

PRIVATE INVESTIGATORS LICENSING BOARD

MINUTES

SEPTEMBER 17, 2008

BOARD MEMBERS PRESENT:

JAMES NADEAU
RICHARD PUTNAM
LOIS WILLIS (LAS VEGAS)
DAVID SPENCER, BOARD CHAIRMAN
DAN CRATE

OTHERS:

MECHELE RAY – EXECUTIVE DIRECTOR
JEFF MENICUCCI – BOARD COUNSEL
KEITH MARCHER – ACTING BOARD COUNSEL
KRISTINE MAUTNER – INVESTIGATOR (LAS VEGAS)
COLIN MURPHY- COMPLIANCE AUDITOR (LAS VEGAS)
BRANDI KING - ASSISTANT
ELAINE TRENT – ASSISTANT

ROLL CALL:

Chairman Spencer opened the meeting. He announced that the Board had recently experienced the unexpected death of Senior Investigator Rene Botello. He asked for a moment of silence in Mr. Botello's honor. Executive Director Ray called roll.

APPROVAL OF MINUTES:

Board Member Nadeau moved to approve the minutes for June 18, 2008 and August 13, 2008 meetings and Board Member Crate seconded the motion, which passed.

FINANCIAL REPORT:

Executive Director Ray presented the financial report. She presented a closing report for FY08. The realized funding balance left was \$191,247.85, which was carried over on August 25, 2008 for FY09, but was not yet reflected on the books. She said the budget for FY09 was prepared. She said the beginning balance showed \$200,000, which was customary. She said since September 2, 2008, the expenditures and monies brought in were listed. Board Member Nadeau asked how much money was sent to the

General Fund. Executive Director Ray said \$48,000 was brought in to Budget 4209 (unlicensed activity fines and notices of violation) and \$21,067 of that was returned to the General Fund. Board Member Putnam moved to accept the financial report. Board Member Willis seconded the motion, which carried.

SWEARING IN:

Chairman Spencer asked Board Counsel Menicucci to swear in all those present in Carson City and Las Vegas who were to speak during the course of the meeting.

ADMINIATRATIVE BUSINESS:

Chairman Spencer stated that Agenda Item #28 was to be taken out of order. Acting Board Counsel Marcher was present for the agenda item.

George Dorsey, Jr. of Dorsey & Associates received an unlicensed activity citation (C-081-07) and requested the Board reconsider the hearing held August 13, 2008.

Board Counsel Menicucci asked if Mr. Dorsey received a copy of the exhibits which had been presented at the August 13, 2008 meeting. Mr. Dorsey said he did not have those in front of him. Board Counsel Menicucci told Investigator Mautner that a copy of the exhibits had been faxed to the Las Vegas office for Mr. Dorsey's benefit. She retrieved the copies from the fax machine.

Board Counsel Menicucci explained that a hearing was scheduled for August 13, 2008 and Mr. Dorsey's matter was on the agenda. He said it was apparent during the course of that meeting that Mr. Dorsey would not be present. He said Mr. Dorsey had been notified, so Board Counsel Menicucci proceeded to discuss the case. He said Investigator Mautner, James Hannah, and Mr. Morton all testified. He said Board Member Willis had to leave the August 13, 2008 meeting and was unable to take part in the consideration. He said the Board found the citation should be upheld and denied Mr. Dorsey's appeal. Board Counsel Menicucci received communication the next day from Mr. Dorsey that he had mis-calendared the August 13, 2008 meeting. Mr. Dorsey asked for a reconsideration of the citation by the Board. Board Counsel Menicucci recommended that the entire case not be reconsidered, but that Mr. Dorsey should be allowed to present his testimony and exhibits before the matter was closed.

Mr. Dorsey thanked the Board for allowing him to speak. He said he was working at a consulting business, specifically human resources consulting, prior to the contact made by the State of Nevada Equal Rights Commission. He said he was also employed by the city of Las Vegas in human resources and handled all their Title VII complaints. He developed a working relationship with Christine Bundren, who was an investigator at the Equal Rights Commission. He said that entity knew his training and background. He said prior to the Nevada Power case, he was working at Employment Outlook, which was an employment advertising business. He said Ms. Bundren contacted him. He noted that she had submitted a letter explaining how he had become involved in the Nevada Power case. He said the state of Nevada actually contacted him because of his experience with Title VII issues. He said he was not actively soliciting

investigative work. He said a company called Guardian Quest which provided training for the MGM Mirage contacted him to assist with their website and marketing. He discussed other work projects in which he was involved. He stressed he was not seeking nor soliciting investigative work. He again stated that the Equal Rights Commission had contacted him and that was how he became involved in the Nevada Power case. Board Counsel Menicucci re-distributed exhibits. He said he would not object to the Board's receiving the letter to which Mr. Dorsey referred from Christine Bundren dated August 8, 2008. He marked it as Exhibit H. He stipulated that the Board could consider it. Mr. Dorsey asked if Board Counsel Menicucci had received his resumé; Board Counsel Menicucci said he had received it. It was entered as Exhibit I. Board Counsel Menicucci said he objected to other matters referenced by Mr. Dorsey on the grounds of relevance. He said the issue lay with Nevada Power Company in reference to the employee, Joseph Smith, the matter for which the citation was issued. Board Counsel Menicucci asked if Mr. Dorsey had other documents he would like the Board to consider. Mr. Dorsey said he had already presented the information showing that he was not in the business of private investigation. He said he would not be involved at all if the state had not contacted him first.

