

PRIVATE INVESTIGATORS LICENSING BOARD

MINUTES

JUNE 18, 2008

BOARD MEMBERS PRESENT:

JAMES NADEAU

RICHARD PUTNAM

LOIS WILLIS (LAS VEGAS)

DAVID SPENCER

OTHERS:

MECHELE RAY – EXECUTIVE DIRECTOR

JEFF MENICUCCI – BOARD COUNSEL

RENE BOTELLO – SENIOR INVESTIGATOR

KRISTINE MAUTNER – INVESTIGATOR (LAS VEGAS)

ELAINE TRENT – ASSISTANT

ABSENT:

DAN CRATE

ROLL CALL:

Chairman Spencer opened the meeting. Executive Director Ray called roll.

APPROVAL OF MINUTES:

Board Member Putnam moved to approve the minutes for March 18, 2008, April 11, 2008, and May 9, 2008. Board Member Willis seconded the motion.

FINANCIAL REPORT:

Executive Director Ray presented the financial report. She said the current balance was \$499,051.71 and she provided expenditure figures on the report for the Board. Board Member Nadeau asked about the current fiscal condition of the state budget. Executive Director Ray said she had submitted the budget for the next fiscal year and had not increased spending for FY 2009. She said not all expectations for revenue had been met for the last fiscal year. She said she had reduced some travel expenses and noted that the PILB budget was not affected like other state agencies, but she had made some modifications.

SWEARING IN:

Chairman Spencer asked Board Counsel Menicucci to swear in all those present in Carson City and Las Vegas.

STAFF REPORT:

Executive Director Ray said Board staff had received 38 new complaints and had closed 40 complaints. There total of pending complaints was 123. She said 6 complaints were against licensees. She said 36 pending complaints were assigned to Senior Investigator Botello and 64 to Investigator Mautner. Senior Investigator Botello had issued 10 citations, 7 cease and desist letters, had completed 23 backgrounds (12 for corporate officers, 6 for corporations, and 5 for qualifying agents or individuals), and had conducted 10 convention inspections. Investigator Mautner had issued 6 citations, 7 cease and desist letters, completed 24 backgrounds (12 for corporate officers, 4 for corporations, and 8 for qualifying agents or individuals), and had conducted 8 convention inspections. There had been 6 applications rejected, 67 backgrounds were pending (28 corporate officers, 12 for corporations, 5 for Process Server, 10 for Private Investigator, 12 for Private Patrolman, and none for Canine Handler or Polygraph Examiner.

Executive Director Ray had performed 1 audit, had issued 19 violations, and had issued authorization to work in Nevada under the authority of NRS 648.280.

Senior Investigator Botello reported on the JCK Show for 2008. He said a few areas were still in need of improvements. He said a few of the armored car companies working at the event were not licensed. He said the most important issue he discovered was that some of the crew members did not have sufficient proof that they had met minimum federal requirements. He said he felt the event ran smoothly overall. Investigator Mautner said she agreed with Senior Investigator Botello's assessment. She said she had encountered a few problems with proof of exam cards, but the people she met were pleasant and cooperative. Executive Director Ray noted that a report on the event had been written and distributed to Board members.

CONSENT ITEMS:

6. ADT SECURITY SERVICES INC, #1338, requested corporate officer approval for JOHN KOCH, NELSON BLEISCH, and KEVIN MACKAY.
7. POWER STAFFING SERVICES INC, #1415, requested a corporate name change to POWER SERVICES INC., qualifying agent approval for DANIEL McINTYRE, and corporate officer approval for ELIZABETH NOZERO.
8. BURNS AND ASSOCIATES INC applied for a corporate Private Investigator license. TOMMY BURNS, #1063, requested qualifying agent status, corporate officer approval, and for his individual license to be placed in abeyance.

9. CHI PROTECTIVE SERVICES LLC applied for a corporate Private Patrolman license; GREGORY BARBERIS requested qualifying agent and corporate officer status.
10. AT SYSTEMS WEST INC applied for a corporate name change to GARDA CL WEST, JOHN O'RILEY requested qualifying agent status, and MARK LIVINGSTON, DUNCAN LONGWORTH, and BRENT WEGNER asked for corporate officer status. Also, GARDA USA requested corporate officer status approval for MARK LIVINGSTON, DUNCAN LONGWORTH, and BRENT WEGNER.

