to re-schedule the matter for a future meeting.

Board Chairman Spencer said the use of “security” in the company name was a non-issue, as the term could not be used without proper licensure. He said the 2-year issue proposed by Board Member Crate could not be voted on at this time. Board Counsel Menicucci said if the Board wanted to proceed by stipulation, he would need to come back before the Board after receiving Mr. Balicki’s approval.

Board Member Crate moved to deny the proposed settlement agreement, to request that Board Counsel Menicucci re-approach Mr. Balicki to consider those additional stipulations and agreements, and to re-schedule the matter until the next Board meeting. Board Member Putnam seconded the motion.

Board Chairman Spencer asked if there was further Board discussion. Board Member Nadeau asked for Board Member Crate to explain his rationale regarding his earlier statement. Board Member Crate said he wanted Mr. Balicki to agree not to be employed under another licensee in the Private Patrolman category. Board Member Nadeau said he was confused as to the need for that particular stipulation. Board Member Crate said he did not want Mr. Balicki hired as a security officer and ultimately act as manager/supervisor of security for a high-profile event. Board Member Nadeau said that explanation answered his question. Board Member Crate further clarified that he did not want Mr. Balicki to perform security work “under the radar” in the guise of a security guard, while actually performing managerial tasks without a license.

Board Chairman Spencer asked for further Board comment. As there was none, he asked for comments from the audience. None was given, so he asked for a vote on the motion. It carried unopposed.

Board Member Crate asked Board Counsel Menicucci if the Board would have access to all the circumstances and information in the stipulation regarding the forfeited Private Patrolman license should Mr. Balicki re-apply for licensure in 2-3 years. Board Counsel Menicucci said under the charge he discussed with Mr. Balicki, it was not an admission of liability on Mr. Balicki’s part and could not be used as evidence. He said they did not specifically discuss if the Board could refer to the matter again if he should re-apply for licensure in the future.

Board Member Crate said he did not want to hamstring the Board in the future as far as the nature of the complaint and citation to be considered in future licensing requests. Board Member Crate asked if the information was being sealed. Board Counsel Menicucci said that was not the case, as the document was public, was not being sealed, and was not an admission of liability.

Board Member Nadeau asked specifically about Item #3, **GEORGE FRANCO with INVESTIGATIVE SERVICES CORPORATION** and if it had been addressed by the Board. Executive Director Ray said Mr. Franco contacted the office and explained that he could not attend the meeting. He wanted to set up payment arrangements and possibly apply for a license. Board Counsel Menicucci said perhaps the matter could be continued. Executive Director Ray said it could also be upheld. Board Counsel Menicucci asked Executive Director Ray if Mr. Franco withdrew his appeal, and she said that was correct. She said his agreement showed that he would pay \$625 per month beginning May 15, 2008 and ending August 15, 2008. Board Counsel Menicucci said the Board could consider the appeal withdrawn, and the Board could uphold the citation with the payment schedule as offered by Mr. Franco.

Board Member Crate said, "So moved". Board Member Willis seconded the motion, which carried unopposed.

BOARD COMMENT:

Board Member Nadeau thanked the group for a short meeting.

FUTURE AGENDA ITEMS:

Executive Director Ray said continued items discussed both at the April 11, 2008 meeting as well as today's meeting would appear on the June 18, 2008 agenda.

Board Chairman Spencer said he would like to place the consideration of licensure for computer investigations and computer forensics on the June agenda. Executive Director Ray said that topic was part of the items that were carried over from the April 11, 2008 meeting to the June 2008 agenda. Board Chairman Spencer noted the topic had been discussed extensively already. He said he intended to bring the item up for discussion, but Executive Director Ray said it should be noticed before it was discussed at a meeting.

PUBLIC COMMENT:

None.

Board Member Nadeau moved to adjourn, with a second by Board Member Putnam. The motion carried. The meeting was adjourned.