Board Counsel Menicucci asked about Exhibit D, an excerpt of a report Mr. Dorsey prepared for Nevada Power. Board Counsel Menicucci noted the summary of investigation portion of the report. Mr. Dorsey agreed he was retained by Nevada Power and he was paid by them. Board Counsel Menicucci noted a sentence in the summary which referred to Dorsey & Associates LLC and that it had been retained to investigate a customer complaint. Mr. Dorsey said that was correct. Board Counsel Menicucci noted that a list of people interviewed was included in the report. Board Counsel Menicucci asked if Mr. Dorsey had interviewed all the people named on the list and he said he had done so. Board Counsel Menicucci asked if anyone else was working for Dorsey & Associates at that time, or if Mr. Dorsey was working alone. Mr. Dorsey said it depended on the project. He said he worked in collaboration with Nevada Power's attorney. Board Counsel Menicucci said on Page 18 of the document that he did not see any indication that Mr. Dorsey had reviewed a collective bargaining agreement for Mr. Smith. Mr. Dorsey said that was not the issue. He mentioned the Civil Rights Act of 1964 and NRS 613. Mr. Dorsey said the focus of the project was a previous complaint regarding Title VII by Mr. Smith against Nevada Power. He said the company was concerned they might receive a second Title VII complaint against them. Board Counsel Menicucci asked if Mr. Dorsey interviewed witnesses. Mr. Dorsey said he, as well as others, did do that. He personally interviewed Mr. Smith. Board Counsel Menicucci asked if Mr. Dorsey prepared a report after the interview process, and he said he did so. Mr. Dorsey said he did contact the PILB after Nevada Power contacted him regarding guidance if he needed a license for the case. He did not recall with whom he spoke at the Board, as it was 2 years ago. Board Counsel Menicucci asked if it was possible if Mr. Dorsey told the Board at that time that he was being retained to consult in a Title VII matter, rather than actually interviewing witnesses. Mr. Dorsey said speaking with people was a part of the process in Title VII cases. Board Counsel Menicucci said Ms. Bundren said Mr. Dorsey was retained for the purposes of consulting as

a human resources company. Mr. Dorsey said Nevada Power wanted him to look at their processes to prevent a subsequent Title VII case. Board Counsel Menicucci said by the time Mr. Dorsey completed the work, he had interviewed witnesses, examined documents, and characterized his findings as an investigation. Mr. Dorsey agreed.

Board Member Nadeau noted in Exhibit D, page 16, second paragraph, that Mr. Dorsey said there was overwhelming evidence Joe Smith had violated Nevada Power Work Rule 1. He asked how that related to Title VII. He said he was confused because Mr. Dorsey said he was engaged by Nevada Power to take a look at their policies, and not to investigate a particular employee. Mr. Dorsey said Title VII cases required that an employee must be compared to similarly situated employees. He explained how other employees were treated in the past for violating Work Rule #1 must be compared to the treatment of a current employee with the same violation. He said the investigation must determine if the company treated all employees fairly.

Board Counsel Menicucci asked Mr. Dorsey if he referenced in his report how other employees were disciplined for similar violations. Mr. Dorsey said he hadn't seen the report for quite some time. He spoke with representatives of Nevada Power and outlined how other employees were treated in the past for similar violations.

Board Counsel Menicucci said a large part of Mr. Dorsey's report focused on his conclusions made after his investigations and interviews of witnesses regarding Mr. Smith's actions. Mr. Dorsey said that was a part of the entire project. He said Nevada Power was also conducting its own investigation. He was not doing other work at the time of this particular case.

Board Member Crate asked how many complaints against Nevada Power Mr. Dorsey had investigated of a similar nature. Mr. Dorsey said there weren't others. Board Member Crate asked what information Mr. Dorsey used to evaluate whether or not the matter was or resulted in a Title VII complaint. Mr. Dorsey noted a former Title VII complaint had been filed against Nevada Power. Board Member Crate asked if Mr. Dorsey made a determination based on the information provided to him. Mr. Dorsey said he had done that. Board Member Crate said Mr. Dorsey determined the exact circumstances and his report focused almost entirely on one incident. Mr. Dorsey referred to the Civil Rights Act of 1964 and NRS 288, as noted on Page 16 of his report. He noted the report was only a summary and did not include every single conversation or pieces of information on the matter. Board Member Crate said Page 16 was a beginning of Mr. Dorsey's overall analysis of the investigation. He again mentioned that Mr. Dorsey's report focused almost exclusively on one incident. He said Mr. Dorsey went beyond evaluating the circumstances as presented to him and actually went out in the field and conducted a full-blown investigation. Mr. Dorsey said that was what was presented to him. Board Member Crate said there was nothing in Ms. Bundren's letter that indicated he was hired to perform an investigation, but for his EEOC experience. Mr. Dorsey said an analysis was needed for a Title VII case. He said the trespassing issue was not the focus of the case.

Board Member Nadeau asked Acting Board Counsel Marcher if the type of investigation under discussion fell under the applicability of NRS 648 allowing an exemption regarding the investigation of employee conduct. Acting Board Counsel Marcher said he knew of none.

Chairman Spencer said he voted to uphold the citation at the previous meeting, which Mr. Dorsey had not attended. He said he was not sure how many investigators in Nevada were qualified to conduct a Title VII investigation. He said it was not an ordinary investigation. He said Nevada Power reached out to Mr. Dorsey for his expertise in the matter. He said it was convenient for some people who were appealing a citation to say they called the Board for advice when, in fact, that had not occurred. He said Mr. Dorsey seemed credible. He said he was not as comfortable with his former decision and wished Mr. Dorsey had attended the previous meeting. He said he did not believe the intent existed to conduct an investigation outside of the Title VII parameters.

