

PRIVATE INVESTIGATORS LICENSING BOARD

MINUTES

DECEMBER 10, 2008

MEMBERS PRESENT:

DANIEL CRATE: BOARD MEMBER

LOIS WILLIS: BOARD MEMBER

RICHARD PUTNAM: BOARD MEMBER

DAVID SPENCER: BOARD CHAIRMAN

OTHERS:

MECHELE RAY: EXECUTIVE DIRECTOR

KRISTINE MAUTNER: INVESTIGATOR

COLIN MURPHY: COMPLIANCE AUDITOR

ELAINE TRENT: ASSISTANT

JEFF MENICUCCI: BOARD COUNSEL (CARSON CITY)

TAMMY WHATLEY: INVESTIGATOR (CARSON CITY)

JOE DUPUIS: INVESTIGATOR (CARSON CITY)

BRANDI KING: ASSISTANT (CARSON CITY)

Chairman Spencer opened the meeting with the roll call. Executive Director Ray explained that Board Member Nadeau had not been reappointed when his term expired October 30, 2008.

APPROVAL OF MINUTES:

Board Member Willis moved to approve the October 23, 2008 minutes and Board Member Crate seconded the motion, which passed.

FINANCIAL REPORT:

Executive Director Ray noted the report was informational only. She provided a current financial report as of November 21, 2008 for the Board. The realized available funding was \$579,234.02. The expenses

year-to-date was \$240,000. Board Member Willis asked if there was any impact on the Board's finances due to current state financial problems. Executive Director Ray said it appeared the last special session had not impacted the Board.

SWEARING IN:

Board Counsel Menicucci swore in everyone present who were to testify during the meeting.

STAFF REPORT:

Executive Director Ray reported that between September 13 to December 1, 26 new complaints were filed with the Board, 90 complaints were closed, 63 complaints were pending (46 assigned to the North and 16 assigned to the South to be handled by the Investigator Whatley), Investigator Mautner issued 2 unlicensed activity citations, wrote 6 cease and desist, completed 32 backgrounds (14 for corporate officers, 7 for corporations, 11 for qualifying agents or individual applicants), Investigator Whatley issued 1 unlicensed activity citation, wrote 1 cease and desist letter, Investigator DuPuis completed 8 backgrounds (4 for corporate officers, 1 for a corporation, and 3 qualifying agent or individual applications), 2 backgrounds were rejected and 3 applications were withdrawn, pending applications totaled 56 (22 corporate officers, 13 corporations, 3 process servers, 6 private investigators, 12 private patrol licenses), Investigator Murphy completed 7 audits with 4 pending, completed 7 convention/shows inspections, and Executive Director Ray issued 12 notices of violation. She introduced Investigator Whatley and Joe DuPuis in Carson City as the new investigators in the North. She also thanked Investigator Mautner for her work in completing backgrounds during the quarter to prepare for today's meeting.

CONSENT AGENDA:

6. WN HOLDING LLC DBA L&W INV ESTIGATIONS requested a corporate Private Investigator license with Joel Moskowitz (#1317) as qualifying agent.
7. WILLIAM CAGE DBA CAGE & ASSOCIATES (#901) requested an individual Private Patrolman license.
8. AAA CREDIT, INC. DBA ZIP REPORTS requested a corporate Private Investigator license with Gina McGaughy (#1082) as qualifying agent.
9. AMERICANCHECKED, INC. requested a corporate Private Investigator license with Juliana Hakman (#957) as qualifying agent.

10. SECURE-TEK, INC. requested a corporate Private Patrolman license with Jay Burke (#1080) as qualifying agent.

Board Member Willis moved to approve Items 6-10. Board Member Crate seconded the motion, which passed.

PRESENTLY LICENSED CORPORATIONS REQUESTING NEW QUALIFYING AGENT:

ADP SCREENING AND SELECTION SERVICES, INC. (#1265) requested qualifying agent status for JOSEPH CAPILLO, JR. and corporate officer status approval for others. Mr. Capillo from Albuquerque, NM and held a Private Investigator license in that state. He said ADP was a large outsourcing firm for payroll tax and benefits for other companies. They also had a screening and selection service which performed pre-employment checks. Board Member Crate asked about allocation of hours of experience concerning the Massachusetts State Police. He asked if all those hours of experience were credited toward investigative hours. Mr. Capillo said that was true. He said he worked 4 years investigating crime scenes. He also investigated homicides for 3 years with the district attorney's office outside Boston. The remainder of the time was patrol work. Board Member Crate wanted Mr. Capillo to know the hours were allocated to investigation. Board Member Crate moved to grant ADP SCREENING AND SELECTION SERVICES, INC. (#1265) qualifying agent status for JOSEPH CAPILLO, JR., to grant him an individual Private Investigator license to be placed in abeyance, and to approve corporate officer status for LEANE GABEL, KIMBERLY GRAY, ROBERT SINGER, and DAWN STEELE, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

Executive Director Ray advised all newly approved applicants to give the office a few days to send them letters with the information and instructions, rather than contacting the office themselves.

PROCESS SERVER:

RICHARD REESE DBA REESES PIECES applied for an individual Process Server license. Mr. Reese worked for the Carson City court system since 1996 performing the service of process. Board Member Putnam moved to grant RICHARD REESE DBA REESES PIECES an individual Process Server license, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

RICHARD ETIENNE applied for an individual Process Server license. Mr. Etienne had served process for 6 years for the law firm of Callaghan and Reynolds. Board Member Willis moved to grant RICHARD ETIENNE an individual Process Server license subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

PRIVATE INVESTIGATOR AND PROCESS SERVER:

DUSTIN GRATE withdrew his application for an individual Private Investigator license and an individual Process Server license and did not appear.

PRIVATE INVESTIGATOR AND PRIVATE PATROLMAN:

JOHN CASE DBA JOHN CASE AND ASSOCIATES requested an individual Private Investigator license and an individual Private Patrolman license. Mr. Case received a degree in security administration from Michigan State. He had worked in security since 1967 and currently served on the board for International Association for Professional Security Consultants, which he founded. He had worked as a consultant for 28 years. He requested licensure because he had to refuse work in Nevada. Board Member Willis moved to grant JOHN CASE DBA JOHN CASE AND ASSOCIATES an individual Private Investigator license and an individual Private Patrolman license, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which passed.

THREAT MANAGEMENT AND PROTECTION, INC. requested a corporate Private Investigator license and a corporate Private Patrolman license, with qualifying agent status for ROBERT KIRSCHNER. Mr. Kirschner was CEO of Threat Management and Protection, Inc., which served as a security driven risk management company providing service to corporate entities. He was a qualified manager in 10 states. He had experience in law enforcement. Board Member Putnam moved to grant THREAT MANAGEMENT AND PROTECTION, INC. a corporate Private Investigator license and a corporate Private Patrolman license, to grant ROBERT KIRSCHNER an individual Private Investigator license and an individual Private

Patrolman license to be placed in abeyance so he could become the qualifying agent, and to approve ROBERT KIRSCHNER as a corporate officer, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

US INVESTIGATION AND PROTECTIVE SERVICES, INC. requested a corporate Private Investigator license and a corporate Private Patrolman license, with FRANK FEROLA as qualifying agent. Mr. Ferola had lived in Nevada for 10 months. He was a chief operation officer for Titan International Security (#1459). He had owned his own investigation and security business in Florida for a number of years. Board Member Willis moved to grant US INVESTIGATION AND PROTECTIVE SERVICES, INC. a corporate Private Investigator license and a corporate Private Patrolman license, to grant FRANK FEROLA an individual Private Investigator license and an individual Private Patrolman license to be placed in abeyance so he could become the qualifying agent, and to approve FRANK FEROLA as a corporate officer, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which carried.