There were no Board questions for the consent items. Board Member Nadeau moved to approve Items 6-10, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

PRESENTLY LICENSED CORPORATIONS REQUESTING NEW QUALIFYING AGENT:

GRIFFIN INVESTIGATIONS, INC., #74, requested qualifying agent status for BEVERLY GRIFFIN.

Ms. Griffin said Griffin Investigations had been in business since 1967. She said her ex-husband had retired and she was seeking to purchase his half of the business and become the new qualifying agent. Board Member Nadeau asked about the bankruptcy status of Griffin Investigations. Ms. Griffin said all Chapter 11 payments were current and all requirements had been met. Ms. Griffin said, on advice of counsel, she had completely changed the way information was distributed to clients. She said all information online was protected by the use of a secure server and the use of encryption. She said any future problems had hopefully been addressed. Board Member Willis moved to grant qualifying agent status to BEVERLY GRIFFIN, subject to all statutory and regulatory requirements. Chairman Spencer noted that the motion should also include that Ms. Griffin's license would be placed in abeyance. Board Member Willis agreed. Board Member Putnam seconded the motion, which passed.

G4S INTERNATIONAL, #1426, requested qualifying agent status for CHRISTOPHER DeRUBIO.

Mr. DeRubio said he was a retired police officer. He began working in the diamond and jewelry trade with Malca-Amit and now was with G4S and wished to become the qualifying agent.

Board Member Nadeau asked how Mr. DeRubio was employed at 3 different places at the same time. He further noted that Mr. DeRubio was employed from 1987 to 2007 with the New York Police Department. He said the background investigation showed Mr. DeRubio was also employed by Malca-Amit from 2001 to 2007. Mr. DeRubio explained that he worked part-time with Malca-Amit after his shifts were over with the police department. Board Member Nadeau asked Senior Investigator Botello about the hours. He said Investigator Mautner had verified the hours. Investigator Mautner said she had verified the hours. Mr. DeRubio said he did work full tours Thursday to Tuesday. He said he usually worked for Malca-Amit on his days off from the police force. He said he received no benefits. He said he would not consider himself a full-time employee with Malca-Amit. Board Member Nadeau asked if Mr. DeRubio had worked full-time

as a police officer, and Mr. DeRubio said that was correct. Mr. DeRubio said he could see why the hours were confusing.

Board Member Nadeau moved to grant CHRISTOPHER DeRUBIO qualifying agent status for G4S INTERNATIONAL, INC. (#1426), and to grant him a Private Patrol license to be placed into abeyance, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

PRIVATE INVESTIGATOR:

ISO SCREENING INVESTIGATIONS, INC. requested licensure and qualifying agent status for JOHN PRESSLER. Mr. Pressler said he began working with the Coast Guard in 1959. He then became a court reporter in 1963. He became an investigator for Coast Guard intelligence in 1968. He served in various capacities there until his retirement in December 2000. He said he had performed every type of criminal investigation during that time. Chairman Spencer asked Mr. Pressler to introduce the gentleman with him. Jesse Wadhams introduced himself as the lawyer representing ISO Screening.

Investigator Mautner said she had performed the background investigation on Mr. Pressler and Senior Investigator Botello had taken care of the backgrounds for the corporate officers.

Board Member Nadeau moved to grant a corporate Private Investigator license to ISO SCREENING INVESTIGATIONS, INC., an individual Private Investigator license to JOHN PRESSLER to be placed into abeyance so he could be the qualifying agent, to grant corporate officer status to RICHARD BOEHNING, SCOTT STEPHENSON, WILLIAM HAUSWIRTH, and JOHN PRESSLER, and to grant corporate officer status to FRANK COYNE, RICHARD BOEHNING, and JOHN PRESSLER for ISO CLAIMS SERVICES, INC., subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

ROGER YOUNG applied for an individual Private Investigator license. Mr. Young said he had served as an athletic director and coach. He then began working for the FBI and had worked for 21 years in Nevada. He spent 23 ½ years as an FBI consultant and trainer regarding organized crime, particularly with prostitution and child exploitation. He had worked on the first internet task force concerning crimes against children and exploitation in Nevada. Board Member Putnam moved to grant ROGER YOUNG dba ROGER YOUNG CONSULTING an individual Private Investigator license, subject to all statutory and regulatory requirements. Chairman Spencer seconded the motion, which carried.