Board Member Crate said nothing had been submitted to the Board relating to an investigation of a previous Title VII complaint by Mr. Dorsey. He said the primary documentation was the referral by Ms. Bundren which referenced EEOC experience. Board Member Crate's concern was that Mr. Dorsey referenced employee conduct investigations on his website. He said Mr. Dorsey reconstructed the entire incident in order to draw his conclusions. Board Member Crate said he was not licensed as an investigator. Mr. Dorsey was hired to make an assessment of the situation. Chairman Spencer said he agreed. He said the term "investigation" should not be used on Mr. Dorsey's website. Mr. Dorsey said that website was no longer used. He said the website actually said he could explain how to prevent/handle complaints. He said he was contacted because of his experience.

Chairman Spencer again noted Mr. Dorsey contacted the Board.

Mike Kirkman asked if he could make a statement. He said he had conducted several investigations on this very issue. He said companies realized they were best equipped to evaluate the issues of Title VII, but not qualified to perform the actual investigation. He said companies often have in-house investigators, but preferred to hire outside investigators to prevent allegations of prejudice. He said some people in Human Resources sometimes stepped over the line. He encouraged the Board to uphold the citation, as the investigative work performed clearly went above and beyond consultation on human resource issues. Mr. Dorsey said Mr. Kirkman's analysis was completely irrelevant.

Board Member Putnam asked Mr. Dorsey if he had investigated whether or not the employee was guilty of misconduct. Mr. Dorsey said, as compared to similarly situated employees, that was correct.

Board Counsel Menicucci said it was clear that the issue fell under NRS 648. He said Ms. Bundren made a referral of Mr. Dorsey to Nevada Power to make an assessment of Nevada Power's processes. He said Mr. Dorsey went beyond that referral. He said, if Mr. Dorsey called the Board and asked if he could perform the work as outlined in the referral, he was probably told that he did not need to be licensed to assess company procedures. However, Mr. Dorsey provided a report stated he was retained by Nevada Power Company to investigate a customer complaint. He said a bulk of the report dealt with his findings on the

employee's actions and if he had really done what the complaint alleged. Mr. Dorsey listed the employees he interviewed. Board Counsel Menicucci said that was clearly investigative work. Board Counsel Menicucci said Mr. Dorsey said his intention was to act in a Human Resources consultant capacity, and therefore did not need to be licensed by the Board. He said Mr. Dorsey clearly conducted an investigation and asked the Board to uphold the citation.

Mr. Dorsey said if the state had not contacted him, he would not have become involved in the case. He said he was not seeking to work on the case, but was asked to do so. He said he was experienced in Title VII investigations. He again referenced similarly situated employees. He said the focus of the assessment/investigation was focused on Title VII issues only.

Chairman Spencer asked if Mr. Dorsey if, in the future, he would allow another individual to conduct such an investigation. Mr. Dorsey said he was not even in that business.

Board Member Putnam moved to uphold the unlicensed activity citation, C-081-07, issued to George Dorsey, Jr. of George Dorsey & Associates. Board Member Crate seconded the motion.

Board Member Nadeau said he made the original motion to uphold the citation during the August 2008 meeting. He said there was a dilemma and a fine line between looking at policies and conducting an investigation. He said Mr. Dorsey stepped over the line in investigating and drawing conclusions on the matter. He said the work done was outside the scope of the initial referral. Board Member Willis abstained, as she was not present at the previous meeting, Chairman Spencer voted against the motion, which carried 3 to 1.

Acting Chairman Marcher left the meeting.

STAFF REPORT:

Executive Director Ray said Board staff had received 40 new complaints and had closed 29 complaints. The total of pending complaints was 128. A total of 17 complaints were against licensees. The North was assigned 38 complaints, while the South was assigned 68 complaints. Senior Investigator Botello had issued 8 citations, sent 7 cease and desist letters, and completed 33 backgrounds (15 for corporate officers, 6 for corporations and 12 for qualifying agents or individuals). Investigator Mautner issued 1 citation, sent 14 cease and desist letters, and completed 23 backgrounds (13 for corporate officers, 3 for corporations, and 7 for qualifying agents or individuals). There were 8 applications rejected, 2 were withdrawn, 56 backgrounds were pending (22 corporate officers, 13 for corporations, 3 for Process Server, 6 for Private Investigator, and 12 for Private Patrolman. Investigator Murphy conducted 4 licensee audits, 7 convention compliance checks, and accompanied Investigator Mautner on 12 ride-alongs. Executive Director Ray had performed 1 audit, had issued 77 violations, conducted 1 show inspection, and issued 1 authorization to work in Nevada under the authority of NRS 648.280. She noted most of the violations were given for non-submittal of quarterly reports. She reminded the attendees that the next quarterly report was due September 30th.

CONSENT ITEMS:

6. AMERICAN DETECTIVE AND SECURITY AGENCY requested a corporate Private Investigator license and Private Patrolman license, with qualifying agent status/corporate officer approval for MICHAEL WOOD (#1345), and to place his individual Private Investigator license and individual Private Patrolman license to be placed in abeyance.
7. SOUTHWEST RISK INVESTIGATORS LLC requested a corporate Private Investigator license, qualifying agent/corporate officer approval for MICHAEL PFRIENDER (#1062), and to place his individual Private Investigator license into abeyance.
8. DESERT EAGLE INTELLIGENCE INC DBA DESERT EAGLE SECURITY (#1024) requested corporate officer approval for KENRA BERGMAN and EUGENE GRINDE.
9. US INVESTIGATIONS SERVICES LLC (#825) asked for corporate officer approval for KEITH SIMMONS.
10. CIVEIL, INC (#1454) requested corporate officer approval for FRED KLEIN.
11. SECURITAS SECURITY SERVICES USA, INC. (#1100) requested corporate officer approval for THOMAS CANTLON.
12. ST. MORITZ SECURITY SERVICES, INC. (#1453) applied for a corporate Private Investigator license, PAUL HARRIS requested an individual Private Investigator license and an individual Private Patrolman license to be placed in abeyance so he could be the qualifying agent.
13. SOC SMG, INC (#1357) applied for a corporate name change (Private Investigator and Private Patrolman) to SOC NEVADA LLC, JOHN SEVERINI requested qualifying agent status, and LAWRENCE AMES asked for corporate officer approval.
DAY AND ZIMMERMAN, as the parent corporation, requested corporate officer approval for RICHARD SALAZAR, JOHN DiMARCO, and GREGORY HILL.
14. BANTEK WEST, INC. (#643) applied for a corporate name change (Private Patrolman) to PENDUM LLC, ERICK HOLLMAN requested an individual Private Patrolman license to be placed in abeyance so he could be the qualifying agent, and JOHN BOLDUC, SEAN OZBOLT, THOMAS SZCZEPANSKI, and JASON EGLIT asked for corporate officer approval.