PRIVATE PATROLMAN:

S.E.B. SERVICES OF NEW YORK, INC. requested a corporate Private Patrolman license and qualifying agent status for ROBERT DINOZZI, JR. Mr. Dinozzi was the qualifying officer for patrol in 16 states. His company provided security services. Board Member Crate moved to grant S.E.B. SERVICES OF NEW YORK, INC. a corporate Private Patrolman license, to grant ROBERT DINOZZI, JR. an individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent, and to approve ROBERT DINOZZI, JR. as a corporate officer, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

COMPREHENSIVE SECURITY SERVICES, INC. applied for a corporate Private Patrolman license and qualifying agent status for NASHWAN YAQOUB. Mr. Yaqoub's company was based in Sacramento. The company provided armed and unarmed security for private sector, as well as federal contracts. He wished

to submit RFPs in Nevada and needed to be licensed. Investigator Mautner called him to inform him that his company's contract specialist attempted to submit an RFP before licensure. Mr. Yaqoub held a law enforcement degree. Board Member Crate said he did not see a contract of employment in the background application. Mr. Yaqoub said it had been provided. Board Member Crate noted Mr. Yaqoub had just enough hours of experience to meet the 10,000 requirement. He asked if Mr. Yaqoub was comfortable with the responsibilities. Mr. Yaqoub said he was comfortable. He worked long hours and was familiar with the many aspects needed. He would relocate to Nevada once an RFP was accepted. Board Member Crate moved to grant COMPREHENSIVE SECURITY SERVICES, INC. a corporate Private Patrolman license, to grant NASHWAN YAQOUB an individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent, and to grant corporate officer and director status to MOHAMMAD CHAUDRY, BASHIR CHOUDRY, SUGHRAN CHOUDRY, and NAZIR FATIMA, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

CERBER-NET, INC. DBA CERBER-NET SECURITY & PROTECTION SERVICES requested a corporate Private Patrolman license and qualifying agent status for WADELL BENNETT. Mr. Bennett said he was experienced in security work in government contracting. He said his company name was taken from the mythological creature, Cerberus. He was a former officer for the Ohio State Highway Patrol and had also worked in the prison system. He moved to Nevada in 1999, at which time he worked for Caesar's Palace. Board Member Putnam moved to grant CERBER-NET, INC. DBA CERBER-NET SECURITY & PROTECTION SERVICES a corporate Private Patrolman license, to grant WADELL BENNETT an individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent, and to approve WADELL BENNETT as a corporate officer, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion. Board Member Crate said there were irregularities in the background material and asked if Board Member Putnam would amend his motion to acknowledge continued cooperation by Mr. Bennett on any continuing investigations that may arise as a result of the background. Board Member Putnam agreed to the amendment. Board Member Crate asked

if Mr. Bennett understood the amendment and it concerned employment relations some of Mr. Bennett's which involved other issues. Mr. Bennett said he understood. The motion then carried.

KEITH WALKER DBA WALKER SECURITY AGENCY applied for an individual Private Patrolman license. Mr. Walker had worked in Nevada since 1995 with casinos as a manager. Board Member Crate asked about the issue of "force able entry" charges in his background. Mr. Walker said his son broke a window at the apartment in which they lived. When he entered the apartment, the police said he had broken in, but it was his own apartment. It was a case of mistaken identity. Board Member Crate asked about Mr. Walker's affiliation with Brownstone. Mr. Walker said he worked for the company in Nevada and it was based in California. Board Member Willis moved to grant KEITH WALKER DBA WALKER SECURITY AGENCY an individual Private Patrolman license, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which carried.

NMS SECURITY SERVICES LLC requested a corporate Private Patrolman license and qualifying agent status for DUANE UDLAND. Mr. Udland had 29 years of experience in law enforcement and retired in 2001. He worked as a security manager since that time and moved to Utah two years ago. Board Member Crate moved to grant NMS SECURITY SERVICES LLC a corporate Private Patrolman license, to grant DUANE UDLAND an individual Private Patrolman license to be placed in abeyance so that he could be the qualifying agent, and to approve corporate officer and directors MARY QUIN, RONALD OTTE, and DAVID MARQUEZ, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which carried.

PLATINUM PROTECTION GROUP LLC applied for a corporate Private Patrolman license and qualifying agent status for MARK VAN HOLT, but he was not present. Darryl Cronfeld was sworn in and said Platinum Protection had been operating in Nevada for a year for Whole Foods supermarkets in Las Vegas. Investigator Mautner said there may be another company named Platinum Security, but she did not believe it was Mr. Van Holt or his company. The item was placed on hold.

ROCKWELL SECURITY LLC requested a corporate Private Patrolman license and qualifying agent status for JEFFERY TAYLOR. Mr. Taylor received a BS degree in security in 1989 from Central Missouri State University. He had worked in the security field since that time and established his own company. Board Member Crate noted page 16 of the application and asked if Rockwell Security LLC was a subsidiary of another corporation. Mr. Taylor said the company was under Rockwell, Inc. and there were no additional officers. Board Member Willis moved to grant ROCKWELL SECURITY LLC a corporate Private Patrolman license, to grant JEFFERY TAYLOR 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 JEFFERY TAYLOR, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion. Board Member Crate asked that the record reflect that the company was a subsidiary of Rockwell, Inc. and any additional officers should be reported for Rockwell, Inc. and Rockwell Security LLC. Mr. Taylor agreed. The motion carried.

ADMINISTRATIVE BUSINESS:

The Nevada Society of Professional Investigators appeared to discuss an amendment for NRS 648 regarding the duties required of private investigators. The topic was discussed at a previous meeting. Mr. Maheu said at the previous meeting he had offered definitions for NRS 648 regarding Private Investigator definition. The Board made pertinent comments, which he reviewed; he then changed the definition and was re-submitting it to the Board for its perusal. He asked that, if the Board chose not to support the change in the definition, that they would not oppose it, either. Board Member Crate asked if there was value in addressing the educational degree in the application. Mr. Kirkman said that appeared in a different section and an allowance was made for time. He said they did not want to amend that section. Board Member Crate noted Section 6. Mr. Maheu said that issue was already addressed and did not need to appear in the definition. Mr. Kirkman said Board Member Putnam rewrote the definition. He supported those changes. He wanted to show that 5 years equaled 10,000, as that did not appear in Board Member Putnam's version. Board Member Putnam clarified that the hours and years were defined elsewhere in

the law, so he did not include that when he re-wrote the definition. Chairman Spencer asked if the phrase “or the equivalent of” was to be omitted. Mr. Kirkman said that was Board Member Putnam’s version of the definition. Chairman Spencer noted the word “shall” was used. Mr. Maheu said he believed Chairman Spencer had a different version. Mr. Maheu said he agreed with Mr. Kirkman to use the version provided by Board Member Putnam. Board Member Putnam clarified that he was not offering the proposal and his writing was based on the information provided by Mr. Maheu and Mr. Kirkman. Mr. Kirkman said the term “qualifying agent” should be used. Chairman Spencer said, of the 5,000, another type of experience was also needed. Mr. Kirkman said 3 years of experience was needed in combinations of #1 through #5 and 2 years of experience under #6. Chairman Spencer noted there were no percentages given for the amounts of experience. Mr. Kirkman stated that in the original proposal, he included 2 years in #1-#5, which may make the proposal easier to read if it was re-inserted. Chairman Spencer said the Board should be able to determine the equivalent of hours of experience. Mr. Kirkman said it was the intent of the proposal to exclude people who processed credit reports for casinos from obtaining Private Investigator licenses. It was also intended to prevent the licensing of people who performed mystery shopping. Board Member Willis said, in Board Member Putnam’s draft, he crossed off the phrase “or the equivalent thereof as determined by the Board”, as shown in the original statutory language. She clarified that Chairman Spencer wanted to include the phrase and asked if Mr. Maheu or Mr. Kirkman objected. Mr. Maheu said it was the slippery slope the Board had encountered on previous occasions. Chairman Spencer said a separate classification was needed for other issues. He noted the legislature had tasked the PILB with mystery shopping. He asked how those people could be licensed without the creation of a separate area of licensure. Mr. Maheu said he understood and the topic was covered under #6 to allow for the discretion for the Board. He said the issue he had was with the actual hours of experience and again noted that it was very difficult to qualify 10,000 of mystery shopping experience. None of his mystery shopping employees worked more than 2,000 hours per year. His issue was with the accumulation of hours and not whether or not mystery shopping was a part of the Private Investigator license. Mr. Kirkman said all 5 years of experience could be under #6. Mr. Maheu said he was not attempting to take power away from the Board. Chairman Spencer said his concern was that licensed people must be qualified. Mr. Maheu

said the current proposal also addressed the Computer Forensic Examiner/Investigator issue. Board Member Putnam noted most of those individuals did not have general investigative experience. Mr. Kirkman said they could be Computer Forensic Examiner, but could not be investigators, unless they also had that experience. Mr. Maheu said forensics was turning evidence into testimony. The removal of the data from a computer was not an investigation, but the evaluation of that data was an investigation. Chairman Spencer agreed that a person who could not qualify as an investigator could still retrieve data. Any work done beyond the recovery of data would fall under the Private Investigator license. The Private Investigator license was not a "catch-all" category, as not everyone qualified for the license. Mr. Maheu said a school crossing guard would not qualify for a Private Investigator license, and neither would a pit clerk who ran credit reports. Mr. Kirkman again noted that #6 would provide a way to qualify for the total number of hours of experience. Chairman Spencer said he knew the direction Mr. Maheu and Mr. Kirkman were attempting to go. He said giving the discretion to the Board as to who may receive licensure could result in the very situations that Mr. Maheu and Mr. Kirkman were seeking to avoid, that of the licensing of people that were not qualified. Chairman Spencer said discretion was needed. Mr. Kirkman noted that #6 allowed for that discretion. Board Member Putnam asked about the possibility if the issue could be handled more effectively by adding language to NAC 648, rather than NRS 648. Chairman Spencer said Executive Director Ray had suggested that in the past, but the problem still existed regarding the definition of Private Investigators. Executive Director Ray said there had been an attempt in the past to amend the NAC and the Association opposed it, particularly subcategories. Mr. Maheu disagreed. He was against the formation of subcategories of licensure, as it diminished the profession. He noted tenant screeners and mystery shoppers were still under the Private Investigator license, and still needed 10,000 hours of experience. Mr. Maheu didn't understand the idea of subcategories. Mr. Kirkman said just because a person wished to have a Private Investigator license didn't mean he or she was qualified to have it. Mr. Maheu said he would be happy to introduce the idea to the legislature and was very familiar with the BDR process. The budget concerns may overshadow the time the legislature would spend changing the bill. Board Member Crate said he was more inclined to use the initial writing, though he understood the reason for Board Member Putnam's version. Board Member Crate suggested ways to