ROBERT TOTH applied for an individual Private Investigator license. Mr. Toth said he had worked for 20 years as a firefighter and retired in 2002. He said during the second half of his career he was in charge of a fire investigations unit. He then opened his own business in Colorado.

Board Member Putnam moved to grant ROBERT TOTH dba IRIS FIRE INVESTIGATIONS an individual Private Investigator license, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which passed. Board Member Nadeau commended Mr. Toth for having the required hours of private investigative experience.

PROCESS SERVER:

MICHAEL SULLIVAN applied for an individual Process Server license. Mr. Sullivan said he graduated from the law school at the University of Washington. He opened a private practice and worked there for several years. He said he moved with his family in 1989 to California. He then opened a legal attorney service. He said he hired 5-10 large law firms. He said the USPS asked if he could help them compete with UPS and FedEx. He opened a company that bypassed the postal system. He sold that business to FedEx in 2004. He then worked in Arizona in garbage collection for new home construction. He said he was currently semi-retired. Chairman Spencer asked Investigator Mautner about the verification of hours. Investigator Mautner said he had to do a lot of research, but finally was able to verify the hours of experience. Board Member Nadeau asked if Mr. Sullivan was a licensed attorney in Nevada, and he said he was not licensed in Nevada. Board Member Willis moved to grant MICHAEL SULLIVAN an individual Process Server license, subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion, which carried.

PRIVATE PATROLMAN:

RED ROCK SECURITY, INC. applied for a corporate Private Patrolman license with BLAIR LUDWIG as the qualifying agent. Blair Ludwig said he was a police officer in Concord, California. He had worked for Wackenhut in Las Vegas. He had a Bachelor's degree in Business Administration and a minor in Accounting. Adam Ludwig said he was a Marine for 8 years. He also owned a business for 6 years. He worked in the security field for Green Valley and Wackenhut, also. Board Member Nadeau asked Blair Ludwig how he had worked two jobs, one at the Wynn in Las Vegas in 2007 and also at Wackenhut that same time. Blair Ludwig said he was not currently working at both places. He said he was now working for the city of North Las Vegas police department in the corrections division. He said he had worked both jobs at the Wynn and with Wackenhut 40 per week. He noted he had 4 children to support. Board Member Nadeau asked if Investigator Mautner had been able to verify hours of experience. She said she verified that Blair Ludwig had indeed worked 2 full-time jobs. Board Member Nadeau asked about the hours at the Concord Police Department. Investigator Mautner said she had also verified those hours. Board Member Nadeau asked for the total hours. Investigator Mautner said the number of hours she had been able to verify was 9,830. She said she had been hoping to add the remaining 200 hours because Blair Ludwig had graduated from a corrections officer academy in May, but had not received

verification of the hours. She had also just learned Blair Ludwig had forgotten about a mall security job he had worked in 1988, but she had not received the information in time to verify the hours prior to the Board meeting. Board Member Nadeau asked what Blair Ludwig planned to do with a license, as he was still a correctional employee. Blair Ludwig said he would like to place his license in abeyance until such time as he could end his employment with North Las Vegas. Board Member Nadeau said he was still considering the accumulated hours of experience. He noted the hours needed to be verified from 1988 and the North Las Vegas hours in order to meet the 10,000 hour total needed. Blair Ludwig said he had been able to verify from Concord that he had 10,380 hours of experience. Board Member Nadeau said the difficulty lay in the fact that the investigator had only verified 9,800 hours, but was unable to verify the necessary remaining hours. Board Member Willis asked if the agenda item could be held until the next Board meeting to allow Investigator Mautner time to verify the remaining hours. Chairman Spencer said the item could be put on hold. Board Member Willis moved to hold the item until the next scheduled Board meeting. Board Member Nadeau seconded the motion, which carried.