No Board members requested to remove any items from the consent agenda. Board Member Crate asked Executive Director Ray about Item 13, SOC SMG LLC and Day and Zimmerman. Executive Director Ray explained the Day and Zimmerman held both a Private Investigator license and a Private Patrolman license. She said Day and Zimmerman, Inc. was the parent corporation for SOC Nevada LLC and Day and Zimmerman LLC. Board Member Crate asked if SOC SMG was requesting a name change and said that was correct. She clarified for Board Member Crate the corporate officer approval requests in the

motion. Board Member Nadeau moved to approve Items 6-14, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which carried.

PRESENTLY LICENSED CORPORATIONS REQUESTING NEW QUALIFYING AGENT:

GUARDSMARK LLC (#150) requested qualifying agent status for TAMMY NIXON. Ms. Nixon said she spent 12 years with the United States Navy and 8 years with Guardsmark. She held both a BA degree in Criminal Justice, as well as an MBA. She moved to Las Vegas from Long Beach, California.

Board Member Crate moved to grant Tammy Nixon an individual Private Patrolman license to be placed in abeyance so she could become the qualifying agent for Guardsmark, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

PRIVATE INVESTIGATOR:

THAD LOUDENBACK applied for an individual Private Investigator license. Mr. Loudenback was an FBI special agent for 31 ½ years and retired February 2007. He had a Bachelor's degree. Chairman Spencer asked where Mr. Loudenback worked. He started in Cleveland, then worked in Puerto Rico, St. Thomas-The Virgin Islands, Chattanooga, Tampa, and then Las Vegas. Board Member Nadeau asked Mr. Loudenback if there was no application for Polygraph Examiner and was told that was correct. Board Member Nadeau moved to grant Thad Loudenback an individual Private Investigator license, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which carried.

CRAIG RETKE requested an individual Private Investigator license. Mr. Retke spent 17 years as a Las Vegas Metropolitan Police Department detective and had retired from that position. He was a native Nevadan with experience in gang activity and the DEA task force. Board Member Willis moved to grant Mr. Retke an individual Private Investigator license. Board Member Putnam seconded the motion, which carried.

EDWARD SAUCERMAN requested an individual Private Investigator license. He had 16 years of law enforcement experience and retired on disability in 2005. He was licensed in Michigan, Arizona, and California. He said he needed a Private Investigator license in Nevada, particularly to investigate bogus insurance claims. He had 30,000 hours of investigative experience. Board Member Nadeau asked Mr. Saucerman about the advertisement he had placed on craigslist.com in 2005. Board Member Nadeau asked if there was any indication of unlicensed activity since that notification. Mr. Saucerman said he had not done so. Board Member Nadeau moved to grant Edward Saucerman an individual Private Investigator license, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

VEGAS IT TECHS, INC. applied for a corporate Private Investigator license with qualifying agent status for ADRIAN MARE. Mr. Mare said he had much experience with computers/investigation, as well as experience in law enforcement with homicide investigation. Chairman Spencer asked Mr. Mare to repeat his qualifications. Mr. Mare did so. Board Member Crate asked Mr. Mare to explain what constituted a computer forensics investigator. Mr. Mare said it was not just analyzing a hard drive. He said it involved moving information from one hard drive to another. Mr. Mare said computer forensics investigators could track the movement of specific information. Board Member Crate explained he had no concerns granting an investigator license, based on Mr. Mare's background and experience. His concern was that a license should not be acknowledged specific to computer forensics. He asked if Mr. Mare applied for a Private Investigator license because he believed it was required, or someone told him he needed to apply. Mr. Mare said he was told he needed a license because of his expertise on computers. He said it was a new field. Board Member Crate said, as computer forensics was a new field, it was not yet detailed. He asked where a person's work differentiated between reviewing a hard drive versus investigating that information. He said it cast a wide net on who would need to be licensed. Board Member Crate asked if the Private Investigator license was appropriate and necessary for Mr. Mare's work, and he said it was absolutely necessary.

Board Member Crate moved to grant Vegas IT Techs, Inc. a corporate Private Investigator license, to grant Adrian Mare an individual Private Investigator license to be placed in abeyance so he could become the qualifying agent, and to grant Adrian Mare corporate officer status, subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion.

Board Member Crate noted that, for the record, the Board would see more applications in the near future for computer forensics investigator. He said Mr. Mare was granted the license because of his experience in over-all investigative work and not exclusive to computer forensics experience. Chairman Spencer said a presentation would be made on the topic at the October 2008 special meeting. The motion carried.

