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TRANSCRIPT OF A MEETING
OF THE
STATE OF NEVADA
PRIVATE INVESTIGATORS LICENSING BOARD

Thursday, December 10, 2009
9:00 a.m.

Location:
Office of the Attorney General
100 North Carson Street
Mock Court Room
Carson City, Nevada

Videoconference Location:
Grant Sawyer State Office Building
555 East Washington Avenue
Attorney General Conference Room, Suite 4500
Las Vegas, Nevada

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A P P E A R A N C E S

Board Members Present in Carson City:

James Nadeau, Acting Chairman
Richard Putnam
Mark Zane
Robert Uithoven

Also: Mechele Ray
Executive Director

Keith D. Marcher
Senior Deputy Attorney General

Tammy Whatley
Investigator

Joe Dupuis
Investigator

Jeffrey D. Menicucci
Deputy Attorney General
Prosecutor

Other Participants in Carson City:

Hal Taylor, Esq.
Carmelo Sanjuan
John Arrascada, Esq.

Board Members Present in Las Vegas via
Videoconferencing:

(None)

Also: Colin Murphy
Compliance Investigator

Stephen Jupp
Investigator

(continued...)

1 Other Participants in Las Vegas:

2 Mace Yampolsky, Esq.
3 James Thomas
4 Vickie Quinn
5 Michael Yepko
6 Kyle Hardy
7 Warren Markowitz, Esq.
8 Mariah Tucker
9 George Franco
10 Robert Clemmer

11 Participant via speaker phone:

12 David Nienbert

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1 CARSON CITY, NEVADA, DECEMBER 10, 2009, 9:10 A.M.

2 -oOo-

3 BOARD MEMBER NADEAU: Good morning. Good
4 morning, everyone in Carson City and in Las Vegas. I'm
5 calling the PI -- or Private Investigators Licensing
6 Board to order.

7 I have a couple of announcements that we need
8 to make. Number one, due to a need by the Attorney
9 General for this room, we are going to have to take a
10 break at 10:30, from 10:30 to approximately 12:30, for
11 the Attorney General to use this --

12 MS. RAY: That one.

13 BOARD MEMBER NADEAU: I'm sorry?

14 MS. RAY: That room.

15 BOARD MEMBER NADEAU: The room that you're in,
16 in Las Vegas. Because they have a press conference, and
17 that's the room that they're going to be using. So we
18 will be out from 10:30 to 12:30?

19 MS. RAY: Yes.

20 BOARD MEMBER NADEAU: Or is it 1:00 o'clock?

21 MS. RAY: 12:30.

22 BOARD MEMBER NADEAU: 10:30 to 12:30 we'll be
23 out.

24 The second announcement is that we will be
25 taking items 10, 34 and 37 right off the get-go as soon

1 as we take attendance.

2 MS. RAY: Board Member Uithoven?

3 BOARD MEMBER UITHOVEN: Here.

4 MS. RAY: Board Member Nadeau?

5 BOARD MEMBER NADEAU: Here.

6 MS. RAY: Board Member Putnam?

7 BOARD MEMBER PUTNAM: Here.

8 MS. RAY: Board Member Zane?

9 BOARD MEMBER ZANE: Here.

10 MS. RAY: And Board Chairman Spencer is absent
11 today.

12 BOARD MEMBER NADEAU: Thank you very much.

13 Okay. Let's jump right in and stake item
14 number 10.

15 Oh, I'm sorry. Mr. Menicucci, could you swear
16 in anyone that's going to be doing any testimony today.

17 MR. MENICUCCI: Could I have you all stand and
18 raise your right hands if you're going to testify or
19 give evidence before the Board today.

20 BOARD MEMBER NADEAU: In Las Vegas, also.

21 MR. MENICUCCI: Here and in Las Vegas, yes.

22 BOARD MEMBER NADEAU: Thank you.

23 MR. MENICUCCI: Thanks a lot. Do you solemnly
24 swear or affirm that the testimony you will give before
25 this Board will be the truth, the whole truth, and

1 nothing but the truth?

2 (The potential witnesses were sworn/affirmed.)

3 MR. MENICUCCI: Thank you.

4 BOARD MEMBER NADEAU: Thank you very much. All
5 right. So we'll move on from that.

6 * * * * *

7 (Items 10, 34 and 37, which were continued from
8 yesterday's agenda, were heard at this point but at the
9 Board's request were not transcribed, therefore are not
10 a part of this transcript. The meeting resumed as
11 follows.)

12 * * * * *

13 AGENDA ITEM 2

14 WACKENHUT CORPORATION

15

16 BOARD MEMBER NADEAU: All right. With those
17 items taken care of, then, we'll move to --
18 Mr. Menicucci, where do we stand on the -- I think,
19 we'll go ahead and take the Wackenhut -- we'll move to
20 today's agenda, and that is item number two, Wackenhut
21 Corporation, to discuss the use of the G4S name and
22 logo.

23 Good morning, gentlemen.

24 MR. MENICUCCI: Good morning.

25 MR. TAYLOR: Good morning.

1 MR. SANJUAN: Good morning.

2 BOARD MEMBER NADEAU: Please identify
3 yourselves for the record.

4 MR. SANJUAN: My name is Carmelo Sanjuan. I'm
5 the Senior Director of Legal Services for the Wackenhut
6 Corporation.

7 MR. TAYLOR: My name is Hal Taylor. I'm an
8 attorney in Reno, Nevada. I'm going to be assisting
9 Wackenhut today.

10 I will point out, by the way, we discovered
11 about 4:00 o'clock yesterday afternoon that you were
12 going to be here and not in Las Vegas, which for me was
13 not a big deal; I just cancelled a couple of
14 reservations. But Mr. Sanjuan, who was -- they then had
15 to scramble around and get him up here, because, of
16 course, he wanted the opportunity to talk to you face to
17 face.

18 MR. SANJUAN: M-hm (affirmative).

19 MR. TAYLOR: He came up here and discovered
20 single-digit weather.

21 MR. SANJUAN: Especially when you come from 79
22 degrees. It's too much.

23 MR. TAYLOR: Anyway, so --

24 MR. SANJUAN: But at night it's perfect.

25 BOARD MEMBER NADEAU: It's a little cold for

1 us, too.

2 MR. SANJUAN: Very nice place. Love to be
3 here.

4 BOARD MEMBER NADEAU: Thank you for taking
5 those extra steps to be here personally.

6 MR. SANJUAN: Absolutely.

7 BOARD MEMBER NADEAU: We appreciate it.

8 MR. SANJUAN: We want to make sure to.

9 BOARD MEMBER NADEAU: We'll let you go ahead
10 and proceed and explain.

11 MR. SANJUAN: Counsel.

12 MR. TAYLOR: You have before you, and I --
13 you've gotten it before. We just want to make sure we'd
14 bring copies. We've got two memoranda that we had
15 drafted and a chart. There's a memoranda which is
16 titled The Business Reasons for the Use of G4S as a
17 Brand in Nevada for Diverse Entities. I changed it
18 later to Distinct Entities.

19 You also have a second memorandum, which
20 relates to patches and badges which are proposed to be
21 used, which have copies of patches, badges,
22 identification currently being used in the state of
23 Nevada for your reference.

24 And, also, since there was some concern, as you
25 know, Mr. Sanjuan was here previously. We talked about

1 a little bit about the corporate structures. He,
2 likewise, is here for that basis. And what we have is a
3 somewhat -- a chart, which you have, which shows a
4 little bit more detail with regards to corporate
5 structures. Because I know there was some concern about
6 where pieces fit together. And Mr. Sanjuan is ready to
7 discuss those matters insofar as you need him to do
8 that.

9 And, you know, looking over the minutes, and I
10 wasn't here for those previous meetings, I know that
11 there was some concern about why, why we had these
12 various entities operating in Nevada, why we needed
13 these different entities in Nevada.

14 And what we tried to do with the first
15 memoranda, memorandum is to give you some of the
16 background with regards to that. That is, there's no
17 good business reason for having all sorts of
18 corporations and various entities working in Nevada just
19 willy-nilly for no reason at all. All of these are
20 driven by business decisions. Sometimes they're tax.
21 Sometimes they're liability. Sometimes it deals with
22 the very nature of the kind of work that they do.

23 And insofar as we've been able to -- and,
24 again, Mr. Sanjuan is familiar with a lot of issues in
25 ways that I'm not. But what we tried to show, what is

1 going on here with regard to changes in Nevada, really
2 has a larger picture. Over the last few years, there
3 have been various mergers of security and security
4 related businesses, some of which are, obviously, in
5 places like the UK and -- and other countries. But
6 you're dealing with what we've got on the ground or at
7 least interacting with Nevada.

8 But that G4S brand -- and it's important that
9 we think of it important in terms of brand. It's like
10 Sears. It's like Penney's. It's like perhaps IGT. If
11 you take a look at the corporate record in Nevada, for
12 Sears, for instance, you'll see five or six different
13 Sears entities which clearly do different things.
14 They've got the stores, yes, they've got retail stores,
15 but they also have a real estate component to that.
16 They have an insurance component to that. But, clearly,
17 they want to use Sears as the value in the use of Sears.

18 Likewise, with regards to G4S, this is a brand
19 which is being utilized for a couple reasons, one of
20 which is just for visibility, for business purposes, to
21 say these disparate elements that you may have been
22 familiar with 20 years ago are no longer disparate
23 elements. They are, in fact, a part of one entity and
24 one entity trying to create its own singular business
25 culture ethics, its way of doing business, so that it

1 can be competitive in a recently very competitive
2 market, but, also, has a clear identity, so that the
3 various components of the G4S family or the Wackenhut
4 family, depending on exactly what we're working with
5 here, have a sense of we're all on the same page, and we
6 can be on the same page, but also with regards to
7 potential clients, that they understand that G4S means
8 something. It should if we're doing our job right. If
9 we are exercising the kinds of controls that we should,
10 and I'm now talking here about professional controls and
11 professional dealings with the public and with our
12 clients, that G4S comes to stand for something in terms
13 of the quality of work that we present to our clients
14 and the quality of work that we provide for our clients.

15 And does that mean that we hope that that has
16 an advantage in terms of being competitive in this
17 competitive market? Yes, of course, we do. We hope it
18 stands for something, and the clients are going to
19 consider us as one of those, those groups of companies,
20 that they have important security work to be done, or
21 instigative work to be done, that they are going to
22 think of us as one of those companies that works on that
23 level.

24 I've gone through, you'll see it more in the
25 memo on badges and patches and that sort of thing, talk

1 a little bit about the various entities here.

2 What drove this originally was a -- was the
3 fact that Wackenhut in Nevada, which was originally
4 licensed here a long time ago -- but for certain
5 business purposes at that point, what we would like to
6 do is be able to take Wackenhut of Nevada, Inc. and in
7 an approximately 90-day period of time transfer all
8 operations over to the Wackenhut Corporation. And we
9 would then like the Wackenhut Corporation to be able to
10 utilize the G4S designation, the G4S brand.

11 That's what drove the original inquiry of staff
12 with regards to these various changes. So you know
13 where we're going eventually, that's the big piece of
14 the picture in terms of eliminating actually one entity
15 in Nevada and substituting in its place the entity which
16 in the other 49 states is the entity that provides those
17 kinds of services.