The TANYA WALKER CORPORATION dba TW and COMPANY applied for a corporate Private Patrolman license with DAN CHRISTENSEN as the qualifying agent. Mr. Christensen said he spent 22 years with the United States Air Force and retired in 2003. He said he worked in Kansas City as a contract guard. He then moved to Nevada to work at Nellis. He said there was a change in companies providing service at Nellis. Board Member Nadeau moved to grant TANYA WALKER CORPORATION dba TW AND COMPANY a corporate Private Patrolman license, to grant DAN CHRISTENSEN an individual Private Patrolman license to be placed in abeyance so he could be qualifying agent, and to approve CYNTHIA BELL, TANYA WALKER, AND DARYL DAMERON as corporate officers, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion. Board Member Nadeau questioned that Mr. Christensen was already licensed. Executive Director Ray said he had formerly been the qualifying agent for US Protect. Board Member Nadeau asked if that company was dissolved, and Executive Director Ray said that was correct.

WHITESTONE GROUP, INC. applied for a corporate Private Patrolman license with JEFFREY LaRe as the qualifying agent. Mr. LaRe said he had been a deputy sheriff for 2 years. He was the senior vice-president for Whitestone Group and had worked there since 2000. Chairman Spencer asked Investigator Mautner about the hours of qualifying experience. Investigator Mautner said she had verified Mr. LaRe's hours as a deputy sheriff, as well as the hours of experience with the Whitestone Group company. Mr. LaRe said he had worked for Whitestone Group for 8 years. Investigator Mautner said she had verified 21,360 hours of experience. Susan Gibson had vouched for 5,194 with the Fairfield County Sheriff's Department. A total of 16,166 hours was verified by John Clark, Whitestone Group.

Board Member Putnam moved to grant WHITESTONE GROUP, INC. a corporate Private Patrolman license, to grant JEFFREY LaRe an individual Private Patrolman license to be placed in abeyance so he could be the qualifying agent, and to approve JOHN CLARK as a corporate officer, subject to all statutory and regulatory requirements. Chairman Spencer seconded the motion, which passed.

CERO'S LLC dba ALERT SECURITY ASSET PROTECTION applied for a corporate Private Patrolman license with CHRISTOPHER WRIGHT as the qualifying agent. Mr. Wright said he was a military police officer in the United States Army. He had a degree in the administration of justice. He was a certified protection professional. He said he had held both sheriff's cards and gaming cards in Nevada. He currently owned a security company. He had 17 years of experience and held security licenses in Oregon and Washington. Board Member Willis moved to grant ALERT SECURITY ASSET PROTECTION a corporate Private Patrolman license, to grant CHRISTOPHER WRIGHT an individual Private Patrolman license to be placed in abeyance so he could be the qualifying agent, and to approve CHRISTOPHER WRIGHT and MARK WITT as corporate officers, subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion, which passed.

OLD BUSINESS:

DAN WARD applied for an individual Private Investigator license and an individual Process Server license. Mr. Ward brought Mr. Pasquale with him as legal representation. Mr. Ward said he had worked for the Nevada Highway Patrol for 16 years. He had been a justice court judge in Churchill County and was a native Nevadan. Mr. Pasquale said he would like to address the judicial discipline matter. He provided letters attesting to Mr. Ward's character. Letters were provided to attest to Mr. Ward's character, and two of those letters were provided by the deputy district attorney, as well as the district attorney from Churchill County who initiated the discipline proceedings. Additional documents were faxed to Board Member Willis in Las Vegas. A gentleman spoke and said he had been sworn in earlier. He said he was a former district attorney with Churchill County for 12 years. He said he knew Mr. Ward quite well and had known him as a highway patrolman. He said he could vouch for Mr. Ward's integrity. Board Member Nadeau said he recalled part of the motion at the previous meeting regarding Mr. Ward was the concern that the activities involved in the discipline matter could have resulted in the revocation of a private investigator license. Board Counsel Menicucci asked if Mr. Ward had completed all the courses and requirements as outlined by Judicial Discipline and was told Mr. Ward had done so. Board Member Willis read the newly faxed documents.

Chairman Spencer asked if there were further comments. Mr. Ward said he would like the opportunity to prove he was trustworthy and capable. Board Member Nadeau moved to grant DAN WARD an individual

Private Investigator license and an individual Process Server license. Board Member Putnam seconded the motion, which carried.