RISK CONTROL STRATEGIES, INC. applied for a corporate Private Investigator license and WILLIAM JONKEY applied for qualifying agent status. Mr. Jonkey said he was a Nevada resident for approximately 30 years. He had 35 years of law enforcement beginning in Long Beach for 5 years. He had worked for the FBI for 30 years and retired December 2000. DOUG KANE said Risk Control Strategies was formed nearly 5 years ago. He said there were offices in Boston, Los Angeles, Palm Beach, and New York City. He said the firm was consultative/investigative in nature. He said they served insurance clients. Board Member Nadeau said he had known Mr. Jonkey for years, but was not influenced by that in his decisions. Board Member Crate moved to grant Risk Control Strategies, Inc. a corporate Private Investigator license, to grant William Jonkey an individual Private Investigator license to be placed in abeyance so he could become the qualifying agent, and to grant corporate officer status to Douglas Kane and Paul Viollis, Sr.,

subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion, which passed.

PROCESS SERVER:

CHRISTINA GALVEZ applied for an individual Process Server license. Ms. Galvez said she had worked for her brother, an attorney, for 10 ½ years. She had served legal process for 10 years. She was experienced as a legal secretary, a paralegal, and held a Private Investigator license in Nevada. Board Member Willis moved to grant Christina Galvez an individual Process Server license, subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion, which passed.

PRIVATE INVESTIGATOR AND PROCESS SERVER:

Item 22 was withdrawn at the request of the applicant. It was the only item for the category.

PRIVATE INVESTIGATOR AND PRIVATE PATROLMAN:

RONALD WAMPOLE DBA THE SIGMA GROUP requested an individual Private Investigator license and an individual Private Patrolman license. Mr. Wampole told the Board he was a retired law enforcement officer with 23 years of experience and a Carson City resident. His background was in gaming investigations and the homicide task force. Board Member Nadeau moved to grant Ronald Wampole DBA The Sigma Group an individual Private Investigator license and individual Private Patrolman license, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which passed.

Executive Director Ray asked if a motion could be made to continue Item 22 at the next meeting.

Chairman Spencer asked for a motion to continue the request of Dustin Grate for an individual Private Investigator license and an individual Process Server license until the next meeting Board Member Crate made the motion, which was seconded by Board Member Putnam and carried.

PRIVATE INVESTIGATOR, PRIVATE PATROLMAN, AND PROCESS SERVER:

LAS VEGAS PROTECTIVES SERVICES, INC. requested a corporate Private Investigator license, a corporate Private Patrolman license, and a corporate Process Server license. They also requested qualifying agent status for STEVEN SMITH and JOHNATHAN VIZCARRA. Mr. Smith had 14 years of law enforcement experience, with 7 of those with the California State Police. He worked in Contra Costa County for 5 years. He had been a licensed investigator in California for 18 years and was active in continuing education. He said he was trained in gathering evidence and interviewing witnesses. Mr. Vizcarra said he had experience in military law enforcement and had also worked for Contra Costa County. He had lived in Las Vegas for 5 years and had worked at the Bellagio and in the private security

field. Board Member Nadeau asked Mr. Vizcarra to describe his process serving experience. He said he had 9 years of experience delivering process for a police department. Board Member Crate asked Mr. Vizcarra about the status of the judgments. He said they had all been absolved and satisfied. Board Member Putnam moved to grant Las Vegas Protective Services, Inc. a corporate Private Investigator license, a corporate Private Patrolman license, and a corporate Process Server license, to grant Steven Smith an individual Private Investigator license to be placed in abeyance so that he could be the qualifying agent (PI), to grant Johnathan Vizcarra an individual Private Patrolman license and an individual Process Server license to be placed in abeyance so that he could be the qualifying agent (PP and PS), and to grant Johnathan Vizcarra, Frank Marzette, Robert Hess, Kimberly Marzette-Vizcarra, Junell Sicad, and Steven Smith corporate officer approval, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which passed. Mr. Smith offered his condolences to the Board concerning the death of Senior Investigator Botello.

PRIVATE PATROLMAN:

SABER SECURITY LLC applied for a corporate Private Patrolman license and qualifying agent status for BART WALKER. Mr. Walker had lived in Nevada for over 30 years. He was in the military for 3 years, worked construction for 20 years. During that time, he performed courtesy patrols and managed various properties for the developer for 10 years. Board Member Crate asked Mr. Walker in what capacity he worked security. Mr. Walker said he spent multiple hours on various properties on patrol and also interacting with different property managers during both the construction phase and residential phase. Board Member Crate asked for whom Mr. Walker was working. He said it was the same developer, Neil Dexter on his payroll. Mr. Dexter was the owner. Board Member Crate moved to grant Saber Security LLC a corporate Private Patrolman license, to grant Bart Walker an individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent, and to grant corporate officer status to Bart Walker, subject to all statutory and regulatory requirements. Board Member Nadeau seconded the motion, which carried.

SALIENT SECURITY SERVICES LLC applied for a corporate Private Patrolman license, and JAMES TILTON (#1184) requested his individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent. Mr. Tilton said he was currently licensed by the Board. He was based in Los Angeles and wanted to move to Nevada. He worked as an associate director of security at 20th Century Fox studios for 11 years. He then formed his own security company in LA. Board Member Nadeau asked Investigator Mautner about complaints of unlicensed activity. Investigator Mautner said Salient Security was owned by Adrian and Aaron Chavez. She said they had posted an ad on craigslist.com. She said they “owned up to it” immediately and paid the fine. Board Member Nadeau asked the group if any unlicensed activity had been undertaken since the complaint and was told none