18 So rather than trying to confuse the issue, and
19 I realize it can be confusing, rather than to confuse
20 the issue, what we're really trying to do is bring
21 everything into conformity with operations across the
22 United States, essentially doing what we're doing in
23 this state as we do in other states, including states
24 which have regulatory boards.

25 What we hope --

1 BOARD MEMBER NADEAU: Can I ask a couple
2 questions?

3 MR. TAYLOR: Sure, of course.

4 BOARD MEMBER NADEAU: I think, we've all
5 probably read the memos --

6 MR. TAYLOR: Okay.

7 BOARD MEMBER NADEAU: -- and all the support
8 material. And as such, so throughout the rest of the
9 United States, as I refer to the memo, you have 49 other
10 states you now go -- that is Wackenhut Corporation, and
11 you have converted over to the G4S, G4S Wackenhut name
12 identity. Is that correct?

13 MR. SANJUAN: That's correct.

14 BOARD MEMBER NADEAU: In all other states other
15 than Nevada?

16 MR. SANJUAN: Yes, that's right.

17 BOARD MEMBER NADEAU: I wasn't here for the
18 previous discussion with regards to that. And I think
19 that's why we're back for additional discussion.

20 Robert, I don't know. Were you here for that
21 discussion?

22 BOARD MEMBER UITHOVEN: M-hm (affirmative).

23 BOARD MEMBER PUTNAM: I was here, too.

24 BOARD MEMBER NADEAU: Rather than go ahead and
25 just rehash everything --

1 MR. TAYLOR: Right, exactly.

2 MR. SANJUAN: Yeah.

3 BOARD MEMBER NADEAU: I know both Mark and I
4 have reviewed the previous minutes and your memos. I
5 don't see a lot of reason for you to have to go through
6 and just rehash this.

7 MR. SANJUAN: Sure. Thank you.

8 BOARD MEMBER NADEAU: So what's your -- do you
9 have any --

10 BOARD MEMBER PUTNAM: I have no concerns.
11 Because, again, if Wackenhut is doing business as G4S in
12 49 states, it seems to me appropriate that they should
13 be allowed to us the same name here.

14 MR. SANJUAN: Yeah.

15 BOARD MEMBER ZANE: The main concern that I had
16 was pretty much alleviated by your indication that you
17 were going under -- everything was going to become an
18 umbrella. I think, the previous position was that you
19 had a these separate licenses for separate entities.
20 And, I think, part of the confusion and part of the
21 worry was that, as your presentation is, is you want to
22 get an umbrella organization like Sears. But if you had
23 a disciplinary issue with one of your companies, we
24 would be fighting with one entity, and the umbrella
25 corporation could stand behind or other associated

1 companies could stand aside and say that was them, that
2 was a mistake that they made.

3 I think that what you're purporting to do falls
4 more into line what the other entities in the states are
5 doing. There are many entities that operate as dba's,
6 as fictitious names under the same license structure, so
7 that, ultimately, that licensee is held to answer and be
8 accountable.

9 That was the only issue that I saw. And if
10 you're going to put everything under an umbrella
11 corporation and license --

12 MR. TAYLOR: Well, not only that. Let's say,
13 for instance, Ms. Ray calls, one of the investigation
14 boards calls us up, and they say, "We've got a
15 complaint." And it's on, say, GSI. And we know it's
16 not GSI. It's -- the Wackenhut Corporation is actually
17 the proper entity that should be investigated. We're
18 going to tell you that. We're -- we're not going to
19 play games on that.

20 Again, there's no up side for us to be playing
21 those kind of technical games, because eventually it's
22 going to be figured out anyway, and then we don't have
23 any credibility with the Board.

24 So if you call us up, and we say we have a
25 complaint about -- send us the -- right, we have a

1 complaint about this incident or this situation
2 occurring at this time and in this place, what we're
3 going to do is, internally, we're going to find out
4 who -- which one of our entities was, in fact,
5 responsible for that place, that time, those duties, and
6 we're going to let you know that that's the proper
7 entity that should be investigated.

8 But, of course, we're not going to stop you
9 from investigating all the entities. You know, we don't
10 play that game, either. "Would you please look over
11 here," I mean it's not going to be like that. It's
12 going to be "This is what this entity was doing at this
13 time in this place. We think this is the entity that
14 should have been identified by whoever sent in the
15 complaint. And, by the way, here are our files with
16 regards to this incident."

17 So what we're trying to look at is a very
18 practical and pragmatic way to deal with the -- we talk
19 somewhat hypothetically and philosophically sometimes in
20 these discussions. What it really comes down to is, if
21 a member of the public has some complaint about an
22 individual working for one of our firms, can the Board
23 identify which is the proper firm and so they could ask
24 the proper questions?

25 We're with you on that. We want you to.

1 BOARD MEMBER NADEAU: So, I think, the concern
2 is if there's just an umbrella and identification or
3 badging or whatever, if it just says G4S, then that's
4 the confusion.

5 MR. TAYLOR: M-hm (affirmative).

6 BOARD MEMBER NADEAU: It's got to be G4S,
7 Wackenhut G4S compliance in an investigation or
8 something of that nature.

9 MR. SANJUAN: Yeah.

10 BOARD MEMBER NADEAU: In other words, so there
11 has to be an extension that delineates what the name --

12 MR. SAN JUAN: Right.

13 BOARD MEMBER NADEAU: -- what company. And
14 that helps us.

15 MR. TAYLOR: Sure.

16 BOARD MEMBER NADEAU: And we may get a
17 complaint that says, "G4S did this." And we have to
18 drill it down to figure out which piece of G4S.

19 Robert, do you have a --

20 BOARD MEMBER UITHOVEN: Yeah. That's exactly
21 what I would say, Mr. Chairman.

22 MR. TAYLOR: And, of course, with regards to
23 what we're doing for the Wackenhut Services Group, the
24 name doesn't even appear there, because they determine
25 what the badging is, is going to be on that. So.

1 BOARD MEMBER PUTNAM: Sir, I have a question.
2 So this is a name change, basically, it's not a doing
3 business as situation? The reason I ask that is because
4 it says here in our minutes "Furthermore, Wackenhut
5 Corporation utilizing G4S Wackenhut as a dba." Is it a
6 dba, or is it a name change?

7 MR. TAYLOR: It will be a dba. Once we are
8 allowed to do this, once we are allowed to do this, then
9 we will file the appropriate dba paperwork in all the
10 counties in which we operate. That is what we will be
11 doing. But the entities -- Wackenhut Corporation will
12 be acting as a dba. We'll do the appropriate filings at
13 that time.

14 BOARD MEMBER PUTNAM: Right. But there is a
15 dba?

16 MR. TAYLOR: Once you tell us we can do that.
17 Yeah, exactly.

18 BOARD MEMBER PUTNAM: Thank you.

19 MR. TAYLOR: Sure.

20 BOARD MEMBER NADEAU: Robert, anything else?

21 BOARD MEMBER UITHOVEN: No.

22 BOARD MEMBER NADEAU: One additional question.
23 And Wackenhut will still be the parent corporation.
24 It'll just be Wackenhut -- I know we just went through
25 this. But it'll be Wackenhut Corporation with the dba,

1 correct?

2 MR. TAYLOR: Yes.

3 MR. SANJUAN: Yes.

4 BOARD MEMBER NADEAU: As the umbrella. And,
5 ultimately, what your plan is, is to dissolve the
6 Wackenhut of Nevada Incorporated --

7 MR. SANJUAN: Correct.

8 BOARD MEMBER NADEAU: -- name and, basically,
9 change --

10 MR. SANJUAN: That's right.

11 MR. TAYLOR: That's right. We'll be moving
12 everything over.

13 BOARD MEMBER NADEAU: Okay.

14 MR. TAYLOR: And we've got -- you know, what we
15 would propose, then, with regards to badging and all
16 that is a part of the exhibits. It's Exhibit E to the
17 Wackenhut Corporation, to let you know, so that you know
18 what you'll be looking at.

19 BOARD MEMBER NADEAU: Mr. Menicucci, do you
20 have any legal issues that you see here?

21 MR. MENICUCCI: I do not.

22 BOARD MEMBER NADEAU: Thank you very much.

23 If there's no more Board questions, then we'll
24 open it up for public comment. Is there any public
25 comment in southern Nevada?

1 Seeing no one stepping forward, is there public
2 comment in northern Nevada? It doesn't look like it,
3 because we don't have anybody in the audience except
4 these two gentlemen.

5 So I'll bring it back to the Board. What's the
6 pleasure of the Board?

7 BOARD MEMBER PUTNAM: Mr. Chairman, I have a
8 motion.

9 BOARD MEMBER NADEAU: Okay.

10 BOARD MEMBER PUTNAM: That the continued use of
11 the G4S name and logo be used in the state of Nevada for
12 the Wackenhut Corporation as a dba, subject to all
13 statutory and regulatory requirements.

14 BOARD MEMBER NADEAU: We have a motion. Do we
15 have a second?

16 BOARD MEMBER ZANE: Second.

17 BOARD MEMBER NADEAU: We have a second. Any
18 discussion on the motion?

19 Seeing none, all in favor, signify by saying
20 "aye."

21 (The Board Members said "aye.")

22 BOARD MEMBER NADEAU: Anyone opposed?

23 Seeing none, no opposition, it passes four to
24 nothing. Thank you.

25 BOARD MEMBER PUTNAM: Thank you for being here.

1 MR. TAYLOR: If I could ask one question. Are
2 we, then, free to utilize the badging and the patching
3 at Exhibit E, then? I want to be sure before we do this
4 thing.

5 BOARD MEMBER NADEAU: Mr. Menicucci, do we need
6 a separate motion on that, do you think?

7 MS. RAY: Mr. Chairman, typically, badges and
8 uniforms are approved through the office.

9 MR. TAYLOR: So we'll talk with you about that?

10 MS. RAY: Yes.

11 MR. TAYLOR: All right. Thank you very much.

12 BOARD MEMBER NADEAU: Thank you. I do have to
13 say, my biggest concern is that -- that nothing is just
14 G4S. It has to be G4S Wackenhut, G4S Investigate -- or
15 Compliance and Investigation, whatever.

16 MR. SANJUAN: Yes.

17 BOARD MEMBER NADEAU: But there has to be that
18 additional --

19 MR. SANJUAN: Yeah. Sure.

20 BOARD MEMBER NADEAU: -- information on any
21 badging or patching.

22 MR. SANJUAN: Yeah. I just want to say hello
23 and good-bye. I traveled ten thousand miles just to see
24 you. I might as well shake hands with everybody. Thank
25 you, gentlemen. Thank you so much.

1 BOARD MEMBER NADEAU: All right. Thank you.

2 MR. TAYLOR: Thank you.

3 BOARD MEMBER NADEAU: Are the parties here for
4 the Thomas matter?

5 MR. MENICUCCI: I think we need to get Keith up
6 here.

7 BOARD MEMBER NADEAU: Oh, okay.

8 MR. MENICUCCI: We'll find out. Ask Colin when
9 Mr. Thomas is present in Las Vegas.

10 BOARD MEMBER NADEAU: We'll take a short break
11 while we get counsel. So we'll be in recess for
12 probably about five or 10 minutes.