clarify the writing. In Board Member Putnam's version, any combination of 5 years of experience would qualify in #1, #2, and #3. He noted "and" was incorporated only in #5, as he read it, which tied it to #6. Another issue was if the original writing would lend itself to statutory structure by the use of the phrase "and/or", though it made the wording clearer. He said #6 could be the beginning of the definition, with the balance of hours made up through #1-#5. Mr. Maheu said that could easily be accomplished. Board Member Crate said that the mystery shopping industry could possibly be exempted from licensing entirely by the Board if too much restriction was placed on it. Mr. Maheu said that battle had been fought previously. Board Member Crate noted that the tightening of the language did run the risk of preventing mystery shopping from licensure. Mr. Maheu noted he employed many mystery shopping employees. Mr. Kirkman agreed that #6 becoming #1 would make more sense. Board Member Willis said the discussion should concentrate on concept and not language. Often, language changes occur with the BDR process. She said the intent of the bill should be clear to hopefully prevent an incorrect draft. Chairman Spencer asked if there was access to the bill writers after the BDR is written. Mr. Maheu said the bill writers were very forthcoming, allowing for changes or even to withdraw the bill entirely. Chairman Spencer said 3 or 4 items in #6 which could apply to screening. Mr. Maheu said he wanted the Board to have discretion. Board Member Crate clarified that the Association did not want people to qualify for a license with a very narrow field of experience. Mr. Kirkman said the language could be rewritten speedily. Board Member Crate said during the previous meeting, the Board was neither endorsing nor opposing the language, but the Association was presenting the language to the Board as a courtesy. Mr. Kirkman asked for a vote of "No Opposition" by the Board. Board Member Putnam suggested a change in #6 from "witness" to "pertinent individuals". Executive Director Ray suggested adding the phrase "not limited to" for #6. Mr. Maheu said the Commerce Committee would ask if the PILB supported the language change. Chairman Spencer said it was not opposed. Chairman Spencer said the responsibility of the Board was the people of the state. Board Member Willis said the motion could be framed on the behalf of the people of the state of Nevada that the language was not opposed. Board Member Crate said a motion may not be needed, but Mr. Kirkman said it was an action item on the agenda. Chairman Spencer asked if the Association was agreeable that the Board would not oppose the language change pending review of the final writing to be

submitted for a BDR. Mr. Maheu noted the Board may oppose the language after the BDR was written. Board Member Crate offered a possible motion to allow the Association to move forward with the language. Board Member Putnam said the phrase “as presented and discussed” should be added to a motion. Board Member Crate was trying to avoid someone saying in the coming months the Board influenced the denial of certain categories of licensure. He did not want to give the impression that the Board was trying to influence the Association. Mr. Maheu said a simple motion was needed. Board Member Willis said “so moved” and Board Member Putnam seconded that motion. Chairman Spencer said more language was needed for the motion. Board Member Crate said “no objection” seemed more appropriate, whereas “not opposed” seemed like a vote of support. Board Member Willis moved that the Board accept the report from the Nevada Society of Professional Investigators regarding their proposed changes to NRS 648 and that the Board had no objection to their proposal at this time, pending final language. Board Member Crate seconded the motion, which carried.

John Theel, SOA of Nevada, Inc. asked for an exemption to use up to 50 out-of-state law enforcement officers for the upcoming JCK Show. He said most of the officers worked for the company in other states. SOA intended to use approximately 700 local employees for the event. Chairman Spencer noted the officers were to follow the requirements for working in Nevada. Mr. Theel said they would follow all requirements regarding registration, work cards, and the like as if they lived in Nevada. Board Member Crate asked about the numbers. Mr. Theel said between 700 and 800 people would be employed for the show, and 50 out-of-state police officers would be brought in to work at the event. He said the employees would be regular employees of SOA, with the remaining number of employees comprised of sub-contracted employees from a local company. He said the amount of employees needed could possibly decrease. It would not likely increase. Board Member Crate asked if it was permissible to combine Mr. Theel's two requests. Mr. Theel said the number of out-of-state officers needed for the Consumer Electronics Show would only be 10. He estimated 550 to 600 employees would be used for that event. Board Member Crate moved to grant exemptions to Mr. Theel of SOA for out-of-state peace officers for the JCK Show, 50 individuals, and up to a dozen out-of-state peace officers for the CES Show, subject to

any relevant statutory or regulatory requirements. Board Member Willis seconded the motion, which carried.

Richard Ellington, Ferrari Express, requested an exemption to use up to 40 out-of-state law enforcement officers for the upcoming JCK Show. He said all officers would carry valid work cards, certificates of firearms training, proof of exam cards, and photo identification from Ferrari Express showing their position. They would also be registered. Board Member Crate asked if Ferrari Express did other business in Nevada in addition to the JCK Show. Mr. Ellington said a licensed armed guard for Ferrari lived in Nevada full time. He said there was no need for additional personnel for the other events. Board Member Crate asked if Ferrari Express had attempted to hire people locally. Mr. Ellington said a majority of the staff would be coming from Ferrari Express in other states. He said the peace officers were familiar with Ferrari Express. Armed guards would be brought in from Ferrari Express. He said unarmed labor would probably be hired locally. Board Member Crate said all the individuals who would come to Nevada would be current Ferrari employees. Mr. Ellington said the peace officers worked with Ferrari Express. Mr. Ellington said the peace officers would not be hired as independent contractors.

Board Member Putnam moved to grant Mr. Ellington, Ferrari Express, an exemption to NAC 648.338 to utilize up to 40 out-of-state law enforcement officers for the JCK Show, May 24 through June 3, 2009.

Board Member Willis seconded the motion, which passed.

Phil Schiotis, Dunbar, asked for an exemption to use 10 out-of-state officers for the upcoming JCK Show. He did not anticipate the need to bring in a huge number of out-of-state officers. Chairman Spencer asked how many officers he anticipated. Mr. Schiotis said he needed 10 people. Board Member Willis moved to grant Mr. Schioits, Dunbar, an exemption to NAC 648.338 to utilize up to 10 out-of-state law enforcement officers for the JCK Show, May 22 through June 4, 2009. Board Member Putnam seconded the motion, which carried.

John Padula, Brinks, requested an exemption to use out-of-state officers for the JCK Show. Chairman Spencer asked how many people he needed for the exemption. He said the number was 35 or less. Board Member Crate asked about the 80 employees Mr. Padula mentioned in his e-mail. Mr. Padula said those were actual Brinks employees, not all armed guards. Board Member Crate asked if he understood the need for employee registration and work cards for employees brought to work in Nevada. Executive Director Ray clarified that need depended on if the employees fell under the armored car exemption. She noted all out-of-state law enforcement officers needed to be properly registered. She said if the employees were employed in the state of origins and had proper qualifications/credential, they may fall under the Attorney General's Opinion for armored car company exemptions. Board Member Crate asked about past discussions on the topic. He said before the exemptions applied to employees who escorted merchandise from one point to another. Executive Director Ray said the people who were being brought in were employed in other states. Mr. Padula said armed Brinks employees transported the merchandise. Board Member Crate clarified that the people were being brought to Nevada just to work at the venue, and their work was not related to the transport of the goods. Executive Director Ray said labor and security employees were properly identified. She said the opinion only applied to armed employees. Board Member Crate said his point was if any additional employees could not work in a security capacity. Board Member Willis moved to grant Mr. Padula, Brinks, an exemption to NAC 648.338 to utilize up to 35 out-of-state law enforcement officers for the JCK Show, May 24 through June 3, 2009. Board Member Crate seconded the motion, which passed.

Gary McGeough, Malca-Amit, asked for an exemption to use out-of-state officers for the JCK Show. The individuals would be working as labor for the event and would not be armed. He had contracts with two local companies for armed security. He said the company would have 25 of its own registered security guards. Executive Director Ray asked if the officers would escort the merchandise. Mr. McGeough said they would unload the merchandise and would be escorted by an armed guard. He again noted no one would carry a firearm. Board Member Crate asked why an exemption was needed if the out-of-state officers were not acting as security. Mr. McGeough said he was asking for the exemption because the

employees were out-of-state peace officers. Mr. McGeough said he would request 50, but may need fewer. Board Member Crate asked how many employees Mr. McGeough anticipated using for the event. He said 35-40 local employees would be supplied from the two contracted companies, 20-25 Malca-Amit personnel, and the remainder of 50. Mr. McGeough estimated the grand total was about 140 employees. Board Member Crate asked if a third of the employees were local, a third out-of-state peace officers, and a third administrative. Mr. McGeough said that was correct.