had taken place. Board Member Crate asked Investigator Mautner about a document in the information with an August date. Executive Director Ray said it was a cease and desist letter. Investigator Mautner said the cease and desist letter was sent first and then a citation was issued. She said one of their employees advertised for the company on their behalf and was no longer employed with them. She said the posting on craigslist occurred February 2006. Board Member Crate asked about a citation for February 2008. She explained that the February 2008 incident was the fault of the employee, but Salient Security Services paid the fine. Board Member Crate asked the Chavez brothers to explain the cease and desist letter and the subsequent citation. Adrian Chavez said the first citation involved an investor who placed an ad for the company in the phone book without his knowledge. The phone number was invalid, however, and Mr. Chavez was unaware of the advertisement. A citation was issued. Board Member Crate said at that moment the brothers were anticipating doing business in Nevada. He said the ad was placed too soon. Adrian Chavez agreed. Board Member Crate asked Adrian Chavez to explain the circumstances of the second citation. He said an employee was a web designer and placed an ad on craigslist in anticipation of hiring security personnel in Nevada. Board Member Crate asked about the status of various litigations involving the company. Adrian Chavez said the only pending litigation involved entities who owed money to Salient Security Services. He said everything else had been decided. Investigator Mautner said she checked all the pending litigation cases involving the company. In many of the cases, Salient Security Services was named in the case merely because the company provided security. Chairman Spencer asked if the company would discontinue operations in California, and Adrian Chavez said that was the plan. Board Member Crate noted all lawsuits had been resolved except where Salient Security Services was the plaintiff. Adrian Chavez said that was correct. Board Member Crate then listed each lawsuit and Adrian Chavez spoke about each one. Adrian Chavez said the IRS lien was removed because the IRS actually made a mistake and applied a payment to the incorrect year. He was unaware there was a lien until recently. Board Member Crate asked about the concealed weapons permits in 2005 in Clark County. Adrian Chavez said he visited Nevada with the intent to move to Las Vegas. He said rights were available in Nevada that weren't present in California. Board Member Crate asked about other litigation. Adrian Chavez said a suit regarding Utopia, Inc. was a malicious suit that named Salient Security Services. He said 2 security companies were present and there was a dispute. The other security company was involved and not Salient Security Services. The company won a decision and was paid recently. Adrian said the next case in the background involved a "slip and fall" situation. Salient Security Services was dismissed. They again discussed the Utopia, Inc. case.

His company was supplementing the in-house security. Adrian Chavez said the in-house security actually lost the case. The next case involved a personal injury case. Adrian Chavez said his company never lost a case. Board Member Crate said it was unique that the company was named in so many lawsuits. Adrian Chavez said some of the cases involved funds that were owed to Salient Security Services. The next case involved a deposition of Adrian Chavez. He said the attorneys served as many entities as possible to

see whether the case would go forward or be dismissed. Board Member Crate asked about another case involving Baja Cantina. Adrian Chavez said one case involved a car accident, while the other was a personal injury case. Board Member Crate asked about an assault. Adrian Chavez said it involved a restaurant manager who assaulted a person and Salient Security Services was named in the case. Board Member Crate asked Mr. Tilton how long he had been involved with the company. He said it was 5 years. He asked if Mr. Tilton was aware that, as a qualifying agent, he was responsible for the actions of the company's officer.

Board Member Willis moved to grant Salient Security Services LLC a corporate Private Patrolman license, to place James Tilton's individual Private Patrolman license in abeyance so he could become the qualifying agent, and to grant corporate officer status to James Tilton, Aaron Chavez, and Adrian Chavez, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which carried.

Chairman Spencer noted that S.E.B Services of New York, Inc.'s request for licensure was to be continued at the next meeting. Board Member Nadeau moved to continue the item. Board Member Putnam seconded the motion, which passed.

ADMINISTRATIVE BUSINESS:

The Board then discussed whether attorneys not licensed to practice law in Nevada may perform internal workplace investigations for Nevada clients, and whether an opinion of the Attorney General should be requested on the application of NRS Chapter 648 to such circumstances.

Board Counsel Menicucci said he asked to place the item on the agenda. The Board received a complaint from a licensed security consultant regarding a group of California attorneys who were hired by Nevada governmental entities to investigate various workplace issues. Executive Director Ray responded to the complainant and a governmental agency who wished to still utilize the out-of-state attorneys. Board Counsel Menicucci said Rick Hsu would also speak during the meeting. Board Counsel Menicucci said the attorneys said they did not need to be licensed. He said there was an exception, NRS 648.018 subsection 8. The statutes do not apply to an attorney to perform his duties as such. Board Counsel Menicucci said California counsel made several points against the ability of the Board to require attorneys to be licensed. . The arguments made were that it was outside the jurisdiction of the Board to determine and/or regulate who is an attorney of law or performing duties as such; the State Bar of Nevada and ultimately the Supreme Court should make the determinations; the regulation clearly exempted lawyers in any jurisdiction in NRS 648.018 as not needing a license; a workplace investigation involved the knowledge and specialized advice of attorneys; the final point against licensing was that an attorney in a workplace investigation acted as a third party neutral and was akin to a mediator.

Board Counsel Menicucci made his arguments against these points. He said the Board had a general statute for the licensure of private investigations. He said the Board did have jurisdiction. He said the second argument regarding whether or not the statute applied only to Nevada attorneys was not self-evident. He said an example was the rules of professional responsibility, which allowed an attorney to come to Nevada with certain restrictions. He said if someone was not legally entitled to function as an attorney in Nevada, there was a question if that person was entitled to an exemption. He said there were circumstances where exemptions were granted, such as those granted for federal attorneys. He said he received communication from the district attorney's office in Washoe County. That office wanted to continue to hire outside counsel for workplace investigations. He argued against the third point by saying that California counsel hired to investigate a workplace would perform an investigation, prepare a report of the facts, and then defer questions. He said this was not consistent with attorney duties. He said those duties were more consistent with those of an investigator. He said there was a rule about the third party neutral in Nevada that was regulated as attorney practice. He suggested there was a space between the regulation of investigators and the regulation of lawyers. He said the report filed by an attorney was confidential, so the Board would not have access to it. He said the Board may not be able to determine whether or not an attorney had followed the necessary steps to be allowed to practice in Nevada. A second issue was how to arrive at a decision on these matters. He said one avenue was to issue a citation for unlicensed activity, allow the people to appeal, and the Board would then reach a decision. He said other possibilities were that a licensee or an applicant could file a declaratory order. He said a third alternative would be an Attorney General Opinion. He said there were limitations on that, however. He said the final option was to file a complaint of unauthorized practice with the State Bar of Nevada. He said there was no provision to do that, however. He recommended an Attorney General's Opinion.