13 We're waiting for additional counsel, sir. So
14 as soon as that additional counsel comes up, we'll be
15 moving right along.

16 UNIDENTIFIED MAN IN LAS VEGAS: What counsel?

17 BOARD MEMBER NADEAU: Five to 10 minutes.

18 UNIDENTIFIED MAN IN LAS VEGAS: What counsel,
19 sir?

20 BOARD MEMBER NADEAU: I'm sorry?

21 MS. RAY: Mr. Marcher.

22 BOARD MEMBER NADEAU: We need Mr. Marcher. We
23 need additional counsel for us, for the Board, to be
24 here thank you.

25 UNIDENTIFIED MAN IN LAS VEGAS: In addition to

1 Mr. Menicucci?

2 MS. RAY: Yes.

3 BOARD MEMBER NADEAU: Correct, yes.

4 UNIDENTIFIED MAN IN LAS VEGAS: Yes.

5 BOARD MEMBER NADEAU: Thank you.

6 * * * * *

7 (A break was taken, 9:42 to 9:46 a.m.)

8 * * * * *

9 BOARD MEMBER NADEAU: We're back in session.

10 So we'll be moving to our next item.

11

12 AGENDA ITEM 3

13 JAMES THOMAS, DBA JIM THOMAS & ASSOCIATES

14

15 MR. MENICUCCI: I believe, the next item
16 involves a status hearing on the matter of James Thomas,
17 dba Jim Thomas & Associates. And, I believe, Mr. Thomas
18 is represented by counsel in this matter.

19 MR. YAMPOLSKI: Yeah. It's Mace Yampolsky
20 appearing with Mr. Thomas.

21 MR. MENICUCCI: Just to refresh the Board's
22 recollection -- in fact, there's some new members --
23 Mr. Thomas had a complaint against him that involved a
24 couple of charges. One was employment of persons who
25 are not properly registered. Another had to do with

1 obtaining information on scope and criminal history
2 backgrounds that was argued or deemed to be possibly a
3 violation of disciplinary rules.

4 In our last hearing, we had proposed a
5 stipulated resolution that was not accepted by the
6 Board. It was brought to the Board's attention that
7 Mr. Thomas is facing a civil lawsuit in the federal
8 courts dealing with some of these very same issues. And
9 for that reason, it was requested that the matter not
10 proceed at this time before the Board. The Board then
11 ordered that we come back at the next hearing and give a
12 status report as to where we are in Mr. Thomas' case.

13 And I'll let Mr. Yampolsky speak for his
14 client. But, I think, the summary is that we still have
15 the federal lawsuit involving Mr. Thomas that's still
16 out there. It has not been resolved. It is my
17 understanding that Mr. Thomas and his counsel do not
18 want him to have to give testimony in this matter that
19 might prejudice his rights in the federal lawsuit.

20 Mr. Yampolsky, did I state that correctly?

21 MR. YAMPOLSKY: Yes, you stated it accurately,
22 Mr. Menicucci.

23 And to refresh the Board's recollection,
24 when --

25 BOARD MEMBER NADEAU: Pardon me. Sir, pardon

1 me just a moment. Could you identify both yourselves
2 for the record. Because we have -- we're transcribing
3 this. And I'd appreciate if you'd just introduce both
4 parties there. Thank you.

5 MR. YAMPOLSKY: Okay. My name is Mace
6 Yampolsky, M-A-C-E, Y-A-M-P-O-L-S-K-Y. I'm representing
7 James Thomas, who is sitting right next to me. And
8 that's who we are.

9 BOARD MEMBER NADEAU: Thank you very much.

10 MR. YAMPOLSKY: Yes. In the September meeting,
11 there was some discussion about continuing the hearing
12 because of the present federal lawsuit. It was
13 continued to this date. And Mr. Menicucci made a
14 statement that was, frankly, interrupted by me, saying,
15 "I'm not sure that that's a sufficient continuance."
16 And he's right. The federal lawsuit, for the record, is
17 Steven B. Quinn vs. James Thomas, an individual, Jim
18 Thomas & Associates, and other entities, Metro, the DMV,
19 and certain DMV employees.

20 I've spoken to his present counsel in that
21 matter, Ms. Marsha Stevenson, Nevada bar number 6130.
22 And because of the ongoing litigation and because
23 Mr. Thomas has not been deposed yet, it's her opinion,
24 as it is mine, that he would be irreparably prejudiced
25 if, in fact, he gave testimony today.

1 So what I would request is another continuance.
2 And, hopefully, the federal court will be resolved. And
3 then we will be able to resolve this case.

4 There was a tentative resolution between
5 Mr. Menicucci and myself, and there's been some
6 additional discussion. But because of the federal
7 lawsuit and Mr. Thomas' situation, I believe any
8 settlement at this time would be premature.

9 BOARD MEMBER NADEAU: Has a deposition been
10 scheduled or anything of that nature at this point?

11 MR. YAMPOLSKY: It has not been scheduled,
12 because Mr. Thomas' attorneys have filed motions for
13 partial summary judgment. In other words, what they're
14 saying is even if the plaintiff presents any and all
15 evidence that they have at their disposal, that they
16 still cannot prevail on their plans with certain causes
17 of action. That has not been ruled upon.

18 Once that is ruled upon -- and in federal court
19 you don't get a hearing date. The court decides when
20 the court decides. It could be two weeks. It could be
21 two months. However, after that, it will have the
22 effect of narrowing the actual scope of the lawsuit. Or
23 if it's not, not granted, it would not narrow it
24 whatsoever. And then, at that time, Mr. Thomas, I
25 believe, would be deposed.

1 And so that, that was our concern. And after
2 the deposition, I believe, the lawsuit will proceed
3 rather expeditiously. It's my understanding that some
4 of the other entities -- Court's indulgence.

5 (There was a brief discussion off the record
6 between Mr. Yampolsky and his client.)

7 MR. YAMPOLSKY: Okay. It's my understanding
8 that the DMV has been dismissed from the lawsuit, which
9 also narrows the scope. So based on that, I don't think
10 it would be in Mr. Thomas's best interest to testify
11 here today. That could irreparably prejudice him.
12 That's why I'm requesting another continuance of this
13 hearing.

14 BOARD MEMBER NADEAU: Mr. Menicucci?

15 MR. MENICUCCI: I can understand Mr. Thomas's
16 concern. I don't oppose a continuance to the next
17 meeting. But at some point, we may end up in a
18 situation where the federal lawsuit is still continuing,
19 and this Board may have to go ahead with its proceedings
20 here.

21 If the circumstances change in the federal
22 lawsuit so that he feels that he can take part in the
23 disciplinary or administrative proceedings before this
24 Board, then it makes sense that we could go ahead. But
25 we don't know when that's going to happen.

1 MR. YAMPOLSKY: And, Mr. Menicucci, as you well
2 know, the federal courts, especially in civil cases, do
3 not move forward very quickly. However, I'm cautiously
4 optimistic that if these motions for summary judgment
5 are granted, then this case could be concluded, well,
6 soon in the federal court and that which would be about
7 a year.

8 What I would request, we continue this one year
9 so we don't have to come back here like this. And I
10 would suspect and assume that that would be enough. If
11 it's not, I would understand that the Board may want to
12 proceed at that time.

13 BOARD MEMBER NADEAU: Any questions from the
14 Board?

15 BOARD MEMBER PUTNAM: I have a question for the
16 witness, Mr. Chairman.

17 If the Board grants a continuance for up to one
18 year, are you under any obligation to advise the Board
19 if it's settled prior to that time?

20 MR. YAMPOLSKY: I've discussed this with
21 Mr. Menicucci. And if, in fact, the lawsuit does
22 settle, I will inform the Board.

23 MR. MENICUCCI: I would also ask if we can get
24 a representation from Mr. Thomas and his counsel that if
25 a continuance is granted here, that they would not later

1 assert any claim that he was not given due process or a
2 speedy hearing before the Board. You know, given that
3 he's asking for a continuance, I don't think he could,
4 but I just wanted to make sure that they would not raise
5 that as any sort of defense to Board meetings in the
6 future.

7 MR. YAMPOLSKY: No, we would absolutely not do
8 so. As Mr. Menicucci knows, that in federal court, when
9 one stipulates or agrees to continue the trial date, as
10 part of the stipulation, there is a statement saying
11 that this is -- this time is excludable regarding speedy
12 trial rights.

13 And I can tell you, we're not planning to
14 assert this. Mr. Thomas would like to get this matter
15 resolved. However, in view of the situation, we are not
16 able to do so at this time.

17 BOARD MEMBER NADEAU: Mr. Marcher, I have a
18 question.

19 MR. YAMPOLSKY: And, Mr. Menicucci, if you want
20 to prepare a stipulation, I'll be happy to sign it. But
21 we do have the record here, so it may not be necessary.

22 BOARD MEMBER NADEAU: Mr. Marcher, I have a
23 question for you, and that is this. If we continue this
24 out for a year, that means that he's still licensed and
25 able to continue business as if there had been no

1 adjudication; am I correct?

2 MR. MARCHER: Right.

3 BOARD MEMBER NADEAU: And so if there was a
4 complaint that was investigated subsequent to -- I'm
5 sorry?

6 MS. RAY: I sneezed.

7 BOARD MEMBER NADEAU: Oh. If there was another
8 complaint that came down the pike, it would have to be
9 dealt with independently of this and could, would
10 then -- the gravity of that complaint and subsequent
11 discipline or action would then have to stand on itself,
12 not on the previous --

13 MR. MARCHER: Well, if during the length of the
14 continuance there was another complaint issued, it would
15 just be like any other one, where you'd get it, you'd
16 investigate it. Jeff would look into it. And, you
17 know, at that point, you could consolidate both
18 complaints and bring them forward in one hearing, or you
19 could do the penalty. And, again, if it was something,
20 you had a complaint that was, in theory, so egregious
21 during that time for the continuance, you can also issue
22 an order for a summary suspension of a license, then
23 bring it before the Board.

24 MR. YAMPOLSKY: And I agree with the Board's
25 position. If there is another subsequent independent

1 claim, obviously, the Board would have their procedures
2 to deal with that. As was set forth, it would be
3 investigated. And then, if the Board deemed further
4 action appropriate, the Board would take that action.

5 So we're not saying that this continuance is a
6 blanket statement for any and all actions that
7 Mr. Thomas may undertake during the period of the
8 continuance, only that this particular hearing be
9 continued.

10 BOARD MEMBER NADEAU: Mr. Menicucci, do you
11 have anything to add to this?

12 MR. MENICUCCI: No, nothing further. Just the
13 year, I think the year might be a little long, and the
14 Board might want to have perhaps a six-month period in
15 which Mr. Thomas comes back and at least reports on the
16 status of his federal indication.

17 BOARD MEMBER NADEAU: What's the pleasure of
18 the Board?

19 I guess, I should take public comments first.
20 Or does this, this afford public comment?

21 MR. MARCHER: It's not -- I mean you're not
22 required to take public comment on individual agenda
23 items.

24 BOARD MEMBER NADEAU: Okay.

25 MR. MARCHER: If you haven't done that to this

1 point, you don't need to do it now. You can if you want
2 to. It's up to you.