Board Member Putnam moved to grant Mr. McGeough, Malca-Amit, an exemption to NAC 648.338 to utilize up to 50 out-of-state law enforcement officers for the JCK Show, May 24 through June 3, 2009, subject to all statutory and regulatory requirements. Board Member Crate seconded the motion, which passed.

J. Antonio Revilla, REV Enterprises, Inc. DBA O & R Protective Services requested an exemption to use out-of-state officers for work between January 1, 2009 and February 5, 2009. He said 3 to 4 assignments were included during the dates of the request in various locations throughout Nevada. He asked for a total of 10 maximum employees for the exemption. Chairman Spencer asked if Mr. Revilla was aware of the need to obtain work cards at all locations. He said one event was a ski trip for a family to take place in Douglas County. Chairman Spencer said he noted the location so Mr. Revilla would be aware that he needed to obtain all necessary documentation, as some counties were not as quick as Las Vegas Metropolitan Police Department in terms of issuing work cards. Mr. Revilla explained he did not have exact dates the employees would be needed, so he had included a range of dates in his request. He said the 10 employees requested for the exemption represented 10% of his work force. Board Member Crate asked if the maximum number would be 10 for the different venues, and Mr. Revilla said that was correct. Board Member Putnam moved to grant Mr. Revilla, REV Enterprises, Inc. DBA O & R Protective Services, an exemption to NAC 648.338 to utilize up to 10 out-of-state law enforcement officers for the three events in Nevada from January 1 through February 15, 2009, subject to all statutory and regulatory requirements. Board Member Willis seconded the motion, which passed. Mr. Revilla asked if the Board would at some

point revisit the statute to allow exemptions without requesting them from the Board. Chairman Spencer said the Board was not planning to do so.

The Board received an update from Board Counsel Menicucci on the issue of private transportation and whether or not such activity required licensure or if a federal exemption may exist. Board Counsel Menicucci told the Board he had studied Jenna's Law, formally known as the Interstate Transportation of Dangerous Criminals Act of 2000. He said it was a fairly short law. He prepared a brief memorandum for the Board. The Act required the US Attorney General to promulgate regulation regarding the transportation of violent prisoners. There were certain categories under which fell under those regulations. The regulations were found in 28 Code of Federal Regulations, Part 97. He said the key point for the Board was that he researched whether or not the matter was subject to pre-emption of state regulation. He said pre-emption was gained by either the federal legislation expressly preempts state law or by implication. He said the Board can require licensing of transportation companies. He recommended looking closely at federal regulations to avoid possible conflicts. The requirement of a license would not appear to be preempted. Board Member Willis asked Executive Director Ray about a line in a memo regarding a survey she had completed. Executive Director Ray said she sent an e-mail to members of an association to which she belonged. She said some states required licensing of private transportation companies, while others did not. Kentucky did not regulate private transportation companies. She assumed private transportation companies were regulated in Manitoba, or existed as state agencies that performed the function of transporting prisoners. California did not regulate private transportation companies. Some states sent definitions, but did not indicate whether or not they felt the issue fell under their purview. Chairman Spencer asked which PILB license would cover the activity. Executive Director Ray said it would be under the Private Patrolman license. She mentioned the minutes from the previous meeting and that it had been discussed at length. Board Counsel Menicucci said Mr. Sanzeri, American Extraditions Specialist, and Wendy Livermore were in attendance in Carson City. Mr. Sanzeri said he spoke at length at the last meeting and did not have much to add. He was not totally opposed to additional licensing. He said there was no specific licensing requirement for private transportation companies in

Nevada. He noted the contract between his company and Nevada would continue for 3 ½ more years. He asked the Board to provide more specifics pertaining to private transportation companies. He did not have a desire to obtain a security license at the current time. He said he and his company would become licensed if the Board required it. Board Member Putnam asked for Board Counsel Menicucci's recommendation. Board Counsel Menicucci said it appears the activity done by private transportation companies fell within the statutory definition for Private Patrolman license. He said the Board should provide adequate notice and time for such companies to comply with licensure. He said the legislature would need to address the issue if private transportation companies needed further statutory definition. He said the Board could take the position that private transportation companies fell under the Private Patrolman license. A regulation could be adopted. Chairman Spencer said a potential problem he saw was that a work card would be needed for every county through which the private transportation companies passed. Executive Director Ray said not all counties issued work cards. She said the Board needed to decide whether or not licensure was needed and that adequate time would need to be given to the companies to comply. Chairman Spencer said the employees of private transportation companies were armed. Board Counsel Menicucci said, because of the federal law; there was a reduced need for the state to act on the matter. The federal regulations had minimum standards in place for the private transportation companies. Chairman Spencer asked about background checks performed by the federal government, or if the private transportation companies performed those checks themselves. Board Counsel Menicucci said if any company violated federal law, fines were provided in the act, as well as restitutions. He could not attest to the effectiveness of the federal enforcement mechanisms. Chairman Spencer asked Mr. Sanzeri about the federal requirements for private transportation companies. Mr. Sanzeri said there were not a large number of private transportation companies. He said the Department of Transportation kept a close eye on the companies. He said private transportation companies followed the federal laws quite closely. The companies would produce background information, drug testing, and the like when audited. He wished to stay in business for a long time. He noted some companies could be disqualified from licensure. Chairman Spencer noted that the companies were required to maintain backgrounds checks to stay in business, but the federal government would not do the checks for the

companies. Mr. Sanzeri agreed and said the private transportation companies were their own “watchdogs” in following federal guidelines. Some of the fines were quite steep. Chairman Spencer asked if employees were hired for private transportation companies with criminal records. Mr. Sanzeri said people with misdemeanors were hired, but no felonies or misdemeanors involving spousal abuse, firearms, or weapons. Board Member Putnam referred to NRS 648.013 which defined Private Patrolman. He questioned whether the private transportation companies would actually fall under NRS 648. He said they were not protecting persons or property. Chairman Spencer said they were protecting the public. Board Member Crate said the prisoner was also being protected. He wished to ask a question of the representative of State Purchasing, but she was not in attendance. He asked about the current contracts between the private transportation companies and the State. He inquired if the dates were staggered or if all contracts expired jointly. Ms. Livermore said they were staggered. She said the first contract would expire in 2011. He said the other three expired after that. Ms. Livermore said a second company would probably expire in 2011 as well. She said 2 other contracts were newer, while 2 others were in their second year of their contracts. Mr. Sanzeri described his work experience prior to working for the private transportation company. He had peace officer experience and a fugitive recovery agent, as well as an investigator. Chairman Spencer asked if Mr. Sanzeri had read the requirements for licensure. Mr. Sanzeri said he felt he fell a little short of the required 10,000 hours, but other people in his organization would qualify. Board Member Willis said the Board did not know who else in the state had private transportation company’s contracts and how the Board’s decision would impact those groups. Executive Director Ray said State Purchasing handled those contracts. Ms. Livermore said any incidents needed to be reported to State Purchasing and the Extradition Division. She said the RFP provided for the incident reporting. Executive Director Ray asked if the RFP contained more than the standard language for contracts. Ms. Livermore said the RFP did not contain any special or specific requirements beyond the standard language. She noted the companies who held the contract must abide by state licensure. Ms. Livermore said Las Vegas Metropolitan Police Department also had a contract with private transportation companies. Ms. Livermore said her division required a majority of extradition trips. Chairman Spencer said he was unsure whether or not a regulation was needed. Board Member Crate said an effective date of 2

years could be put in place, as current companies could not be put in jeopardy. He did not want to put a Nevada-domiciled company at a disadvantage. He said the major concern of the Board was the safety of Nevada citizens. Chairman Spencer said the RFP included statements as to the need to follow licensing requirements. He noted that a new company may be unaware of the licensing requirements. Board Member Crate said the Board could choose an implementation date of 18-24 months from a chosen point in order to allow for licensure. Executive Director Ray said NAC 648.570 would apply and the bid would become null and void if a company was unlicensed. Board Member Crate said one workshop should be scheduled. Board Member Crate said if a specific entity wished to relieve the Board of responsibility, it could be written in to a regulation. Board Counsel Menicucci said no one else would oversee the matter. Mr. Sanzeri said the Board should address the matter of guard cards (firearm cards). He said it was impossible to obtain the cards, as they were not licensed. He said a motion could be made regarding the issue. Executive Director Ray said only licensees could obtain firearm cards and work cards. She said the private transportation companies should continue with the requirements already in place under the federal laws. Chairman Spencer asked for a motion to set an effective date that would not interfere with private transportation companies to pursue licensure. Executive Director Ray said it was not the Board's intention to interfere with existing contracts. Board Member Crate said Mr. Sanzeri could go to a certified firearms instructor, even though CFI cards as required by the PILB could not be issued at the present time. Board Member Crate moved that the Board acknowledges that, based on testimony and evidence presented, it has an obligation to supply oversight of private transportation companies and it is intent of the Board to enforce that regulation commencing no later than June 2010, subject to workshops and input from any impacted organization or industries to amend or modify such concerns of oversight, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which carried. Board Member Crate requested that staff advise any agency that might use the services of private transportation companies of the upcoming workshops and the intent of the Board prior to June 2010.