Board Member Crate asked if the exemptions applied not only to an attorney, but to his staff as well.

Board Counsel Menicucci said he was not completely sure. Board Member Crate wanted the issue considered if an Attorney General's opinion was requested. Board Counsel Menicucci said his initial impression was the same ruling would apply to both in-state and out-of-state attorneys.

Chairman Spencer asked if a person was acting as an attorney or as an investigator. He said if the person acted as an investigator, then he was not acting as a lawyer. He said the State Bar addressed lawyers only. He said the issue was simple to him. Board Counsel Menicucci said counsel would argue that the PILB had no jurisdiction in the matter.

Rick Hsu then spoke. He said he did not intend to revisit all the arguments in the matter. He was licensed in Nevada and California. He had also served as a commissioner for the Commission on Ethics. He discussed the intention of the statute. He said the public must be protected and that was the underlying issue. He did not want to discourage public participation. The statute accepted attorneys at law. A rigorous standard of training applied to attorneys. He discussed the legislative history. The introduction in

1967 of AB 298 started discussion on the necessity for licensing of private investigators, who needed special experience and education. Regulations were needed for private investigators to protect the public. He said an exception was given for attorneys because of their existing regulation by the State Bar. Malpractice insurance was needed in California. He said attorneys and private investigator duties were not mutually exclusive. Attorneys often were required to perform investigations in the course of their work. Chairman Spencer asked when the attorneys were hired, they were not hired by either party.

Mr. Hsu said that was attorney-client relationship. He said the Nevada Bar was the regulating agency at that point, even though a California license was held. Mr. Hsu noted that no one from the public was complaining. He had read the deputy district attorney's letter regarding the use of out-of-state attorneys. His client was experienced in work place investigations and provided an impartial third party to gather information. The Supreme Court and the State Bar had jurisdiction. He noted Board Counsel Menicucci's statement that an AGO was an option, as well as seeking a declaratory order, or citing Mr. Hsu's client and allowing the citation to proceed through the court system. He said there was no need to request an opinion from the Attorney General. An opinion was non-binding and could be reviewed by a court of law. He felt there wasn't enough concern to move forward with an opinion. He said the matter should be written into a BDR and submitted to the legislature if clarification was needed. He said the State Bar could be asked to provide an opinion as another alternative. He strongly asked that an AGO not be requested and his client should not be cited.

Chairman Spencer disagreed that no one had complained about the issue regarding the public interest or safety. He said all Board members realized their duty was the welfare of the citizens and Nevada, not the licensees. He said the point was made by a licensed individual who stated an unlicensed party was participating in investigations without a license.

Mr. Hsu had not seen the actual complaint. He said Mr. Braunstein was the genesis of the complaint, but was not a victim. He said choices were being limited on the part of the clients.

Board Member Crate said removing options from the DA would only be true if the Board determined the necessity of licensure. Mr. Hsu agreed. Board Member Crate said the fact that no one had complained yet was not a reason to stop pursuing the issue. The Board intended to be proactive and anticipate possible future scenarios. He said it would be a public disservice if nothing was done about the issue. He said the Attorney General might recommend that 5.5A could be the rule to follow. He was concerned that Mr. Hsu had not seen the complaint. He also noted that, if an exception was granted to both the attorney(s) and the staff, the public would not be aware of that exception.

Board Counsel Menicucci said, if an AGO was requested, the requesting agency would set forth a scenario or set of facts for the request. He said the disadvantage was that there were no factual circumstances of events for the record. The advantage was that the guidance of the Board would be helpful if the issue were to recur, which was likely.

Board Member Putnam asked if the attorney being discussed acted as an agent for the Washoe County District Attorney's office. Mr. Hsu said the attorney was essentially acting as an agent. He then said the attorney could be an independent contractor. Board Member Putnam said he asked the question because, if the person was hired by a law enforcement agency, the PILB had no jurisdiction over that. Chairman Spencer noted the exception was the person must be paid by the agency and have taxes taken from pay.

Board Member Putnam said if he was hired by a law enforcement agency as an investigator performing polygraph duties, he must follow the rules. He said if he failed to follow the rules, the agency could be sued, and in turn, he would be sued.

Board Member Nadeau said if the attorney worked as an independent contractor and completed investigative work, he would be exempted by the fact he held a license to practice law. He asked if the State Bar had the ability to discipline an attorney for investigative acts, and not acts performed as a lawyer. Mr. Hsu said the State Bar does have the ability to discipline an attorney acting as a mediator. Board Member Nadeau asked if the RFP must show some type of demand that the attorney must be licensed. He said an open-ended RFP that merely requested an investigation with no requirement for a law degree or licensure would be a different matter. Mr. Hsu said attorneys often performed investigative work during the course of their work in cases. He wasn't sure of the exact wording of the RFP. He agreed with the analysis of the memo.

Chairman Spencer asked if the investigation was requested in order to avoid a trial. Mr. Hsu said that was correct. Chairman Spencer asked if the work under discussion was similar to that done by Judge Adams in avoiding trials if possible. He said mediation was often sought to attempt to prevent trials.