3 BOARD MEMBER NADEAU: Well, I guess, I will
4 ask, is there any public comment in southern Nevada
5 regarding this issue?

6 MS. QUINN: Yes, there is. Yes.

7 MR. YAMPOLSKY: There is an individual that's
8 indicating that she does want to make a public comment.

9 BOARD MEMBER NADEAU: Okay. Could we bring her
10 to the table so that we could hear her comment. Maybe
11 you might want to step away and let her come forward.
12 Thank you.

13 Ma'am?

14 MS. QUINN: Yes?

15 BOARD MEMBER NADEAU: Just, just to be clear,
16 this is -- we're not -- this is not the presentation of
17 the case. We're only discussing --

18 MS. QUINN: I understand.

19 BOARD MEMBER NADEAU: -- the consideration --

20 MS. QUINN: I'll make it quick.

21 BOARD MEMBER NADEAU: -- of the continuance.

22 MS. QUINN: I'll make it quick, sir.

23 BOARD MEMBER NADEAU: Okay. Thank you. And
24 please identify yourself.

25 MS. QUINN: Identify myself as Steve Quinn's

1 wife, Vickie Quinn. And I want to make public comment
2 that I don't believe Mr. Thomas should have one day or
3 six months or one year to have this held off. For over
4 16 months, he stalked my family. He made up false
5 reports about my husband being at strip clubs, being
6 around Las Vegas. He even attacked us --

7 MR. YAMPOLSKY: If she's going to make these
8 comments, I believe she should be sworn, because she's
9 testifying.

10 MS. QUINN: I am testifying.

11 BOARD MEMBER NADEAU: Ma'am?

12 MS. QUINN: I'm just going to tell you that --

13 BOARD MEMBER NADEAU: Ma'am?

14 MS. QUINN -- it's my opinion that --

15 BOARD MEMBER NADEAU: Ma'am?

16 MS. QUINN: -- six months is too long. How's
17 that?

18 BOARD MEMBER NADEAU: Ma'am, were you sworn in
19 at the beginning?

20 MR. MARCHER: We're not going to swear her in
21 for public comment.

22 BOARD MEMBER NADEAU: Okay.

23 MS. QUINN: I was sworn in.

24 BOARD MEMBER NADEAU: Okay. All right.

25 MS. QUINN: I just want to say that I think six

1 months or a year is too long. I don't think that this
2 is fair that he should be out on the streets possibly
3 doing the same thing to other people that he did to my
4 family. And I'll leave it at that.

5 BOARD MEMBER NADEAU: Thank you very much.

6 Is there anyone else out there that would like
7 to make a comment?

8 Seeing none, okay, we'll bring it back to the
9 Board. What's the pleasure of the Board?

10 BOARD MEMBER ZANE: Mr. Chairman, I'd like to
11 make a motion that we set a hearing date on the matter
12 six months -- at our next regular meeting six months
13 from now, and set that so that we hear the merits. And
14 if at such time as there's something else that creeps up
15 and causes some concern for delay, that could be
16 addressed at that time. But so that we have a time
17 limit or -- and a time frame to be here and ready to go.

18 BOARD MEMBER NADEAU: Okay.

19 BOARD MEMBER UITHOVEN: Would there be
20 agreement to -- I'm speaking on -- so was that a motion
21 for --

22 BOARD MEMBER NADEAU: We need a second in order
23 to discuss the motion. Do we have a second to the
24 motion?

25 BOARD MEMBER PUTNAM: Second.

1 BOARD MEMBER NADEAU: Okay. So --

2 BOARD MEMBER UITHOVEN: I was going to present
3 the thought of maybe at the next hearing, which would
4 be -- is the very next hearing, is that six months off?
5 The next one, the next quarterly hearing.

6 BOARD MEMBER NADEAU: Will be in March.

7 BOARD MEMBER UITHOVEN: In March.

8 MR. YAMPOLSKY: Well, now, I --

9 BOARD MEMBER NADEAU: Sir? Sir, this is Board
10 discussion.

11 MR. YAMPOLSKY: Sorry.

12 BOARD MEMBER UITHOVEN: I'm in the minority
13 here. That's fine, too. But maybe we should -- I
14 think, I would support having this on the agenda at the
15 next and getting a report at the next quarterly hearing
16 and having them come forward and giving us --
17 understanding that they can't pick a date at any moment
18 on the court proceedings, I would be more comfortable
19 hearing at our next hearing.

20 BOARD MEMBER NADEAU: Is that an amendment to
21 the motion?

22 BOARD MEMBER UITHOVEN: Yes, it is.

23 BOARD MEMBER PUTNAM: Okay. I'll withdraw my
24 second.

25 BOARD MEMBER ZANE: We would want to hear it on

1 the motion.

2 BOARD MEMBER UITHOVEN: I would like a status
3 update at the next quarterly Board hearing. And I'd
4 make a motion to have an update from Mr. Thomas or his
5 counsel placed on the agenda for the next quarterly
6 hearing.

7 BOARD MEMBER NADEAU: Would you accept a
8 friendly amendment to that effect?

9 BOARD MEMBER PUTNAM: In addition to the -- our
10 hearing is six months from now?

11 BOARD MEMBER UITHOVEN: I'm perfectly okay with
12 keeping it on the agenda in six months from now as well,
13 but I would like in March to have an update on this.

14 BOARD MEMBER ZANE: Yeah, you'll amend the
15 motion to -- for an update at the first quarterly
16 meeting in 2010 and then a hard date for a hearing on
17 the issues at hand no later than the second meeting.

18 BOARD MEMBER NADEAU: Do you accept that?

19 BOARD MEMBER PUTNAM: Yeah, second that motion.

20 BOARD MEMBER NADEAU: Accept that amendment.

21 Okay. So the motion is that we have an update in three
22 months, that we have a scheduled hearing in six months,
23 or at our second meeting in 2010. Any other, any other
24 discussion?

25 You're okay with that motion as far as the

1 amendment?

2 MR. MARCHER: Yes.

3 BOARD MEMBER NADEAU: Okay. That said, then,
4 all in favor of the motion, say "aye."

5 (The Board Members said "aye.")

6 BOARD MEMBER NADEAU: Opposed?

7 Okay. So, Mr. Menicucci, you'll get the
8 stipulation from --

9 MR. MENICUCCI: We'll prepare an order and put
10 it on the agendas.

11 BOARD MEMBER NADEAU: Okay. And, I think, his
12 attorney agreed that he would stipulate to notification
13 or whatever that was.

14 MR. MENICUCCI: I think, we're on the record
15 that there's no defense of lack of speedy hearing could
16 be raised as a result of this.

17 BOARD MEMBER NADEAU: Okay.

18 MR. YAMPOLSKY: That's correct.

19 BOARD MEMBER NADEAU: And that you would notify
20 us as soon as the -- you would notify us as soon as
21 you're -- the other legal matters are taken care of, if
22 they're prior to our previous -- our scheduled meetings?
23 Is that correct?

24 MR. YAMPOLSKY: Yes, I will do so. Now, in my
25 experience, I don't believe it's going to be concluded

1 that quickly. But I'll be happy to inform the Board if
2 that does happen.

3 BOARD MEMBER NADEAU: I'm not naive enough to
4 think that, either. But I would appreciate that. Thank
5 you very much.

6 MR. YAMPOLSKY: You're welcome.

7 BOARD MEMBER NADEAU: Okay. I think, that
8 concludes that agenda item.

9

10 AGENDA ITEM 5

11 E. DWAYNE TATALOVICH/TATALOVICH & ASSOCIATES, INC.

12

13 BOARD MEMBER NADEAU: Okay. I think, we're
14 going to go ahead and take item number five right now.
15 That's Mr. E. Dwayne Tatalovich and Tatalovich &
16 Associates.

17 MR. ARRASCADA: Tatalovich.

18 BOARD MEMBER NADEAU: I apologize for -- I'm
19 sorry?

20 MR. ARRASCADA: Tatalovich.

21 BOARD MEMBER NADEAU: Tatalovich.

22 MR. ARRASCADA: I'm John Arrascada. I'm his
23 attorney.

24 BOARD MEMBER NADEAU: Okay. Thank you.

25 MR. YEPKO: Could I say something?

1 BOARD MEMBER NADEAU: No.

2 MR. YEPKO: Members of the Board --

3 BOARD MEMBER NADEAU: I'm sorry.

4 MR. YEPKO: We're going out of order.

5 BOARD MEMBER NADEAU: And I understand that.

6 MR. YEPKO: Okay.

7 BOARD MEMBER NADEAU: I understand that. We
8 are going out of order. We are taking item five next.
9 Thank you.

10 MR. MENICUCCI: This matter was heard. We had
11 testimony and evidence presented at the September
12 hearing. It was agreed and the Court ordered that the
13 parties would submit posthearing briefs summarizing
14 their positions on the matter. We were going to
15 reconvene at this point for a decision from the Board.
16 But it appears that -- that today only, only one of the
17 Board members was actually present for the hearing of
18 the testimony.

19 And I've discussed this with Mr. Arrascada.
20 And I'm not exactly sure on his position. But the issue
21 is, first of all, to determine which Board members have
22 reviewed the transcript that was prepared and the
23 evidence that was presented, and then to determine how
24 best to reach a decision in this matter.

25 It's our position that the Board can proceed on

1 the basis of the written record. But we would need to
2 verify that the Board members have familiarized
3 themselves with that record and are prepared to proceed.

4 I might suggest to the Board that maybe the way
5 to do that would be, first of all, to determine if the
6 Board's willing to go forward on the basis of the record
7 that has been prepared and then schedule this for the
8 next hearing for a decision.

9 Mr. Arrascada.

10 MR. ARRASCADA: Yes, it's my understanding,
11 also, in speaking with Mr. Menicucci, that some of the
12 members of the Board that heard the hearing, which
13 lasted probably a couple hours, almost three hours, are
14 no longer members of this Board. And there is a
15 transcript. Obviously, that three hours of transcript
16 is lengthy, but I also believe it's comprehensive.

17 On behalf of my client, we are comfortable with
18 the Board, as now constituted, making any decisions.
19 But we'd urge that the Board members who were not part
20 of the hearing read the transcript and read it
21 completely. I'm not trying to preach in any way to you,
22 but that the transcript be read to understand the
23 entirety of the case, so that everyone receives a fair
24 shake or due process, however you want to call it, in
25 this matter.

1 MR. MARCHER: Yeah, I would -- my
2 recommendation would be for anybody who hasn't -- you
3 know, I'm kind of assuming that nobody's up to speed to
4 make a decision today with regard to the transcript and
5 the posthearing briefs. So my recommendation would be
6 continue it to the next meeting for a decision, and in
7 that interim period everybody review the evidence that
8 was submitted, the transcript, and the posthearing
9 briefs. And then be ready to come back at the next
10 meeting and make a decision on the appeal of the
11 citation.

12 BOARD MEMBER NADEAU: Any comments from the
13 Board?

14 BOARD MEMBER ZANE: That would be my
15 preference.

16 BOARD MEMBER UITHOVEN: I agree.

17 BOARD MEMBER PUTNAM: So moved.

18 BOARD MEMBER UITHOVEN: So moved.

19 BOARD MEMBER NADEAU: Okay. We have a motion
20 to continue it for our next --

21 MR. ARRASCADA: May I have your indulgence for
22 a moment?

23 BOARD MEMBER NADEAU: Yes.

24 (There was a discussion off the record between
25 Mr. Arrascada and Mr. Menicucci.)