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

Board Counsel Menicucci noted that there several attendees in Carson City wished to speak regarding the matter. He reviewed the discussion on the topic which occurred at the previous meeting. Attorneys hired to perform workplace investigations often engaged in investigative activities. The licensing statute did not apply to attorneys-at-law in performing their duties as such. The question had been raised how the Board would determine if an attorney qualified to take advantage of not need a Private Investigator license. A further question was whether or not the Board was the proper entity to make the determination, as the Supreme Court and the State Bar of Nevada regulated the practice attorneys. Another question was what activities or conduct qualified as performing the duties of an attorney. The Board had discussed the possibility of seeking an opinion from the Attorney General. He said the Board could pursue the issuance of citations in the matter. The only advantage would be that a hearing would then take place. The option of the opinion would require 20-30 hours of work and the cost would be charged to the Board. The opinion would be persuasive, but not conclusive, which would make challenges possible. Board Counsel Menicucci raised the possibility that if an allegation was made against someone who claimed the attorney exemption, that person would be required to show proof of that claim and the authorization to perform the work in Nevada under the scope of the work done by an attorney. Board Counsel Menicucci noted that Rick Hsu was present and may wish to speak, as well as others in the audience. Board Member Putnam stated that he would recuse himself, as Mr. Hsu represented one of his family members. Board Counsel Menicucci said he spoke to David Clark, who was in charge of handling the regulation of out-of-state attorneys in Nevada for the State Bar of Nevada. Mr. Clark said the Bar would be receptive to the receipt of a claim of exemption. Board Counsel Menicucci said attorneys such as Mr. Scholick could take advantage of Rule of Professional Conduct 5.5a, which allowed people to perform transactional work in Nevada regarding workplace investigations. Chairman Spencer asked if the State Bar would provide an exemption which allowed work to be done, similar to a temporary Nevada license. Board Counsel Menicucci said the State Bar would receive reports and if a person were acting in an unauthorized

manner, the Bar would follow up on the issue. He noted that an attorney may not be aware of Rule 5.5A ahead of time. Any attorney who claimed to operate under that rule must file a report at the end of the year and explain the activities. Chairman Spencer asked if the exceptions would be common or rare concerning the State Bar. He did not want to waste time discussing the matter if it would be better handled by the State Bar. Board Counsel Menicucci said the Bar definitely had the right to regulate the issue. He could not say for certain how well the Bar would follow up on compliance. He said he would hesitate to be non-compliant in another state, as such actions could impact him in the state in which he was licensed. Chairman Spencer asked if a joint understanding could be reached with the State Bar and the PILB, which would help the Board avoid the regulation of attorneys on its own. Board Counsel Menicucci said he could not answer for the Bar. Board Member Crate said the rules of professional responsibility were not unique to Nevada. Board Counsel Menicucci said the rules were not identical, but fairly similar from state to state. He said most states had similar language as that shown in Rule 5.5A. Board Member Crate asked for clarification of 5.5A. Board Counsel Menicucci said an attorney who was not licensed in Nevada, but in good standing elsewhere, could provide legal services for a Nevada client in connection with a transactional matter that was pending in Nevada (not a court case). The State Bar deems there should be flexibility in the matter in Nevada. He said it was not a general license to practice law. Board Member Crate noted that Chairman Spencer was trying to make the point that nearly every attorney would claim exemption under 5.5A when coming to Nevada to work. Board Counsel Menicucci said such a claim would render that person subject to the rules of the State Bar, such as the filing of the end-of-year reports. Board Member Crate said there would be more potential scrutiny of anyone claiming the exemption by the State Bar, rather than the PILB. Board Counsel Menicucci said the Bar would discipline anyone who claimed the exemption, yet did not submit the end-of-year report. Board Member Crate noted such discipline would be more severe than that of the Board. Board Counsel Menicucci said he was not certain of that, and again noted the effect such discipline would have on an attorney in the state in which he was licensed. Mr. Hsu said he had spoken to the State Bar regarding the topic. He said the nature of his client's work did fall under Rule 5.5A. He said there were certain exceptions in the rule which allowed out-of-state lawyers to engage in legal work. He read a portion of the rule which stated that out-of-state

attorneys would be subject to the Nevada rules of professional conduct, and the disciplinary jurisdiction of both the Supreme Court and the State Bar of Nevada. Mr. Hsu said his client basically agreed to abide by such rules in Nevada, and was aware of disciplinary procedures and fines. Chairman Spencer said the requirements were fulfilled at the end of the year. Mr. Hsu said the filing was due January 31st of the year after the work was done. He said the advantage was that the person requesting the exemption was subjecting himself to the rules of the State Bar. Chairman Spencer said it would be difficult to learn of any attorneys who neglected to follow procedures and did not request an exemption from the State Bar. Mr. Hsu agreed and complimented the form Board Counsel Menicucci had drafted. He said anyone requesting an exemption obviously put much thought into the procedure. The goal was to have a fairly consistent set of rules across the country, hence the name Model Rules. Board Member Crate noted the PILB would be acting as a watchdog for the State Bar by using the form. Chairman Spencer noted the Board was the entity raising the objection. Board Member Crate asked Mr. Hsu if he perceived the Board was overstepping its bounds in the matter. Mr. Hsu said that was also a good point that was addressed in the claim of exemption form as written by Board Counsel Menicucci and he did not perceive it as territorial in the least. He said if a person elected not to sign the form, then that person was taking a risk of being regulated by the PILB. Board Member Crate noted that the Board would need to inform the State Bar if someone refused to sign the form. Mr. Hsu said if someone chose to not sign the form, he or she was not consenting to the jurisdiction of the State Bar of Nevada. Board Member Willis said if a person was not under the State Bar's jurisdiction at that point, then the person would be under the Board's jurisdiction. Chairman Spencer noted a citation would be levied against improper activity. Mr. Hsu said it would be the logical conclusion. Board Member Crate asked for clarification of the procedure concerning those who completed the form and the Board forwarded the information to the State Bar. He wanted to know if an acknowledgement or feedback would be provided to the Board by the State Bar. Board Counsel Menicucci noted he could not speak to how the Bar would respond in such cases. They were obliged to regulate the practice of law in Nevada. Chairman Spencer asked if Mr. Hsu could speculate how often such exemptions occurred in Nevada. Mr. Hsu said he conversed with Mr. Dave Clark, who had hired an Arizona firm to perform the same work he was doing and they would fall under 5.5 and be subject to State

Bar rules. Board Counsel Menicucci said Washoe County preferred the hiring of out-of-state attorneys for sensitive matters. He wasn't sure of the frequency of the practice. Board Member Crate asked if the reference to an out-of-state attorney also included the staff. Board Counsel Menicucci said staff could conduct interviews and act in place of the attorney and the practice was covered by the attorney's status. Chairman Spencer said that practice opened the door for abuse of the system. Mr. Hsu said the nature of the work required the experience of an attorney, as it involved investigation and expertise, making it necessary for the attorney to do the work himself. He noted the attorney would be subject to discipline, even if part of the work was done by the staff. The secretary or staff member was not able to practice law under the exemption. Chairman Spencer noted some attorneys could apply for and receive the exemption and then send over an investigator to actually perform the work. Mr. Hsu said he posed the concern to his client. His client had not "farmed out" investigation work, but hired licensed investigators where the work was performed. Many tasks could not be delegated to staff. Chairman Spencer asked Board Counsel Menicucci if it was necessary to define the form he had drafted more specifically. Board Counsel Menicucci said the form could be fine tuned. Chairman Spencer said the Board could seek an opinion from the State Bar. He was less concerned with the actions of attorneys and far more concerned with the activities of unlicensed investigators in the state. Board Counsel Menicucci said other people wished to speak.