DISCIPLINARY HEARING/SETTLEMENT:

John Balicki, PRC Security and Investigation, Inc. (#1008 and 1008A). Board Counsel Menicucci said a proposed stipulation had been presented at the previous Board meeting. He said the stipulation asked to keep Mr. Balicki's Private Investigator license and surrender his Private Patrolman license. Mr. Balicki agreed to no re-apply for the Private Patrolman license for at least 2 years. He said the Board was generally satisfied with the stipulation, but had two major concerns. One concern was that Mr. Balicki would not work for another licensee as a private patrolman, to which Mr. Balicki agreed. The second concern was that Mr. Balicki should not use the term "Security" in his title in Nevada, as he had surrendered that license and could not legally offer those services. Mr. Balicki had agreed. Board Counsel Menicucci had the revised stipulation addressing both concerns. He said Mr. Balicki was applying for a new DBA. Board Counsel Menicucci said Mr. Balicki had remitted a \$250 check to the Board. Board Member Putnam moved to accept the settlement and Chairman Spencer seconded the motion.

ADMINISTRATIVE BUSINESS:

Arthur Herring III asked to petition the Board to change the current rule that only allows a polygraph-type machine to be used in the private sector in Nevada.

Malcolm Kirkman, a private investigator from Las Vegas, stated he was the vice-president of the Nevada Society of Professional Investigators. He said he had been licensed for 30 years. He said he had received training as a polygraph examiner from the Backster School and graduated in 1978. He said he had 4,000 hours of polygraph experience. He read from NAC 648.140. He also read NAC 648.420. He said he became concerned when he saw Mr. Herring's request to come before the Board. He said Mr. Herring had not provided a draft for a legislative change. He read from Mr. Herring's petition and his demand to remove Board Member Putnam. Mr. Herring stated in writing that Board Member Putnam was corrupt, self-serving, and should be removed immediately from the Board. Mr. Kirkman said such language was unacceptable in the professional word. He requested to remove the petition from the agenda, as it was not properly filed in a timely manner.

Executive Director Ray said the requirements for submitting a petition were stated in the letter she sent to Mr. Herring. She said there was no draft language.

Chairman Spencer said he would accept a motion, or would make one himself.

Board Counsel Menicucci said discussion should take place first. He said Mr. Kirkman was correct regarding the provisions as they appeared in the Nevada Administrative Code. He said the letter sent by Mr. Herring to the Board met the 30-day requirement. He said Mr. Herring had not included a draft regulation in his documentation. He said the question was whether or not the Board was precluded from

hearing Mr. Herring. He said it was his opinion that the Board was not precluded from hearing the matter. He said the Board had the discretion to place items on the agenda and hear from people. He said it was not clear to him why Mr. Herring asked to be heard or what exactly he was seeking. He said the failure on Mr. Herring's part to provide a proposed regulation meant that there would still be many steps to take in order to change a regulation, should that Board decide to do so. He said workshops would be necessary, as well as hearings, before the matter was brought before the legislature. He said there was a long road to effect regulatory changes. He noted, with respect to the Open Meeting Law, the Board must take care not to exceed the scope of the agenda item so the public could be notified as to the matters the Board would consider at the meeting. He said public notice was necessary.

Chairman Spencer asked Mr. Kirkman to show him the document he had just read to the Board. He said he had problems with many of the things he had just heard.

Board Member Nadeau noted the number of requirements needed to bring about regulatory changes and he would like to hear discussion by the other Board members.

Board Member Willis said, with due respect to counsel, she would be inclined to remove the item from the agenda as it was not totally in compliance with the Nevada Administrative Code. She said she hoped the next time the agenda item appeared before the Board, more consideration would be given to the reputation of the Board members.

Mr. Herring asked if he could comment, but Chairman Spencer said not at that time.

Board Member Putnam said he would suggest that today's meeting was not the proper venue to change existing regulations. He referenced NRS 613.440 regarding the labor code. He read the definition of a lie detector from the statute. He noted that certain exemptions were in place regarding the administration of lie detector tests. He said those exemptions required that only polygraph could be used. He noted that a federal law had been passed in 1988 that only a polygraph could be used. He said he knew Mr. Bell very well and had a great deal of respect for him.