Chairman Spencer said what "stuck in the Board's craw" was the condescending manner of the gentleman's approach and the mixing of job descriptions. Chairman Spencer worked for some attorneys who were quite capable of conducting an investigation, while others would be incompetent. Chairman Spencer said the attorneys should be hired to conduct an independent inquiry, rather than stating they would function as investigators. Mr. Hsu said he could attempt to furnish an opinion from the State Bar. Chairman Spencer asked why Mr. Hsu did not want an AGO. Mr. Hsu said his reason was two-fold. The opinion option would start the Board down a path of decisions with which his client disagreed. He apologized for the condescension the Board perceived. He said the Board's jurisdiction was NRS 648, while the jurisdiction for attorneys was the State Bar of Nevada. Chairman Spencer stated a better option would be for the Board to explain their stance on the matter. Mr. Hsu said a licensed attorney in California would have the same type of qualifications as a Nevada attorney. He asked why a difference was made. Chairman Spencer said Mr. Hsu was stating the Board's thoughts from the other side.

Board Member Crate noted the difference was that no reciprocity with other states was granted by Nevada. The standard for licensure in Nevada was tougher than other states. He did not know the consistencies among the states involving qualifications of attorneys. The Board did not exist for the

industry but for the welfare of the people. Mr. Hsu discussed those consistencies. He said out-of-state attorneys were subject to the jurisdiction of the Nevada Bar. He said attorneys should be licensed and in good standing.

Board Member Nadeau stated the definition of an attorney at law meant one who had an existing license. Board Counsel Menicucci talked about instate attorneys and out-of-state attorneys. He discussed the exemption matter and the work actually being performed (investigative or attorney duties). He said the determination made in the memo was that "there was no requirement that the attorney be licensed in Nevada or anywhere else to avail themselves of the exemption". Mr. Hsu said Nevada was not specifically mentioned. He said the determination whether or not a person was performing the duties of an attorney had to be the jurisdiction of the State Bar.

Board Counsel Menicucci said, if the district attorney's position was correct, no one was required to produce a law license from anywhere. He said that was not in the best public interest. Mr. Hsu said licensure was a requirement. Board Counsel Menicucci noted that lack of licensure was not the case in the current matter with Mr. Hsu's client. Board Counsel Menicucci asked for Mr. Hsu's position on the following scenario: the Board was asked for an exemption for someone engaged to perform an investigation and the Board asked for verification of the attorney involved and the duties to be performed, then asked the State Bar if it approved. Mr. Hsu said he thought that was reasonable. Board Counsel Menicucci said there was no regulation to that effect in place at the current time.

Chairman Spencer asked who paid the attorneys. Mr. Hsu said the client paid, and in the current case, the district attorney's office, and ultimately, the taxpayers.

Board Member Nadeau noted that there was an assumption that an attorney at law meant one who held that license. He felt that should be addressed legislatively. Board Counsel Menicucci said regulations could be amended.

Board Member Crate noted that an opinion could still be requested. Chairman Spencer said the likelihood of a change in legislation would be very slim. He asked if the State Bar Association would sponsor legislation in conjunction with the Board. Mr. Hsu said a BDR should be written to change the statutes. He discussed the option of the declaratory order. Mr. Hsu requested notification if the Attorney General opinion was pursued.

Board Member Crate said a workshop could be scheduled in the future to discuss the issue. The framing of the topic was as important as the answer received. Board Counsel Menicucci said he could prepare a request to be reviewed by the Board before submission. He said the Board could choose another route. Chairman Spencer said Mr. Hsu would receive a copy of the proposed request. Mr. Hsu said he would like to see a copy of the document.

Board Member Putnam said Mr. Hsu's objections. He read a portion of NRS 648.018 regarding attorneys working for law enforcement agencies. Mr. Hsu said he was unsure of that exception.

Board Member Willis said an AGO was needed and made the motion to direct staff to provide appropriate wording to request an AG's opinion, and such wording of the question shall be made available to the public and placed on the next agenda. Board Member Nadeau seconded the motion, which carried.

ADMINISTRATIVE BUSINESS:

The report from staff regarding recommendations from licensees who volunteered to take the Private Investigator license exam and the Private Patrol license exam was brief. Executive Director Ray said the testing had not occurred, but would take place shortly and the information would appear on the October 23, 2008 agenda.

Board Member Crate noted that Colin Murphy was offering training for licensees/administration employees. Executive Director Ray said the class was scheduled for 2 sessions on October 13, 2008 in Las Vegas and for 2 sessions on October 20, 2008 in Carson City. Board staff would also attend the training and would provide feedback. Board Member Willis said she would like to attend the training.

Board Member Nadeau asked to include a definition of attorney at law for the AGO request.

Board Member Putnam thanked the staff and Board for the excellent work done.

Executive Director Ray briefly discussed the agenda for the special meeting scheduled for October 23, 2008 in Las Vegas. She said the agenda items would include 2 disciplinary matters, Investigator Murphy's training program, exam issue, a presentation on the work card issue, and a few administrative items. The next quarterly Board meeting was scheduled for December 10, 2008. She noted that the quarterly Board meetings for 2009 were scheduled for 2 days to allow all matters to be heard and reduce the number of special meetings and travel expenses incurred. Executive Director Ray noted future workshops, one regarding Computer Forensics, were in the planning stages.

Ty Neuharth asked Executive Director Ray about a situation where her company was asked to "fill in" for a company that did not have current qualifying agent. Executive Director Ray said a corporation could continue to function while process of seeking a new qualifying agent was underway. She said if a person wished to activate a personal license, the Board's process must be followed. Board Member Crate asked if there was a window of time that must be followed. Executive Director Ray said there wasn't a time-frame, but the Board followed up on such matters and had encountered no problems. Executive Director Ray said the process could be fine tuned.

Board Member Nadeau moved to adjourn and Board Member Putnam seconded the motion, which carried. The meeting was adjourned.