1 MR. ARRASCADA: Thank you for your indulgence.

2 BOARD MEMBER NADEAU: Sure.

3 MR. MENICUCCI: Okay. Do you need to take a
4 vote first on this?

5 BOARD MEMBER NADEAU: On the motion?

6 MR. MENICUCCI: Then Mr. Arrascada and I have
7 one other issue to discuss.

8 BOARD MEMBER NADEAU: So we have a motion to
9 continue this to our next regularly scheduled Board
10 meeting in March. Do we have a second?

11 BOARD MEMBER UITHOVEN: Second.

12 BOARD MEMBER NADEAU: Do we have discussion on
13 the motion?

14 I have to say, I reviewed the transcripts and
15 the stuff, but the short time that I've had to actually
16 assimilate it, I would appreciate the -- I appreciate
17 the extension. So I would support that motion.

18 So all in favor, say "aye."

19 (The Board Members said "aye.")

20 BOARD MEMBER NADEAU: Opposed? No? Okay.

21 MR. ARRASCADA: For the members of Board that
22 were not part of the hearing, I believe, we,
23 Mr. Menicucci and I and the witnesses, created a
24 transcript that is readable and understandable. There
25 was no talking over one another. I believe, it's a very

1 good transcript for the Board.

2 BOARD MEMBER NADEAU: Okay.

3 MR. ARRASCADA: If we may have your indulgence
4 one more moment.

5 BOARD MEMBER NADEAU: Absolutely.

6 (There was a discussion off the record.)

7 MR. ARRASCADA: There is an issue that maybe we
8 should just highlight for the Board in that
9 Mr. Tatalovich, in the course of testifying in one of
10 these cases, performed some background checks, including
11 not only Nevada, but other locations. And that's
12 discussed in our briefs. Our position is that that
13 involved a Nevada criminal background check. And, I
14 believe, Mr. Tatalovich's position is that that was all
15 done from his location in Arizona, under his Arizona
16 license, using national data bases.

17 And we just -- and I know Mr. Menicucci. I've
18 known him since I began practicing law. And in no way
19 was he making any attempt to make an inference that was
20 not there. But the way this reads -- Mr. Tatalovich is
21 a licensed investigator in Arizona. He conducted
22 checks, as he testified. You'll see it in the
23 testimony. We just didn't want an inference or someone
24 making the inference that, oh, he must have marched into
25 courtrooms throughout Nevada to gain material or access.

1 Which would be doing practicing without a license. That
2 did not occur.

3 And we just wanted to make sure that that
4 portion was clear for the Board when you begin reading
5 and reaching your decisions.

6 BOARD MEMBER NADEAU: Okay. If I'm
7 understanding you, Mr. Menicucci, you're saying it
8 doesn't make any -- you had a different, a little
9 different --

10 MR. MENICUCCI: My view of the testimony was
11 it's not real clear exactly what Mr. Tatalovich used to
12 do his background checks.

13 BOARD MEMBER NADEAU: Okay.

14 MR. ARRASCADA: The testimony speaks for
15 itself. And if the Board wants any clarification --
16 let's say that becomes a key issue. And really I don't
17 know if it's the preeminent issue in this matter. But
18 if it becomes an issue, and the Board has further
19 discussion or questions, because perhaps maybe myself, I
20 didn't make a good enough record in asking the questions
21 to my client, perhaps we could reopen the hearing for
22 purposes of that questioning through a telephonic
23 conference, allowing him to testify from his home, from
24 his business in Arizona. That's another suggestion.

25 BOARD MEMBER NADEAU: Thank you. Then, we've

1 concluded that matter.

2 MR. ARRASCADA: Thank you for taking this
3 matter out of order.

4 BOARD MEMBER PUTNAM: Thank you.

5 BOARD MEMBER NADEAU: Thank you.

6

7

AGENDA ITEM 4

8 MICHAEL YEPKO, VEGAS LEGAL SUPPORT SERVICES, INC.

9

10 BOARD MEMBER NADEAU: All right. We'll next go
11 to item number four, Mr. Yepko. Is that correct?

12 MR. YEPKO: That's correct.

13 BOARD MEMBER NADEAU: Mr. Yepko, again, we're
14 watching the clock here. We can only --

15 MR. YEPKO: Yes, sir.

16 BOARD MEMBER NADEAU: We can only go until
17 10:30.

18 MR. YEPKO: Yes, sir.

19 BOARD MEMBER NADEAU: If then we'll have to
20 suspend, if the hearing goes past 10:30, we'll have to
21 suspend it and come back at 12:30 to go back into the
22 hearing. You understand our situation here, right?

23 MR. YEPKO: Yes, sir, I do understand.

24 BOARD MEMBER NADEAU: Thank you, Mr. Yepko.

25 MR. YEPKO: Thank you.

1 MR. MENICUCCI: I think, the purpose of
2 Mr. Yepko's appearance is to let the Board know his
3 progress on resolving the disputes with certain of his
4 clients and whether those have all been taken care of.

5 So, I think, perhaps --

6 (There was an interruption by a phone call.)

7 BOARD MEMBER NADEAU: Mr. Yepko, were you in
8 the room and were you sworn in at the time, at the
9 beginning of the meeting?

10 MR. YEPKO: Yes, sir, I was.

11 BOARD MEMBER NADEAU: Thank you very much.

12 MR. MENICUCCI: I think, the way to proceed
13 would be to ask Mr. Yepko as to the various matters that
14 were raised in his case, which of them have been
15 resolved and which of them have not.

16 BOARD MEMBER NADEAU: Okay. Mr. Yepko, do you
17 have information you'd like to provide to the Board?

18 MR. YEPKO: Yes, sir, Mr. Chairman. And I
19 promise I'll be as brief as I can. Can you hear me all
20 right?

21 BOARD MEMBER NADEAU: Yes, we can, we can hear
22 you fine. Thank you.

23 MR. YEPKO: Okay. First of all, it's been a
24 long and arduous journey. Sometimes you have to look in
25 the mirror. And there's been a lot of personal growth

1 and development that I've had to go through.

2 I accept full responsibility for my mistakes.
3 I only can say that I completely respect and admire the
4 colleagues sitting in this room behind me, who have
5 reached out to help me grow in that manner, who have
6 given me advice based on their wisdom and their
7 experience. So there's no price on that.

8 I'd also like to tell you that I've embraced my
9 critics, people who have, for whatever reason, whatever
10 agenda, have tried to destroy me. I embrace them. I
11 embrace failure. Because, I think, I'll be likely -- we
12 will fail, and many times we will succeed.

13 Additionally, I'd like to thank the Board for
14 their patience and understanding. You have authority to
15 grant discretion. You have many, many years of
16 experience and wisdom. I've come to not every one of
17 these meetings, but to several of them. And I've seen
18 several applicants, candidates try to manipulate or
19 work, shall we say con the Board. And I think the Board
20 can see through that.

21 I'm extremely thankful that you gave me the
22 extra time to take care of this. I have worked hard
23 every day to do things the right way and pay back the
24 clients and have issued them apologies.

25 Since July 1st, for the Board's information, my

1 company is my team, we have served or investigated
2 16,312 cases without incident. Now, I cannot say there
3 has not been profanity and there have not been
4 frustration, because I'm serving a wide variety of
5 cases, investigating a wide variety of cases. We're
6 encountering every personality that you can imagine.
7 And, thank goodness, the vast majority are simply silent
8 and realize they have to deal with their allegations.

9 But I have -- the only final thing I'd like to
10 say is I find out, you know, through the Board that --
11 through your authority, which I respect, there's -- it's
12 very easy to condemn and be punitive. It's very
13 difficult to help people sometimes when they need help.
14 And I'd like to thank the Board from the bottom of my
15 heart for giving me the chance to do what's right, to
16 give me the time, and for the understanding, you know,
17 that a lot of this came about when I was -- right after
18 I was married, I discovered my wife had multiple
19 sclerosis. And I made some bad decisions to try to help
20 with the medical bills.

21 And we just celebrated our anniversary on the
22 2nd. And every day, we actually celebrate our
23 anniversary.

24 So the war continues. And all I want to say is
25 thank you for your understanding and your patience.

1 BOARD MEMBER PUTNAM: Mr. -- could I have a
2 question for the witness?

3 BOARD MEMBER NADEAU: Yes.

4 BOARD MEMBER PUTNAM: Mr. Yepko, I believe, you
5 were asked whether or not you had satisfied all these
6 obligations. And I didn't hear your statement or your
7 answer to the question. Would you please answer it.

8 MR. YEPKO: I apologize. Yes, I have. I've
9 sent all the reports to Mechele Ray, Executive Director,
10 receipts.

11 My understanding, there was no one that has not
12 been taken care of. Is that correct, Ms. Ray?

13 MS. RAY: That is correct.

14 BOARD MEMBER PUTNAM: Thank you.

15 BOARD MEMBER NADEAU: I guess, Mr. Menicucci,
16 I'm thinking maybe that maybe a couple of the Board
17 members may not be totally up to speed on -- could you
18 give just some brief background on Mr. Yepko so that we
19 can get some understanding.

20 MR. MENICUCCI: There were a number of claims
21 against Mr. Yepko that involved allegations that he had
22 not adequately performed services for his clients. And
23 a number of people were very upset with him for that. A
24 stipulated resolution was reached that, basically,
25 placed him under probation and required him to report

1 back to the Board as to the resolution of certain
2 specific items.

3 I was looking at my computer. I don't have the
4 actual order in front of me. But this was a --
5 basically, a status check on that matter. I think, he
6 was given a further extension of time to get these
7 matters resolved.

8 If, in fact, he resolved these matters
9 satisfactorily to the Board, it would appear that he
10 could be released from any further supervision or
11 reports concerning this, this particular disciplinary
12 matter.

13 BOARD MEMBER NADEAU: Thank you, Mr. Menicucci.
14 All right. With that said, are there any other
15 questions of Mr. Yepko from the Board members?

16 BOARD MEMBER ZANE: Not of Mr. Yepko, no.

17 BOARD MEMBER NADEAU: Any questions of counsel
18 or --

19 BOARD MEMBER ZANE: I have a question, if staff
20 has a recommendation.

21 BOARD MEMBER UITHOVEN: I have a question for
22 Mr. Menicucci.

23 BOARD MEMBER NADEAU: In just --

24 BOARD MEMBER UITHOVEN: Oh, I'm sorry.

25 BOARD MEMBER NADEAU: Mechele, Member Zane

1 asked if staff had a recommendation.

2 BOARD MEMBER ZANE: Do you have a
3 recommendation, based upon the fact that you were pretty
4 much the head of his probation?

5 MS. RAY: Yes, he has complied with submitting
6 his reports. It did take him quite some time to get
7 everybody paid off and satisfy all the requirements of
8 the final agreement, but he did accomplish that as of
9 last week, or this week, whatever the 7th is. So.

10 MR. MENICUCCI: Is any money still owed to the
11 Board?

12 MS. RAY: No. He's paid the Board the amount
13 of the fine. And, to my knowledge, the last person that
14 was owed money received the money on December 7th.