Mr. Herring said he owned Dektor Corporation, which invented Voice Stress Analysis (VSA) in 1970. He said he had been in contact with Executive Director Ray for 5 months or so. He said if the documentation he had provided was improper, Executive Director Ray had not brought it to his attention. He said he was not informed that the paperwork he submitted was lacking. Executive Director Ray said she assumed his documents were adequate for the meeting. She said she had conferred with Board Counsel the previous day and the documents he had submitted were sufficient for a petition. Executive Director Ray said she sent him the regulation which listed the steps he needed to take. Mr. Herring said if there was something missing, he would not have taken the time or undergone the expense to appear at today's meeting.

Mr. Herring said the comments made by Board Member Putnam were the reason he appeared today. He said he had brought 2,000 documents. He said the letter he submitted to the Board showed such anger because of the examples he would provide. He said his examples showed the dictatorship of the polygraph industry in the last 45 years since the APA was created. He said he also had proof shown by

independent websites that the APA was not the example of leadership or honesty, even though their motto was that they were dedicated to the truth. He said he had proof that the polygraph industry had manipulated laws regarding polygraph, including the Polygraph Protection Law passed in 1988. He said the polygraph examiners had shown poor performance. He again noted he had many document and CDs to prove his point, and would basically destroy the polygraph industry.

Chairman Spencer said he had not had the pleasure of reading Mr. Herring's submission to the Board until that morning. He said he had spoken to Mr. Herring previously and had advised him to speak with Ms. Ray to insure he complied with the necessary qualifications. He said he had also advised Mr. Herring regarding his belief of the corruption of polygraphists was not the best way to present his request to the Board. Chairman Spencer said he was extremely upset with Mr. Herring's statement that "the current Board Member, who is a Polygraph Examiner, must be removed now". He read Mr. Herring's statement that the Polygraph Examiners on the Board for the past 20 years had proven themselves corrupt at best and self-serving at the very least. Chairman Spencer said that was extremely arrogant and he would not tolerate it.

Mr. Herring said his statements were not accusations because there were facts to support them.

Board Member Putnam asked Mr. Herring if he knew him. Mr. Herring said he had just listened to Board Member Putnam's statements. Chairman Spencer asked Mr. Herring if he knew Board Member Putnam. He asked Mr. Herring several times, while Mr. Herring repeated that he had listened to Board Member Putnam's comments. Chairman Spencer said if Mr. Herring would not answer his question, he would be asked to leave. Mr. Herring said he did not know Board Member Putnam personally.

Chairman Spencer asked if Mr. Herring knew anything about Board Member Putnam. Mr. Herring again said he listened to Board Member Putnam's comments and they were untrue. Mr. Herring said there were scientific studies regarding VSA. He said a book had been written by Mike Pratt and independently published in 1980.

Board Member Nadeau said the Board was not meeting to try the American Polygraph Association. He said the Board's position involved following statutes. He asked Mr. Herring if he considered himself a Polygraph Operator. Mr. Herring said he did not. Board Member Nadeau said Mr. Herring, therefore, did not meet the statutory requirements for licensure. He said if Mr. Herring was performing investigations, and the tool he used was investigative in nature, then the Board would license him as a Private Investigator. He said Mr. Herring did not meet the requirements of a polygraphist, so therefore he did not meet statutory requirements to be licensed by the Board. Mr. Herring asked why the VSA had to be a polygraph instrument. Board Member Nadeau referenced NRS 648.103, which defined polygraph. He said NRS 648.106 defined polygraph examinations. He again stated the Board could only act under the statutory authority. He said the legislature chose not to acknowledge VSA as a proper tool to be licensed by the Board. Mr. Herring asked why he was not informed of the information sooner. Board Member Nadeau said it was Mr. Herring's duty to research the issue with respect to Nevada laws. Board Member

Nadeau said Mr. Herring should behave in a civil manner. He said Mr. Herring's letter was neither nice nor civil.

Board Member Nadeau offered a motion to remove the item from the agenda. Chairman Spencer seconded the motion. The motion passed, with the abstention of Board Member Putnam.

Chairman Spencer advised Mr. Herring if he should choose to approach the Board again in the future regarding VSA, he should follow the rules regarding the development of language for regulatory change. He said the Board was not making any judgments about VSA, but that it did not fall under the Polygraph Examiner category of licensure. Chairman Spencer said he had already relayed the information to Mr. Herring prior to today's meeting. Mr. Herring said Chairman Spencer had told him not to say anything unpleasant in his presentation. He said he could not be cordial to someone who had kicked him in the face for 40 years.