Michael Gach stated he was licensed by the PILB and offered a letter to the Board and encouraged the Board to take action against Mr. Scholick. He noted Mr. Scholick was not licensed in Nevada as either an attorney or a private investigator. Mr. Gach said he diligently followed statutory requirements in both Nevada and California, as well as paying all fees required. He noted Mr. Scholick violated NRS 648 and NAC 648 by seeking to do business in the state, particularly Sparks and Washoe County. He said Mr. Scholick had an unfair advantage over licensees. Mr. Gach had paid a fine for not submitting a quarterly report as required by statute. He asked the Board to fine Mr. Scholick. Chairman Spencer asked what type of investigations the attorney was performing. Mr. Gach said the investigation involved the actions of the city attorney for Sparks. Mr. Gach said Mr. Ken Braunstein also wished to speak. Mr. Braunstein said his license number was 388, which he had held for more than 20 years. Mr. Braunstein described his work

experience. He said he originated the complaint against Mr. Scholick. Mr. Braunstein said he had not seen the agenda topic until that morning. He noted the justification given by Mr. Scholick was that he was an attorney who was practicing law in Nevada without a license. Mr. Braunstein noted that in correspondence sent by Mr. Scholick stated to prospective clients that he was not acting as an attorney, but as an investigator. He said all Mr. Scholick's reports stated the findings of his investigations, and the contracts stated "investigation" and not "attorney". Chairman Spencer asked if Mr. Scholick denounced his status as an attorney. Mr. Braunstein said Mr. Scholick said his opinions would not be considered legal opinions. Mr. Braunstein said he had read 14 of the contracts between Washoe County and Mr. Scholick and one with the City of Sparks. Mr. Scholick's cover letters stated he had all necessary licenses to perform the work. The person in Washoe County who hired Mr. Scholick said she accepted his claim that he had all necessary licenses required in place. Mr. Braunstein said he was hired numerous times to perform private investigative work, so that person should have known a PILB license was required. He noted Mr. Scholick had done none of the requirements to be licensed by the PILB. Mr. Braunstein then began to discuss the rules for professional conduct regarding attorney. Chairman Spencer stopped Mr. Braunstein and told him the discussion he was leading was not a part of the item on the agenda. Mr. Braunstein said Mr. Scholick had not provided any information to the State Bar. He had spoken to Mr. Scholick twice prior to the complaint he filed with the PILB. He noted Mr. Scholick was delinquent in making reports to the State Bar for the past 10 years, from 1999 to the present. He said the State Bar had not offered to launch an investigation in to the matter. Mr. Braunstein concluded by saying Mr. Scholick should be licensed as a private investigator and the Board should treat him as they would anyone who performed unlicensed activity. Board Counsel Menicucci asked Mr. Braunstein if a licensed Nevada attorney performed the same work as Mr. Scholick would need a Private Investigator license. Mr. Braunstein said absolutely not. Board Counsel Menicucci asked Mr. Braunstein if Mr. Scholick was authorized in a limited sense to practice law in Nevada, he would be in the same situation as a licensed Nevada attorney. Mr. Braunstein agreed. He then noted 5.5a(e) which noted that compliance with standards and professional conduct and subject to the State Bar. Mr. Braunstein again noted Mr. Scholick was not compliant. Board Counsel Menicucci asked Mr. Braunstein if an attorney said he had performed

work and offered conclusion, but advised his client to contact a Nevada attorney for an opinion on Nevada law. Mr. Braunstein said he thought that was different. He again noted the failure to make timely reports. Mr. Braunstein said Mr. Scholick was not acting as an attorney. Board Counsel Menicucci asked about the exemption form, which made it clear the person was under the jurisdiction of the State Bar of Nevada. Mr. Braunstein agreed. He then noted Mr. Hsu said his client would hire private investigators to do the work required by a license. Mr. Braunstein said the bills paid to Mr. Scholick did not include any payments to licensed private investigators.

Mr. Hsu thanked the Board for recognizing the agenda topic at hand. He noted his client was not present to defend himself, and to do so would be inappropriate. He appreciated Board Counsel Menicucci's questions to Mr. Braunstein. He could not rebut Mr. Braunstein's statements. He said the claim of exemption devised by Board Counsel Menicucci was reasonable. He said asking for an opinion from the State Bar would involve the same issue as asking for an Attorney General Opinion. Board Member Crate moved to follow Board Counsel Menicucci's suggestion and recommendation for the utilization of the claim of exemption form whenever there were questions of out-of-state attorneys practicing in investigatory capacities, pending his final review with Executive Director Ray. Board Member Willis seconded the motion. Chairman Spencer asked if modifications to the form to be limited to the attorney only, and not staff. Board Member Crate said he would defer to counsel and the executive director. The motion carried.

DISCIPLINARY HEARINGS:

Michael Yepko, Vegas Legal Support Services, Inc. (#988 and #988A) was present due to Complaints #1-014-07, I-012-08, I-035-08, I-037-08, and I-058-08. Acting Board Counsel Bryan Fernley-Gonzalez swore in people who wished to speak during the course of the hearing. Board Counsel Menicucci said there were five counts included in the complaints against Mr. Yepko. All complaints involved complaints against services regarding Vegas Legal Support Services, Inc. Mr. Yepko had failed to respond to the Board regarding the complaints. Board Counsel Menicucci offered a stipulation to submit to the Board after speaking with Mr. Yepko in the past few days. Board Counsel Menicucci had also contacted Lynn

Kirsch and Mr. Hanratty. If the Board accepted the resolution, a stipulation would be signed by Mr. Yepko and a formal order would be issued by the Board. Additional provisions would be included. A summary of the resolution followed. The Board would impose a fine on the respondent of \$2,500 to be paid in 5 equal installments of \$500 each beginning January 12, 2009 and ending May 12, 2009. The Board would revoke both #988 and #988A, but would stay and suspend the order of revocation on the following conditions:

1. Mr. Yepko will pay the fine in a timely fashion as set forth in the agreement.
2. Mr. Yepko will provide to the Board a written report on the status of all complaints and will provide the current status of the dispute and his position on the matter within 30 days of the Board's order.
3. Mr. Yepko will provide proof to the Board that all matters have been resolved within 6 months of the date of the order. Proof must be in writing and may consist of a written statement by the client that the matter has been resolved, a judgment or order from a court regarding the matter, or proof that the matter has been submitted to a court or arbitrator for resolution.
4. If a judgment has been issued against Mr. Yepko, he must provide proof within the 6 month timeframe that the judgment has been satisfied. If the matter is disputed by Mr. Yepko, he must provide proof that the matter has been submitted to court or arbitration and that he has physically appeared concerning the matter.
5. Mr. Yepko agreed he would not undertake asset searches during the 6 month suspension.
6. At the end of the 6 months, if Mr. Yepko has met all conditions of the suspension, the order for revocation of his license would be revoked and vacated and he would keep his license. If Mr. Yepko failed to meet any of the conditions, then the revocation would take place upon written notice to Mr. Yepko. If Mr. Yepko wished to contest or appeal the matter, he would only be appealing whether or not he met the conditions under which the Board suspended the revocation order. The individual complaints would not be revisited at that time. If any matters were not resolved during the 6 months, the Board would still be free to institute disciplinary action for failure to resolve those matters, without prejudice.

Board Counsel Menicucci said Mr. Yepko may have matters in litigation to present to the Board. The plan he had just outlined would satisfy the complaints and bring about a resolution to the matters within a limited time period. Chairman Spencer asked if Board Counsel Menicucci wished to continue or if Mr. Yepko wished to speak next. Mr. Yepko agreed to the terms set forth by Board Counsel Menicucci. Mr. Yepko had spoken to both Mr. Hanratty that day and Ms. Kirsch. Issues were occurring in his life at the time which affected his work. Those issues did not absolve him from attempting to diligently resolve the matter in the time span set forth in the agreement. He had not spoke to all the clients yet, but planned to do so soon to negotiate satisfaction and closure of the issues. Chairman Spencer asked if Mr. Yepko could satisfy all the demands if he were unable to work. Board Counsel Menicucci clarified that the Board would suspend the revocation for the 6 month period while Mr. Yepko complied with Board issues. Chairman Spencer asked about asset searches. Mr. Yepko said performing that work was what caused the problems. He did not turn down work because he needed the money desperately. Chairman Spencer said he was not interested in having Mr. Yepko speak in depth about his life issues. Mr. Yepko said he felt it was important for the Board to know his personal information. He became engaged 1 ½ years ago. His fiancé was diagnosed with Multiple Sclerosis shortly before their wedding and he became consumed with researching the disease to try to help her. He learned there is no cure for MS. He felt embarrassed by his actions with his clients. He wished to continue to fight to assist his wife and remedy the situation with his clients. He had performed over 1,300 serves and investigations during this stressful period without incident. He dealt with irresponsible people on a daily basis in the course of his work. He said he did a lot of good in his work. Board Counsel Menicucci had been quite cordial and professional in reaching the agreement. Board Member Crate asked if any of the 5 complaints were related. Mr. Yepko said they were not. Board Member Crate asked why Mr. Yepko did not respond initially to the Board when it forwarded the complaints to him. Mr. Yepko said he received the complaints in a batch and became overwhelmed. He said he had no reason why he didn't respond. Board Member Crate asked if all complainants had been contacted. Board Counsel Menicucci said he only spoke to 2 of the 5 complainants. It appeared that the terms set forth that a resolution should be available on all complaints within the 6 month timeframe. Board Member Crate asked Mr. Yepko if he was comfortable that all 5 complaints could be satisfied in