15 BOARD MEMBER UITHOVEN: The question I had was,
16 is -- there's no operating license right now?

17 MS. RAY: There is.

18 MR. MENICUCCI: No, he's operating.

19 BOARD MEMBER UITHOVEN: He is operating.

20 MR. MENICUCCI: He may operate still.

21 BOARD MEMBER UITHOVEN: Under a probationary
22 status?

23 MR. MENICUCCI: Yes.

24 BOARD MEMBER UITHOVEN: So the option we have
25 is to deny or to remove the probationary status?

1 MR. MENICUCCI: Well, no, I think --

2 BOARD MEMBER UITHOVEN: Are there other
3 options?

4 MR. MENICUCCI: -- once he satisfied the
5 conditions, then the probationary status would be
6 lifted.

7 BOARD MEMBER UITHOVEN: Right.

8 BOARD MEMBER NADEAU: So, then, if there was a
9 motion, an affirmative motion to come from the Board,
10 how would that motion -- in what form would that motion
11 be?

12 MR. MARCHER: It can be several as you move to
13 terminate his probation.

14 BOARD MEMBER NADEAU: Okay. And, I guess, I'm
15 looking at -- there's a "reinstated," and I'm trying to
16 figure out what the "reinstated" means. If he still has
17 his license, then what would we reinstate?

18 MR. MARCHER: Nothing. Go ahead, Ms. Ray.

19 MS. RAY: I believe, it was a conditional. He
20 was not to perform certain types of investigation --

21 MR. MENICUCCI: Right.

22 MS. RAY: -- that resulted in a lot of these
23 complaints.

24 MR. MARCHER: So you would terminate his
25 probation and lift any conditions on the license.

1 BOARD MEMBER NADEAU: Okay. So that's -- okay.

2 Did that answer your question?

3 BOARD MEMBER UITHOVEN: Yes, that does answer
4 my question.

5 BOARD MEMBER NADEAU: Okay. Any more questions
6 or?

7 Okay. What's the pleasure of the Board?

8 BOARD MEMBER PUTNAM: Mr. Chairman, I have a
9 motion.

10 BOARD MEMBER NADEAU: Okay.

11 BOARD MEMBER PUTNAM: I move that Michael
12 Yepko, qualifying agent for Vegas Legal Support
13 Services, Incorporated, license number 988 and 988a,
14 have his -- having met the conditions of his probation,
15 that he be removed from probation.

16 BOARD MEMBER UITHOVEN: Second.

17 BOARD MEMBER PUTNAM: And the licenses, being
18 that he get no further conditions, the conditions of
19 that probation be absolved.

20 BOARD MEMBER NADEAU: Okay. We have a motion.
21 We have a second.

22 BOARD MEMBER UITHOVEN: Second.

23 BOARD MEMBER NADEAU: Any discussion on the
24 motion?

25 BOARD MEMBER NADEAU: All in favor of the

1 motion, say "aye."

2 (The Board Members said "aye.")

3 BOARD MEMBER NADEAU: Opposed?

4 Congratulations, Mr. Yepko.

5 MR. YEPKO: Thank you again. Happy holidays.

6 BOARD MEMBER NADEAU: All right. Continue

7 the -- please continue the hard work and --

8 MR. YEPKO: I will. Thank you again for your
9 time.

10 BOARD MEMBER NADEAU: I think, this is an
11 appropriate time for us to go ahead. It doesn't make
12 sense for us to start any additional hearings or
13 anything for eight minutes. So we will recess until
14 12:30.

15 * * * * *

16 (A recess was taken, 10:23 a.m. to 12:35 p.m.)

17 * * * * *

18 BOARD MEMBER NADEAU: All right. Let's go back
19 into -- we'll come back into session. Again, we
20 apologize for the inconvenience of the two-hour hiatus.
21 But we'll see if we can get moving right along.

22 Is Kyle Hardy or his counsel there in southern
23 Nevada?

24 MR. MURPHY: He's here, yes.

25 MR. HARDY: Yes.

1 AGENDA ITEM 29 (FROM DECEMBER 9, 2009 MEETING)

2 KYLE HARDY, DRAGON MASTER SECURITY LLC,

3 DBA INTEGRITY GLOBAL SECURITY

4

5 BOARD MEMBER NADEAU: All right. Mr. Hardy, I
6 assured you that we'd try to get you on the front of the
7 agenda. So we'll go with that now.

8 It was a closed hearing yesterday. Would you
9 like to continue that in that way?

10 MR. HARDY: Yes, sir.

11 BOARD MEMBER NADEAU: All right. Investigator
12 Murphy, could we go ahead and, then, close the -- and
13 ask public to step out in the hallway. Thank you very
14 much. I'm sure, now that everyone got comfortable.

15 * * * * *

16 (A closed session of the meeting was held, after which
17 the meeting was then opened back up to the public and
18 resumed as follows.)

19 * * * * *

20 BOARD MEMBER NADEAU: Is there anyone in
21 southern Nevada that would like to make public comment
22 regarding this application?

23 MR. MURPHY: No.

24 BOARD MEMBER NADEAU: You say no. I'll bring
25 it back to the Board. What's the pleasure of the Board?

1 BOARD MEMBER ZANE: Could I borrow the agenda
2 from yesterday?

3 BOARD MEMBER NADEAU: I'm sorry?

4 BOARD MEMBER ZANE: Could I borrow the agenda
5 from yesterday?

6 BOARD MEMBER NADEAU: 29.

7 BOARD MEMBER ZANE: Thank you.

8 Mr. Chairman, I'd like to make a motion.

9 BOARD MEMBER NADEAU: Okay.

10 BOARD MEMBER ZANE: I'd like to move that the
11 Dragon Master Security LLC, dba Integrity Global
12 Security from Las Vegas, Nevada, who's applying for a
13 corporate private patrolman license -- Kyle Hardy is
14 requesting that the Board grant him an individual
15 private patrolman license to be placed into abeyance so
16 that he may become the qualifying agent for Dragon
17 Master Security LLC, dba Integrity Global Security. The
18 corporate officers to be approved is Kyle Hardy.

19 I move that the license application on -- I
20 guess, we're here for rehearing on the matter.

21 BOARD MEMBER NADEAU: The appeal.

22 BOARD MEMBER ZANE: The appeal. That the
23 license application be denied.

24 BOARD MEMBER NADEAU: Okay. We have a motion
25 for denial. Do we have a second?

1 BOARD MEMBER PUTNAM: Second.

2 BOARD MEMBER NADEAU: We have a motion and a
3 second. Any discussion on the motion?

4 Seeing none, all in favor of the motion for
5 denial, signify by saying "aye."

6 (The Board Members said "aye.")

7 BOARD MEMBER NADEAU: And opposed?

8 No opposition.

9 Mr. Hardy, no change.

10 MR. HARDY: Thank you.

11 BOARD MEMBER NADEAU: Okay. Then, we'll move
12 back to our agenda for the 10th. I think, I've got the
13 wrong agenda.

14 MR. MENICUCCI: Mr. Wilcox, Red Koral Group.

15 BOARD MEMBER NADEAU: Then, I do have the right
16 agenda. Thank you.

17 Okay. We will now go to item six, Henry
18 Michael Wilcox.

19 MR. MENICUCCI: Five. Five?

20 MS. RAY: We already did five.

21 MR. MENICUCCI: I got the wrong --

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AGENDA ITEMS 6 AND 7

HENRY MICHAEL WILCOX OF RED KORAL GROUP
HENRY MICHAEL WILCOX OF COLLATERAL RECOVERY

BOARD MEMBER NADEAU: Okay. So we're on item six, Henry Michael Wilcox from Red Koral Group. Is Mr. Wilcox in the audience, or his -- or a representative?

MR. MARKOWITZ: I am, sir. Warren Markowitz for Mr. Wilcox.

BOARD MEMBER NADEAU: Okay. Please have a seat at the table.

MR. MARKOWITZ: Thank you, sir.

BOARD MEMBER NADEAU: Have you been sworn in, Mr. Wilcox?

MR. MARKOWITZ: I'm Markowitz. No, I have not.

MR. MENICUCCI: I believe, he's counsel for Mr. Wilcox.

MR. MARKOWITZ: Yes. Mr. Wilcox asked me to appear on his behalf.

BOARD MEMBER NADEAU: Okay. Could you please state your name.

MR. MARKOWITZ: Warren Markowitz.

MR. MENICUCCI: I need to ask Mr. -- Investigator Murphy if he could provide Mr. Markowitz

1 with the documents that we propose to use in both Red
2 Koral and the next one, Collateral Recovery.

3 MR. MARKOWITZ: Thank you.

4 And this is the first time I'm seeing these
5 documents. Would you like to move on to the next item
6 to give me an opportunity to take a look at this?

7 MR. MENICUCCI: Normally, we proceed at the
8 moment. Do you need time to look at what you have
9 there?

10 MR. MARKOWITZ: Yes. This is -- well, the
11 communication, this is the first time I've seen it. The
12 website I'm aware of, but the e-mails I'm not. So. But
13 if I could just have a moment.

14 MR. MENICUCCI: Okay.

15 MR. MARKOWITZ: Thank you.

16 (There was a pause in the meeting, 1:00 to
17 1:05 p.m.)

18 MR. MARKOWITZ: Just one moment, please.

19 MR. MENICUCCI: Sure.

20 MR. MARKOWITZ: Whenever you're ready.

21 MR. MENICUCCI: Yes. Mr. Markowitz, before we
22 go --

23 MR. MARKOWITZ: Yes, sir.

24 MR. MENICUCCI: -- there's kind of a
25 housekeeping function we need to take care of. When

1 someone appears by counsel, the rule in Nevada is that
2 counsel needs to be licensed within this state. I see
3 you've got a Las Vegas address. Could you confirm to
4 the Board that you are licensed in Nevada?

5 MR. MARKOWITZ: I am a New York state licensed
6 attorney, sir. My counsel for this afternoon that was
7 supposed to appear with me was unable, unfortunately,
8 because of the time and the fact that I blew a tire on
9 the way down here. And I can arrange to have it done at
10 another time. But I am a licensed attorney in New York.
11 Mr. Wilcox is a personal friend of mine. I know him
12 through the Cub Scouts. So I would like to continue if
13 it's possible.

14 MR. MARCHER: I don't think I'd suggest
15 continuing, counselor, because if somebody files a
16 complaint with the state bar against you for
17 participating --

18 MR. MARKOWITZ: Yes, sir.

19 MR. MARCHER: -- for participating in this
20 administrative hearing, which is the practice of law,
21 then they're going to hit you with some unlicensed
22 activity problems.

23 MR. MARKOWITZ: So would you like to continue
24 this, sir?

25 MR. MARCHER: I think that, at a minimum, we'd

1 have to continue it until you can either associate with
2 Nevada counsel or get somebody licensed by the bar to
3 represent him.

4 MR. MARKOWITZ: All right. I can have somebody
5 appear -- well, you let me know when the next meeting
6 will be, and I will have that arranged.

7 MS. WHATLEY: We're going to lose our key
8 witness if it's continued.

9 MR. MARKOWITZ: I'm sorry?

10 MS. WHATLEY: She's moving out of state.

11 MR. MENICUCCI: Oh. That's a complication. I
12 think, one of our witnesses is moving out of state.
13 That would make her unavailable for testimony.