Board Member Nadeau cautioned Mr. Herring to not make accusations against Board members, as they had not known him for 40 years. Chairman Spencer said Mr. Herring should resolve the issue of his accusation of corruption against a Board member before considering returning to the Board with his request. Board Member Putnam said he did not represent the polygraph business. He said he represented the State of Nevada. He said Mr. Herring's letter stated that Board Member Putnam was corrupt. He said the APA did not cause the polygraph law to be passed in 1988. He said the cause was people who were not members who were conducting polygraph tests. Mr. Herring began a statement about the APA and Board member lies, but Chairman Spencer used the gavel and said the matter was over. Mr. Herring said he had facts. He said Ms. Ray had not informed him as to the documents he needed. Board Counsel Menicucci said the Board did operate under the statutes given them by the legislature, and the legislature must make any statutory changes.

Executive Director Ray noted for the record that Item 23 (John Theel's proposed discussion of proof of exam cards) had been removed from the agenda.

Discussion began involving the administrative fee schedule. Executive Director Ray noted the fee schedule needed to be updated in order to allow for updated technology. She read the fee schedule for the record. Board Member Willis noted some items on the list were available on the internet for public access. No action was taken on the item, as it was not noted as an actionable item on the agenda.

Discussion regarding possibly amending NRS 648 to include separate categories of licensure for mystery shopper, tenant/employment screening, and computer forensic investigator was the next item.

Executive Director Ray said Board Member Nadeau asked to revisit the issue at the previous Board meeting, particularly with regard to computer forensic investigator. Chairman Spencer said he had held lengthy conversations with Todd Shipley regarding computer forensic investigation. He said he agreed

with Mr. Shipley that those individuals who took any investigative steps after recovering data from computers should be licensed as Private Investigators if possible. He said those who perform data recovery only would not be required to hold a Private Investigator license.

Board Member Nadeau said there was difficulty in defining the point where work changed from solely data recovery to investigation. Chairman Spencer said investigative work should not be performed without licensure.

Peter Maheu said mystery shopping findings could result in severe penalties for employees where the shops occur. He said employees could even be terminated. He said an investigative function required a Private Investigator license. He said the both mystery shopping and tenant/employment screening fell under the Private Investigator license. He said the new categories were not necessary, but the Board needed to enforce the rules and regulations already in place. He said the topic kept appearing repeatedly and he was tired of seeing it.

Chairman Spencer said the reason the topic was placed on the agenda was for the computer issue.

Mr. Maheu said he thought the Board had reached the consensus that applicants who applied for licensure under the 3 topics were required to meet the Private Investigator license qualifications.

Chairman Spencer agreed.

Board Member Nadeau noted that applicants who applied as mystery shoppers provided hours of experience that were difficult to verify. He said mystery shopping could be defined separately and had a separate licensure, as it involved a niche market. He said mystery shopping should be regulated by the Board, due to its investigative aspects.

Mr. Maheu said he was aware of mystery shopping companies that were licensed by the Board, but were not withholding taxes from employees. He said it was difficult for the Board to control the mystery shopping companies already licensed. He said out-of-state companies often used unregistered employees on a regular basis. He said creating a new category would create more businesses the Board could not control. He said if a person had 10,000 of experience, then he or she was qualified for licensure.

Board Member Nadeau said he appreciated Mr. Maheu's views on the subject. He said the 10,000 hours of experience must be met in order to be licensed, but the Board often heard complaints from the industry that mystery shoppers were not really Private Investigators and should not really be licensed as such.

Mr. Maheu said the only point the Board had received from his group was that it was very difficult to accumulate 10,000 hours of mystery shopping experience.

Board Member Nadeau said his comments were in no way directed to Mr. Maheu or his association.

Mr. Maheu again noted the impact of mystery shopping on the employees of businesses. He said 8 people had been fired the previous week from businesses on the strip in Las Vegas due to mystery shopping reports.