that period of time. Mr. Yepko said he was comfortable with the terms. Mr. Yepko noted he planned to refund fees to a client in Florida, but she filed a complaint instead. That complaint was the only one he felt was unfair. He did agree the other 4 were founded. Executive Director Ray said she contacted the person in Florida, who said she had not received any communication from Mr. Yepko. That woman's hearing date was set for Friday. Board Member Putnam asked if Mr. Yepko realized the seriousness of the settlement. Mr. Yepko said he realized it and had to negotiate a settlement with the complainants. It may take some time to satisfy the complainants, but he would definitely find out what the complainants wanted him to do to satisfy the complaints. Chairman Spencer asked what would happen if the other 3 complainants did not agree during the 6-month period that the complaints had been satisfied. Board Counsel Menicucci suggested that Mr. Yepko could reappear before the Board and state what he had attempted to do to satisfy the complaints. Mr. Yepko said 2 of the individuals had extremely embarrassing details in their cases. He felt that was why they were not present at the meeting. Chairman Spencer cautioned him not to divulge any sensitive information, as it could be seen as extortion. Mr. Yepko said that was not his intent. Board Member Crate said the complaints regarded the quality and quantity of work, and not disclosure or unethical behavior. Mr. Yepko said the clients told him intimate details. Board Member Crate said the complaints regarded Mr. Yepko's lack of responsiveness for the work he was retained, not confidentiality. Mr. Yepko noted he had spoken with his clients and asked what actions they wanted him to take. He was willing to work hard to satisfy each client with a mutually agreeable compromise. Mr. Yepko noted he did not have legal representation. Chairman Spencer asked the witnesses if they cared to comment. Mr. Kevin Hanratty said he was the husband of a partner in a law group. He wanted to inform the Board about the background on the issue. He provided documentation. He had worked at the District Attorney's office prior to his current job. He said when a person accepted an agreement, he hoped the judge (or Board in this case) would explain to Mr. Yepko exactly what he needed to do to satisfy the terms of the agreement in the next 6 months. Mr. Hanratty often knew the person accepting a plea could not abide by the terms of the agreement. A civil lawsuit had been filed by Henry Roberts Law Group against Mr. Yepko, which resulted in a judgment of \$2,102.50. Mr. Hanratty said attorneys were not paid fees in small claims court. He noted he had lost two hours (billable at \$275 per hour) due to his appearance at today's meeting. Mr.

Yepko's actions had far-reaching ramifications and damages, beyond the work that was not performed properly by him. Mr. Hanratty spoke to Ms. Kirsch in the hallway prior to the current discussion. He knew additional monies were involved, over and above the money paid to the law firm who won the judgment. He calculated that Mr. Yepko would need to pay a little over \$1,000 per month for the 6 month period set forth in the proposed agreement and was unsure if that was feasible. Chairman Spencer again asked Mr. Yepko if he felt he could follow the agreement. Mr. Yepko made two comments to Mr. Hanratty. He said Mr. Hanratty dealt with a different sort of people as a criminal district attorney. Mr. Yepko said he was not a criminal. The current downturn in the economy resulted in a huge upturn in his process serving business. He called into question Mr. Hanratty's assumption that he would have difficulty paying the amounts of money outlined in the agreement. Mr. Yepko said he would do anything legitimately to pay the money he owed because of his own credit and the support of family and friends. He again noted the increased business for process serving recently. Chairman Spencer told Mr. Yepko that he perceived that Mr. Hanratty was being kind to Mr. Yepko, not derogatory, by noting that the 6-month timeframe for payment may be too strenuous. Mr. Hanratty agreed. Mr. Yepko said he misinterpreted Mr. Hanratty's statements. Mr. Yepko again said he would have no problem paying the money owed. Lynn Kirsch said she was general counsel for Miracle Mile Shop and retained Mr. Yepko's services to perform asset searches. She appeared at the meeting today initially because of the issues concerning her own company and Mr. Yepko. She became even more deeply concerned by what she had heard at the meeting. She said Mr. Yepko repeatedly did not respond to clients or the Board. Her company gave Mr. Yepko multiple opportunities to return phone calls to provide updates on progress. She said Mr. Yepko was claiming today, a year later, that he had actually done the work. She said her concern deepened even further due to the discussion that had just taken place regarding Mr. Yepko's ability to pay the fees owed in 6 months. Mr. Yepko had told her in the hallway that very day that he was uncertain if he would be able to pay all the fees owed in the time allotted. She was very confused at this point. She was not asking the Board to remove Mr. Yepko's license, but she stated he should be honest from this point forward. Chairman Spencer asked Board Counsel Menicucci to reiterate the points in the agreement regarding ongoing accountability of Mr. Yepko's compliance to the terms. Board Counsel Menicucci said there was a

requirement for a 30-day report as to the status of each matter by Mr. Yepko. Also, within the 6-month period, Mr. Yepko must appear before the Board and show the resolution of each matter as set forth in the agreement. The Board could require more frequent reports by Mr. Yepko. Board Counsel Menicucci set the payment schedule monthly so any problems would be seen before the 6 months expired. Chairman Spencer said all parties involved were "bending over backwards" to assist Mr. Yepko. He said if Mr. Yepko couldn't pay the money, then a new agreement should be written. Board Counsel Menicucci explained that the reason for the 6-month timeframe was that Mr. Yepko's license was to be renewed June 30, 2009. He felt that was a reasonable time for resolution. Board Member Putnam asked what sanctions were in place if Mr. Yepko failed to file a 30-day report. Board Counsel Menicucci said if the report was not filed, the Board could revoke Mr. Yepko's licenses. Board Member Putnam asked if Board action for revocation would be needed if a report was not filed. Board Counsel Menicucci said Mr. Yepko would receive notice of the Board's action and would have an opportunity for a hearing. He said the only item Mr. Yepko could contest would be whether or not he met the conditions. Board Member Putnam said if Mr. Yepko didn't meet all the conditions of the agreement, his license would be revoked. Board Counsel Menicucci said that was correct. He noted Mr. Yepko's failure to respond to the complaints. Board Counsel Menicucci said the 30-day report would be an indicator to the Board of Mr. Yepko's responsiveness and how he was meeting the agreement's requirements. Board Counsel Menicucci said the report would be written. Mr. Yepko would receive notice of hearing if he failed to follow the terms of the agreement, including the submission of the written 30-day report. Board Member Putnam asked if the agreement could show Mr. Yepko would surrender his license for failure to comply. Board Counsel Menicucci said that was possible, but Mr. Yepko was entitled to a hearing. Board Member Crate said a compromise could be that a report could be given by Mr. Yepko at the March 2009 meeting. The Board could review the 30-day reports at that time. Board Member Willis said the complainants could also be informed of the meeting. Board Member Crate said the Board would be apprised of the actions taken by Mr. Yepko and he could learn if his compliance was satisfactory or not. Board Member Crate was less concerned about the payment of fines as the development of Mr. Yepko's providing of resolution to the complaints. Executive Director Ray asked Board Counsel Menicucci if the report was one 30-day report or

a report by Mr. Yepko every 30 days. Board Counsel Menicucci clarified that one 30-day report was required and resolution in 6 months. Chairman Spencer said he wanted to see a report every 30 days. He wanted Mr. Yepko to stay focused on the terms of the agreement. Board Member Putnam asked Mr. Yepko if he was agreeable to those terms, and he said he did not have a choice. Chairman Spencer said the request for 30-day reports resulted from Mr. Yepko's past history of not responding to complaints or Board communication. Board Member Willis moved to approve the stipulation. Board Member Willis moved to approve the stipulation agreement presented by Board Counsel Menicucci regarding Mr. Yepko, modified to include written reports must be submitted by Mr. Yepko every 30 days, and not just the first 30 days, and at the scheduled March 2009 meeting a status update would be provided by Mr. Yepko showing the progress made between the 5 complainants and Mr. Yepko. Chairman Spencer asked if Mr. Yepko could e-mail the written report. Board Counsel Menicucci said that would be acceptable. Mr. Yepko said he would fax documentation and send by certified mail. Executive Director Ray agreed that certified mail would be the best method. Board Member Putnam seconded the motion, which carried. Board Member Putnam said he had great sympathy for Mr. Yepko's situation, but he must follow the agreement fully.