14 MR. MARCHER: M-hm (affirmative).

15 BOARD MEMBER NADEAU: We can't condone practice
16 without a license, can we?

17 MR. MARCHER: No.

18 BOARD MEMBER NADEAU: I mean we're --

19 MR. MARKOWITZ: This is an administrative
20 hearing, though. So is there a way around this?

21 MR. MARCHER: No. In an administrative
22 hearing, even writing a letter on the behalf of a client
23 in this state is the practice of law without a license,
24 unless you're licensed here. An administrative hearing
25 in this state is quasi-judicial by nature. And you

1 clearly have to have a license to practice law to
2 represent a client in this proceeding.

3 So, you know, that said, you know, you -- you
4 know, I can't give you legal advice, obviously, but I'd
5 strongly urge you to reconsider representing this
6 person. And if the Board wants to continue it, they
7 can. But they also might want to take the testimony
8 from the person who's here now and then continue the
9 case to a later date, if it's going to be impossible to
10 achieve, to get that testimony later.

11 MR. MARKOWITZ: I have no objection to that.

12 MR. MENICUCCI: Okay.

13 BOARD MEMBER NADEAU: But if I can ask a
14 question. He can't cross-examine the witness?

15 MR. MARCHER: No, but --

16 BOARD MEMBER NADEAU: But we can listen to
17 testimony from her regardless?

18 MR. MARCHER: He couldn't cross-examine the
19 witness today, but there may be a way to get some -- you
20 know, I don't know. It's an awkward position,
21 obviously, because this isn't something we've
22 encountered before. But he's noticed. You can go
23 forward with your case to the degree you think
24 necessary, and I assume, or you can continue it and hope
25 that you can, you know, get with the witness later and

1 get her back here or get an affidavit.

2 MR. MARKOWITZ: When is the next hearing, if I
3 may ask?

4 MR. MARCHER: I think, the next one is in
5 March.

6 BOARD MEMBER NADEAU: March.

7 MR. MARKOWITZ: The next hearing date?

8 MR. MARCHER: Yeah.

9 MS. RAY: March.

10 MR. MARCHER: The problem is, obviously, with
11 the witness who's going to move out of state. So.

12 MR. MARKOWITZ: Understood.

13 MR. MARCHER: I think, it's the Court's
14 indulgence to do whatever they think is reasonable at
15 this point.

16 MR. MENICUCCI: Mr. Wilcox is not there, sir?

17 MR. MARKOWITZ: No. Mr. Wilcox is in
18 California, and that's the reason why he asked me to
19 appear.

20 BOARD MEMBER NADEAU: Is there any legal
21 requirement that he must appear, or can he be
22 represented by counsel?

23 MR. MENICUCCI: Well, he can be represented by
24 counsel, but it needs to be Nevada counsel.

25 BOARD MEMBER NADEAU: No, I -- but, so he

1 doesn't have to appear personally?

2 BOARD MEMBER PUTNAM: Mr. Wilcox.

3 MR. MENICUCCI: Yes.

4 MR. MARCHER: Yeah, he can represent himself at
5 the hearing, or he can have counsel represent him at the
6 hearing and not appear.

7 BOARD MEMBER NADEAU: Okay.

8 MR. MARCHER: But if this attorney who's not
9 licensed is unable to represent him, and he's not here,
10 then it's up to the Prosecutor if he wants to proceed in
11 his absence, because he was noticed properly, or if you
12 want to continue it.

13 BOARD MEMBER UITHOVEN: Mr. Chair, why don't we
14 see if we can get the testimony today of the witness,
15 and, obviously, as thorough questioning as capable
16 today, and consider that as we perhaps get the rest of
17 this on the agenda for March.

18 MR. MENICUCCI: Yeah. We will have it
19 transcribed. I can do a direct examination of our
20 witness who's leaving the state.

21 I would also ask, when you get the witness
22 here, if she could make herself available by telephone
23 if there's a continued hearing. That might be an
24 acceptable means of allowing cross-examination.

25 BOARD MEMBER UITHOVEN: Yeah.

1 BOARD MEMBER NADEAU: Okay. Would you suggest
2 that that's the way we want to go?

3 MR. MARCHER: That's fine.

4 BOARD MEMBER NADEAU: Okay. Okay. Do you need
5 to -- do you need to call other witnesses prior to her
6 or to --

7 MR. MENICUCCI: No. I think, I can just
8 probably proceed with the one witness.

9 BOARD MEMBER NADEAU: Okay.

10 MR. MENICUCCI: And this would be for the
11 purpose of preserving her testimony and getting it
12 recorded so that we can consider it at the next Board
13 meeting.

14 BOARD MEMBER UITHOVEN: Yeah.

15 BOARD MEMBER NADEAU: Proceed.

16 MR. MENICUCCI: Is our witness, Ms. Tucker,
17 available?

18 MS TUCKER: Yes, sir, I'm here.

19 MR. MARKOWITZ: Thank you.

20 MR. MENICUCCI: Ms. Tucker, have you been sworn
21 to testify in this case earlier?

22 MS. TUCKER: Yes, sir.

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M A R I A H T U C K E R,

having been duly sworn/affirmed by the Prosecutor,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MENICUCCI:

Q. Could you please state your name for the
Board.

A. Mariah Tucker.

Q. Could you tell me how -- do you know Mr. Henry
Michael Wilcox, and how did you meet him?

A. I don't know him. I applied for a job on
Craigs List for a maritimes, but a contract specialist.
And he sent me the application via e-mail, told me to
fill it out and meet him at Starbucks on Eighth Street
and Buffalo for my interview. And that was the first
time I'd ever had any associations with him.

Q. Okay. And so did you actually go and meet him
there?

A. Yes, sir. I don't recall the date, but I did
meet him. And I brought the application. I had it
filled out, but I refused to give it to him at that
time, because I was still -- I've done maritime contract
specials before, and I could tell that his website
wasn't legit per se. It just didn't look right to me.

1 And the application that he'd asked me to fill
2 out also came with a contract stating that I needed to
3 give him power of attorney for 60 months over my bank
4 accounts and things like that. So that was another red
5 flag that came up to me.

6 So when he asked me for the application, I told
7 him that I wanted to see my resume` that I submitted to
8 him. And at that time, he pulled out the resume` that
9 I'd submitted to him. And I noticed that the boss that
10 I was currently working for was not on my resume`, but
11 he had it pen-written on my resume`. So he'd actually
12 filled it out and was inquiring about my current
13 employer's like business. So that was another red flag
14 to me, that that was not the resume` that I submitted to
15 him.

16 Q. M-hm (affirmative).

17 A. So I kind of at that point said, "I'm not
18 really interested in working for you. I don't feel
19 that" -- I said, "Do you have a business license in
20 Las Vegas?" And he said, no, he's licensed in the
21 Dominican Republic. And I said, "Well, then, my
22 license, I cannot work for you."

23 So then, when I got home, I wanted to show my
24 friend, you know, the website that I was looking at,
25 because he's licensed here in Nevada. So there is no

1 business license number on his website. Well, then I
2 went to look at the website. I noticed my name was on
3 his website, with a phone extension and an e-mail
4 address.

5 Q. Okay.

6 A. I never gave him authorization to use my name
7 on his website. I told him I was not going to work for
8 him. So I did some more research on him. I called the
9 extension on that website and actually rang to a number,
10 then to my cell phone. So he somehow linked my cell
11 phone number to this website of his.

12 And, then, so I called him at that point. I
13 said, "Why is my name on your website? I just had an
14 interview with you 15 minutes ago." And he stated to
15 me, "Well" -- he said that I had a conditional offer
16 when I submitted my application. I never gave him an
17 application. He had no information on me whatsoever,
18 except my resume`. I asked him to remove it. He did
19 not.

20 At that point, I called, you know, my friend,
21 my employer, and he said, "I'll call the board and see,
22 you know, I'll call the investigators and see what they
23 know of him or his license."

24 And that's how this all came about.

25 Q. Okay. Who is your friend?

1 A. It's Frank McGann. He's here.

2 Q. Mr. McGann is a licensed private investigator;
3 is that right?

4 A. Yes, sir.

5 Q. Did you make contact with an investigator for
6 the Private Investigators Licensing Board?

7 A. I did -- they actually contacted me. Because I
8 didn't know who to call here. So, actually, I contacted
9 Metro Police Department. Because Mr. Wilcox stated that
10 he was a -- currently a police officer in Yuma, Arizona
11 and licensed in Las Vegas. So I had made some phone
12 calls, and they said that I needed to call, that that
13 was not true, that he was not a police officer, and that
14 I needed to contact the state. So that's when I
15 contacted Frank to see who do I need to contact exactly.
16 And that's when Ms. Whatley contacted me.

17 Q. So that would be Tammy Whatley, the
18 investigator?

19 A. Yes, sir.

20 Q. Did you provide Ms. Whatley with some
21 documentary or written evidence in this matter?

22 A. Yes, sir. E-mails. I sent her the copy of the
23 application that he sent me and a copy of the power of
24 attorney for the 60 months.

25 MR. MENICUCCI: Okay. Investigator Murphy, do

1 you have another copy of the documents that we were
2 going to use?

3 MR. MURPHY: I do.

4 MS. TUCKER: Thank you. Okay. Yes. Yes.

5 BY MR. MENICUCCI:

6 Q. In this packet, I'm asking you to look at the
7 one involving Red Koral Group.

8 A. Okay.

9 Q. If you would turn down and find what we've
10 marked as Exhibit E.

11 A. No, see if it's back here.

12 Okay. I found it, sir. Thank you.

13 Q. Thanks. Could you tell the Board, is this a
14 communication from you to Tammy D. Whatley?

15 A. Yes, sir.

16 Q. Okay. And did you enclose some additional
17 information with that?

18 A. Yes, sir. I sent the release of info and the
19 application.

20 Q. Okay.

21 A. As an attachment.

22 Q. Would you turn down to the next few pages in
23 that same exhibit.

24 A. Okay.

25 Q. Do you see -- the applicant's release of

1 information, is that what you provided?

2 A. Yes, sir. That's where it states I have to
3 give him 60 months of power of attorney.

4 Q. Okay. And he would have access to your
5 financial records and other matters; is that right?

6 A. Yes, sir, control over my whole life pretty
7 much, my job, everything, yeah.

8 Q. And the next document is an employment
9 application?

10 A. Yes.

11 Q. And he provided that to you, Mr. Wilcox did?

12 A. Yes, sir.

13 Q. And you never filled that out, correct?

14 A. I did, but I didn't turn it in to him.

15 Q. Okay. All right. And, I think, that's about
16 three pages. And then the next page looks like a
17 printout from a website.

18 A. Yes. That's where he added my name and a phone
19 extension.

20 Q. Okay. And it says "Mariah Tucker, Director of
21 U.S. Operations, Extension 708"?

22 A. Yes, sir.

23 Q. And you never authorized Mr. Wilcox to use your
24 name in connection with his business?

25 A. No, sir, not at all.

1 Q. Okay. He never hired you, correct?

2 A. No, sir.

3 Q. And he never paid you anything, right?

4 A. No, sir. I refused to work for him, so that
5 wasn't an option.

6 Q. When he was discussing employment with you, did
7 he indicate that he had a Las Vegas office?

8 A. Yes, he did. He said it was over off Azure
9 Street. Which I was unfamiliar with that area. When I
10 did research on my own, I did find out this was a drop
11 box location. And so that was another flag to me. But,
12 yes, he said that he did, but he didn't have a business
13 license in Las Vegas, he was -- he was licensed through
14 the Dominican Republic.