Chairman Spencer said the bottom line was that the legislature tasked the Board with mystery shopping licensing under the Private Investigator license. He said the Board investigators verified the necessary hours for licensure. He said an outside entity would need to push for new categories, but until that time, the Board was required to continue mystery shopping licensing.

Board Member Willis agreed with Chairman Spencer that the Board should not overly complicate the existing categories of licenses by creating additional categories.

Mr. Kirkman said Michigan was considering legislation for licensing Computer Forensic Examiner/Investigators. He said other states were also pursuing the matter. He said Computer Forensic Examiner/Investigator needed to be regulated. He said mystery shopping also needed to be regulated. He said many states had de-regulated mystery shopping, but Nevada should not follow suit. He noted that Al Kaplan had put much effort into proposed legislation for Computer Forensic Examiner/Investigator, but it had not passed in the previous legislative session due to opposition by some groups. Mr. Kirkman said investigators possessed the skills to perform mystery shopping, but most mystery shoppers were not skilled as Private Investigators.

Chairman Spencer said it was crucial that individuals in the industry keep the Board informed of any activity which violated Private Investigator licensing statutes.

Executive Director Ray asked the Board for direction on proceeding with changes to exams for Private Investigator and Polygraph Examiner. She said the proposed questions were included in the information she had distributed to the Board. She said 218 questions the association pulled from a bank of questions. She said there were 3 separate resources and gave the breakdown as to the areas addressed by the questions. She asked the Board if the number of test questions should be increased from 50 to 100. She asked for guidance as to the ratio between statutory and regulatory questions. She noted the Board had previously discussed that the NRS questions (25) must be passed with a 100% score. She said the passing score currently was 75% and wanted to know if the Board wished to increase the necessary passing score. Chairman Spencer noted that an applicant currently could miss a quarter of all test questions and still pass the exam.

Board Member Willis said, as a public representative, she was not allowed to participate in the discussion.

Board Member Nadeau said the same was true for him as well.

Chairman Spencer moved to postpone the agenda item until the next meeting. Board Member Putnam seconded the motion, which carried. Executive Director Ray asked if it were possible to conduct the exam meeting via telephone so the matter would not have to wait until the September meeting. She was told that would be acceptable.

The next discussion involved Board staff's internal controls in terms of monetary receipts and the processing of Board expense payments. Executive Director Ray said that matter was continued from the

April 11, 2008 meeting. She said Board Member Willis had several questions previously about the fiscal management process in the office. Executive Director Ray prepared and distributed to the Board a document which explained the entire process of cash receipts and cash disbursements.

Board Member Willis said at the Board training session in March, one of the topics regarded the responsibility of Board members to exercise his/her area of expertise. Board Member Willis had much experience in fiscal management. She asked Executive Director Ray about the policies in place at the Board office regarding fiscal procedures. Board Member Willis said she was very pleased with the staff procedures in place. She said she was pleased that, though the staff was small in number, the duties had been segregated as much as possible. She said she assumed the document entitled Accounting Policies and Procedures were practiced by the entire State of Nevada offices. Executive Director Ray said that was correct. Board Member Willis asked if there was a secure place to hold checks prior to deposit. Executive Director Ray said the monies were placed in a locked file cabinet. Board Member Willis commended Board staff and said she believed a checks and balances system was in place.

Board Member Nadeau asked if the item required action. Executive Director Ray said the Board could approve the internal controls, as it had never been done before.

Board Member Willis moved to approve the Board staff's internal controls for the purposes of receiving monies and processing payments for Board expenses. Board Member Nadeau seconded the motion, which carried.

There was no Board comment.

For the future agenda items, Executive Director Ray said a special meeting was scheduled for August 13, 2008. Board Member Willis asked where the meeting would be held, and Executive Director Ray said it would probably be held in Las Vegas. She said she was more open to Board and staff not flying to the meetings, as tele-conferencing would be available.

Public comment and discussion was the final agenda item. Mr. Maheu, representing his association, thanked the Board and staff for the great job they were doing and the improvements that had been made in the past few years. Chairman Spencer thanked Mr. Maheu. Mr. Kirkman said he fully agreed with Mr. Maheu's statement.

Executive Director Ray introduced Colin Murphy as possibly the newest PILB staff member based in Las Vegas.

Board Member Nadeau moved to adjourn and Board Member Willis seconded the motion. The meeting was adjourned.