Laura Seller DBA Affirmative Security (#782) was placed on the disciplinary hearing portion of the agenda with regards to NRS 648.135, NRS 648.140 and NAC 648.336. Ms. Sellers was not in attendance. Executive Director Ray told Board Counsel Menicucci she was familiar with the complaint that had been sent to Laura Sellers. The first complaint was served September 27, 2008 via FedEx. Ms. Sellers asked for a continuance on the matter and the Board granted the continuance at the October 23 meeting. Executive Director Ray sent Ms. Sellers a certified letter regarding the continuance. She had received a return receipt. Board Counsel Menicucci asked to make the return receipt a part of the record. Executive Director Ray also sent a copy of the complaint with the notice of the continuance that was granted. Board Counsel Menicucci noted Ms. Sellers had received two copies of the complaint and Executive Director Ray agreed. Board Counsel Menicucci asked if Ms. Sellers had responded in writing to answer the complaint against her. Executive Director Ray said she had not done so. Board Counsel Menicucci then

asked Investigator Murphy to speak. Investigator Murphy said he visited Affirmative Security, but was not performing a formal audit. On August 21st, Investigator Mautner and he visited Affirmative Security to obtain a valid certificate of insurance. Investigator Murphy looked at the employee work logs and client logs and he provided those documents to the Board. Investigator Murphy typically checked the PILB database to ensure that employees were properly registered during the audit process. He learned 21 employees were not registered. One person had actually been terminated with the Board. Board Counsel Menicucci asked if the discrepancies had been resolved by Ms. Sellers, but Investigator Murphy said they had not. He checked the previous day and the employees were not duly registered. Board Counsel Menicucci said the matter of the improper registration was comprised Count 1 of the complaint. Board Counsel Menicucci asked if Investigator Murphy had documentation on his findings of the problems with the employee registrations. Investigator Murphy provided a memo to the Board dated August 22 noting his comparison with the work files and the discrepancies with what was contained in the PILB database. Board Counsel Menicucci asked that the memo become Exhibit A. Investigator Murphy then presented a brief chronology regarding the problem with general liability insurance.

On August 21, it was discovered that Affirmative Security renewed their license, but had failed to provide proof of general liability insurance. Board staff had attempted to repeatedly contact Ms. Sellers about the insurance, but she never returned the calls. That prompted Investigator Mautner and Investigator Murphy to visit the business on October 21. A copy of insurance certificate was provided to Investigator Murphy from First National Insurance as the Insurer and High Country Insurance of Reno, NV as the producer. No such company could be found by staff both Carson City and Las Vegas, but no such company could be located or verified. On August 22 staff sent a letter to Ms. Sellers that she had 10 days to supply a valid certificate of liability insurance and was hand-delivered to her by Investigator Murphy at her residence. She told Investigator Murphy the issue would be resolved the next day. That did not occur. On October 17, another letter was sent to Ms. Sellers that her license was suspended due to her failure to provide proof of general liability insurance. On October 19, Scottsdale Insurance, Insurer, and Help You Save Insurance, Producer, sent a certificate of insurance to the Board with an effective date of 10-16-08. Board Counsel Menicucci asked if there was further information on the certificate. Investigator Murphy said on

October 27, he called Help You Save Insurance and spoke to Amber, the owner. Amber stated the premium payment for the policy had been returned by the bank, but it was customary for her to grant a grace period so the licensee could provide payment before Amber cancelled the policy. Investigator Murphy called on October 30 and spoke to another staff member at Help You Save Insurance. The staff member said the financing was in place and the policy was in effect. Investigator Murphy then called Amber on December 10 to verify the coverage was still in effect. Amber told him the policy had been flat cancelled by the insured. He asked her to explain the term. Amber said it meant the policy was never in effect and premiums had never been paid. Amber sent the facts to Investigator Murphy via e-mail. Investigator Murphy said he could provide that e-mail to the Board and Board Counsel Menicucci asked that it become Exhibit B. Board Counsel Menicucci then turned to the third count in the complaint regarding that Affirmative Security was actually closed at one point. Investigator Murphy explained that the business was temporarily closed by the State of Nevada Division of Business and Industry for not having Workmen's Compensation insurance in place. They learned of the lapse while investigating an employee complaint. Investigator Murphy contacted the compliance investigator and after a period of 4-5 days, Ms. Sellers was allowed to re-open her business after supplying proof that Workmen's Compensation insurance was in place. Amber had confirmed the previous day that Ms. Sellers did have Workmen's Compensation insurance in effect. Investigator Murphy believed that Affirmative Security was currently open for business. The last time he checked that the business was in operation was the first week in November. Board Member Crate asked if the August 21 letter to Affirmative Security regarding suspension for failure to provide proof of general liability insurance had been hand-delivered by Investigator Murphy. He said that was correct. Board Member Crate asked why the actual suspension took place in October. Executive Director Ray said she consulted with Board Counsel Menicucci and sent the first letter. Board Member Crate asked if Ms. Sellers could have been under the impression that her license was suspended when she did not provide proof of insurance. Investigator Murphy said during the first week of October, the workmen's compensation issue occurred. He said he thought the business was shut down at that point. Executive Director Ray agreed. Board Member Crate said Investigator Murphy

included in his notes that he became aware of the Department of Labor issue on September 10. Investigator Murphy said that was correct, and he should have stated September and not October. Board Member Crate asked if Investigator Murphy learned in September or October that there was a Workmen's Compensation policy in effect, and Investigator Murphy agreed. Board Member Crate asked if, as far as he knew, that Ms. Sellers was still operating her business, to which Investigator Murphy agreed. There was still no general liability insurance in place to the best of Investigator Murphy's knowledge. Investigator Murphy stated that Amber explained in her e-mail that Ms. Sellers told her she was ceasing operations, which was not the case. Board Member Crate asked when the last certificate of general liability insurance on file expired. Investigator Murphy said it was from High Country. Executive Director Ray said Ms. Sellers did renew her license. Executive Director Ray contacted her office and was told by a staff member that the proof of insurance would be faxed immediately. Executive Director Ray sent the license. After a period of time, she checked to see if a certificate had been sent. As it had not been sent, staff again contacted Ms. Sellers. A certificate of liability insurance was the sent by High Country, but it looked odd to Executive Director Ray. She tried to find the producer without success in Reno. An insurance company in Colorado had no record of Affirmative Security. They transferred Executive Director Ray to an office in Pasadena who also had no record of Affirmative Security. She then decided staff should not labor to find the proof of insurance and it should be provided by the licensee. Investigator Murphy said the High Desert policy showed an effective date of March 1, 2008 to March 1, 2009. Investigator Murphy said staff had been unable to prove the policy's legitimacy. Board Member Crate asked if Ms. Sellers had ever been challenged as to who initiated the certificate. Investigator Murphy said Ms. Sellers and her staff were extremely difficult to contact. They did not return phone calls and did not answer cell phone calls. The office personnel were instructed not to speak to anyone. Board Member Crate asked if staff from Affirmative Security attended Investigator Murphy's training session, but he said they had not done so. Chairman Spencer asked if Ms. Sellers was still alive. Executive Director Ray said Investigator Murphy had personally seen her. Board Member Crate wanted to make sure Ms. Sellers was aware that the hearing was being held today. He said if Ms. Sellers did have the proof of insurance, it was incumbent on her to be present at today's meeting. Investigator Murphy said he reiterated the importance

of the matter when he delivered the letter to her. He told her that her license was in jeopardy. Board Counsel Menicucci summarized the issue. He said there was adequate evidence that Ms. Sellers did not respond to the complaint she received twice. She had not corrected the first two issues in the complaint. He would withdraw the third count as it appeared she did acquire Workmen's Compensation insurance during the relevant times. He said the first two counts still held and the Board could impose whatever discipline it chose. Chairman Spencer said he was concerned that Ms. Sellers did not have a current policy. Board Counsel Menicucci said it appeared she did not have the proper liability insurance in place. Board Member Putnam stated that, based on the evidence presented at the hearing, he moved that the license of Laura Sellers DBA Affirmative Security be revoked. Chairman Spencer advised that the motion should be to uphold the citation as issued. Board Member Putnam moved to uphold the citations against Laura Sellers as issued.

Board Member Crate asked Board Counsel Menicucci to read the third count into the record, which he did. On September 10, 2008 Investigator Murphy received a phone call from Sylvia that employees had contacted her and Affirmative Security had ceased operations. Investigator Murphy went to the business and confirmed that the State of Nevada Division of Business and Industry had left a Stop Work order on the door for failure to maintain Workmen's Compensation Insurance. Affirmative Security had left a sign on the door that they were closed at the present time.

Board Member Willis seconded the motion. The motion carried.

Board Counsel Menicucci said due to a lack of responsiveness on the part of the licensee that a revocation of license would be in order. Chairman Spencer read NRS 648.175(a).

Board Member Putnam moved, based on the evidence presented and the provisions of NRS 648.175(a), to revoke the license of Laura Sellers. Board Member Willis seconded the motion, which carried.

Executive Director Ray provided an update on the new Private Investigator license exam. It was an informational item only. A local ASIS meeting was set for December 18. Approximately 15 individuals were set to take the exam voluntarily and provide feedback. The exam would be implemented in April 2009 as stated during the last meeting.

Board Member Willis moved to continue Item 23 (licensure for Mr. Van Holt) to the next meeting. Board Member Crate seconded the motion, and it carried.

Item 38 was Board comment. Board Member Putnam said he would like to make some additions to NRS 648 and provided documents for the Board's perusal and comment. Executive Director Ray asked if the polygraph association or its licensees would go before the legislature. He said they would if the Board would not do so. Executive Director Ray agreed that was probably the only option. He asked for Board input regarding his documentation.

Item 39 involved future agenda items, but there were none.

Item 40 provided the opportunity for public comment and discussion, but none occurred.

Board Member Willis moved to adjourn and Board Member Putnam seconded the motion, which passed.