15 Well, I had no knowledge that he couldn't do
16 business here. I didn't know that. So that's why I
17 went to someone else who would know that.

18 Q. Okay. And that was Mr. McGann? That was
19 Mr. McGann that you consulted?

20 A. Yes. Yes.

21 MR. MENICUCCI: I have no further questions for
22 this witness. I will offer the Exhibit E, which she's
23 identified, and the attachments, as the first exhibit in
24 this matter, and I'd like to have that in the record for
25 now.

1 And then, I think, we can offer the Board the
2 opportunity to ask the witness questions on this matter.

3 BOARD MEMBER NADEAU: Could we see the exhibit?

4 MR. MENICUCCI: Yes.

5 BOARD MEMBER NADEAU: Okay. Does any Board
6 member have a question of our witness at this time?

7 MS. TUCKER: Sir, I'm sorry?

8 BOARD MEMBER NADEAU: No, I was just asking the
9 Board if they have any questions of you, Ms. Tucker, at
10 this time.

11 MS. TUCKER: Oh, okay.

12 (There was a long pause in the proceeding.)

13 BOARD MEMBER NADEAU: I have no questions of
14 the witness. Does any member have a question of the
15 witness?

16 BOARD MEMBER UITHOVEN: No.

17 BOARD MEMBER ZANE: I have one.

18 BOARD MEMBER NADEAU: Mr. Zane.

19 BOARD MEMBER ZANE: I was just curious if you
20 could give me a description of this individual.

21 MS. TUCKER: Yes, sir. He's -- I guess, he's
22 probably -- I'm not quite sure on the height, maybe
23 five 11. About 250, 300 pounds, I guess. He's a big
24 guy. Balding, brownish hair. He didn't have facial
25 hair when I saw him. Dresses very unprofessionally. He

1 was -- the date for my interview, he showed up in holey
2 shorts and a T-shirt with holes in it, with a concealed
3 gun under his shirt. He was wearing a ball cap and was
4 pretty dirty. He did not look at all like he owned a
5 business, whatsoever, any kind of business.

6 BOARD MEMBER ZANE: Thank you.

7 MS. TUCKER: You're welcome, sir.

8 BOARD MEMBER NADEAU: About how old would you
9 say he was?

10 MS. TUCKER: Um, he is 40, probably in his mid
11 40s, I guess.

12 BOARD MEMBER NADEAU: Thank you.

13 MS. TUCKER: You're welcome.

14 BOARD MEMBER NADEAU: Any other questions?

15 BOARD MEMBER UITHOVEN: If need be, Mr. Chair,
16 I -- you know, if there's -- obviously, staff will be
17 able to keep in touch with Mariah, and if there's need
18 in March to have her, if appearing is not possible,
19 available by phone. I think, it would be great if we
20 could, if need be, have maybe further clarification,
21 just open lines of communication. I'd like to certainly
22 encourage that in case something comes up in March that
23 is unforeseen where we might need to follow up with her.

24 And I don't know if -- not having been in a
25 Board meeting before where we've needed a conference

1 call, is that capability available to us?

2 MR. MENICUCCI: Yes.

3 BOARD MEMBER NADEAU: We do have that
4 capability.

5 BOARD MEMBER UITHOVEN: Okay.

6 BOARD MEMBER NADEAU: Mr. Menicucci, has she
7 identified the picture of -- in a case of this nature,
8 we have -- I'm just kind of going off of member Zane's
9 comment. Typically, we have both the witness and the
10 person who is --

11 MR. MENICUCCI: Yeah. I'm pretty sure she has,
12 but I don't have anything in the file with me right at
13 the moment, because I wasn't prepared for this
14 development. But.

15 BOARD MEMBER NADEAU: Right. Okay. I think,
16 we'll just ask the question maybe.

17 MR. MENICUCCI: Let me do this. Investigator
18 Whatley, I think, we do have a photo somewhere.

19 MS. WHATLEY: I'm looking through my files.
20 But I may have left it at the office.

21 MR. MENICUCCI: Yeah. What I'd like to do at
22 this point is have the Board admit Exhibit E in this
23 matter.

24 BOARD MEMBER NADEAU: Okay.

25 MR. MENICUCCI: And if there are no further

1 questions for this witness, I do have one other matter
2 that I wanted to ask her about before we let her go.
3 And that's a related matter involving Mr. Wilcox. It's
4 the Collateral Recovery Specialists matter.

5 BOARD MEMBER NADEAU: I guess, as a matter of
6 process, it's just we accept Exhibit A?

7 MR. MENICUCCI: Yes.

8 BOARD MEMBER NADEAU: Okay. So it's accepted.

9 MR. MENICUCCI: Investigator Murphy, have you
10 shown the witness the related matter revolving
11 Collateral Recovery Specialists?

12 MR. MURPHY: Yes, she has it in front of her
13 now.

14 BY MR. MENICUCCI:

15 Q. Ms. Tucker, did you become aware of another
16 business being operated by Mr. Wilcox?

17 A. Yes, sir, and that was kind of a concern I had
18 as well. He had gotten -- he was carrying two different
19 badges on him. One looked like a police badge. The
20 other one looked like a repossession badge, like an
21 actual physical badge. And I questioned him on why he
22 had two different badges. That's when, of course, he
23 told me that he was a certified police officer. And
24 then the other one was that he was a repossession agent,
25 and he owned a business here and in California.

1 So the concern I -- you know, he also has
2 another business. I'm sure it's irrelevant to this
3 case. But it's a porn business here in Las Vegas. I
4 believe, I forwarded that to Tammy Whatley as well. I
5 mean this -- he has several businesses under his name.
6 I'm not sure all of them. But.

7 I don't know much about the recovery. All he
8 told me was that he works here in Vegas, between here
9 and California, he does transportation of vehicles that
10 they repo and other assets and property. That was all I
11 was told.

12 Q. Okay. So just so the Board understands, did he
13 tell you that he repossesses vehicles in the state of
14 Nevada?

15 A. Oh, yes, sir. Yes.

16 Q. Okay. Did you run across the name of
17 Collateral Recovery Specialists as his business?

18 A. No, I did not.

19 MR. MENICUCCI: Okay. I have no further
20 questions on this matter. Does the Board have questions
21 of the witness for Collateral Recovery Specialists?

22 BOARD MEMBER PUTNAM: No.

23 BOARD MEMBER ZANE: No.

24 BOARD MEMBER NADEAU: If we had a photo, would
25 that be the appropriate --

1 MS. WHATLEY: I'm obtaining one now.

2 BOARD MEMBER NADEAU: Oh, okay. If we had a
3 photo, would it be appropriate to --

4 MR. MENICUCCI: It would be appropriate to see
5 if she can identify it.

6 BY MR. MENICUCCI:

7 Q. I'm going to ask if -- if I could ask,
8 Ms. Tucker, first of all, would you remain in contact
9 with the Board so that we could reach you for the
10 purposes of possibly getting you on the phone when this
11 matter is continued in March?

12 A. Yes, sir. I'll be stepping overseas for
13 approximately maybe a month or two. If I do do that, I
14 will -- I have Tammy Whatley's number still. I will
15 contact her. Because I will be changing my phone
16 number. I'm just kind of hoping that Michael Wilcox
17 doesn't have access to any of my information.

18 Q. Okay. I'm not asking you to give it in public
19 here, but I just need to make sure that we can keep in
20 contact with you.

21 A. Yes, sir, I will give Tammy Whatley my other
22 number, so I will sure do that.

23 MR. MENICUCCI: Okay. I'd appreciate that.
24 And if I could ask you to stay just for a few minutes
25 until we can find a photograph that you can identify.

1 MS. TUCKER: Yes, sir.

2 MR. MENICUCCI: I'd sure appreciate it.

3 MS. TUCKER: Sure. Of course.

4 MS. RAY: (After a photograph was brought into
5 the meeting) Why don't we just hold it up to the --

6 MR. MENICUCCI: We can try that.

7 Ms. TUCKER: I can get closer, too. I can get
8 closer.

9 BOARD MEMBER UITHOVEN: Let me know if you can
10 see that.

11 MS. TUCKER: Yes, sir, that's him. Yes, sir.

12 BY MR. MENICUCCI:

13 Q. That's Mr. Wilcox?

14 A. Yes, that's him with facial hair.

15 MR. MENICUCCI: Okay. I would ask that that be
16 designated and admitted as an exhibit in both matters.
17 And just for -- to make sure we don't duplicate any
18 letters, let's call it Exhibit X.

19 BOARD MEMBER NADEAU: Okay. So admitted.

20 MR. MENICUCCI: All right. I think, that
21 concludes my questions. If there's none from the Board,
22 we can allow the witness to go on the way.

23 BOARD MEMBER NADEAU: No, no additional
24 questions from the Board. So at this point, then, we
25 just -- we'll terminate this hearing?

1 MR. MENICUCCI: Yes, continue it to the next
2 Board meeting.

3 BOARD MEMBER NADEAU: Okay.

4 MS. TUCKER: Okay. Thank you.

5 MR. MENICUCCI: Thank you, Ms. Tucker. I
6 apologize for the delays today.

7 MS. TUCKER: Oh, that's okay. Have a good day.

8 MR. MURPHY: Excuse me, Mr. Chairman.

9 BOARD MEMBER NADEAU: Hello? Yes?

10 MR. MURPHY: This is Investigator Murphy. I
11 just want to -- I'm sorry for the interruption. I have
12 a question for Mr. Menicucci.

13 As far as the attorney from New York, can he
14 keep the exhibits, or should they be given back to me?

15 MR. MENICUCCI: He may keep them.

16 MR. MURPHY: Okay.

17 MR. MARKOWITZ: Thank you. Oh, and I will get
18 the letter of association to resolve this problem for
19 you by the next meeting, sir.

20 MR. MENICUCCI: Thank you, sir.

21 MR. MURPHY: Thank you.

22 MR. MARKOWITZ: Thank you.

23 MR. MENICUCCI: I think, there should be a
24 motion to continue these matters until the next meeting.

25 BOARD MEMBER NADEAU: Okay. Then, I guess, I'd

1 accept a motion. Do we have a motion to continue?

2 Counsel, if we don't have a motion to continue,
3 what is our position?

4 MR. MARCHER: You don't have a motion to
5 continue?

6 BOARD MEMBER NADEAU: Correct.

7 MR. MENICUCCI: I think that we proceeded on
8 the basis that we'd take the one witness to preserve her
9 testimony, then continue the matter until the next
10 meeting.

11 MR. MARCHER: So they could get counsel with a
12 license. In all fairness, we should probably continue
13 it.

14 BOARD MEMBER ZANE: Then, I'll make a motion to
15 continue.

16 BOARD MEMBER PUTNAM: I'll second.

17 BOARD MEMBER NADEAU: Okay. We have a motion
18 it and a second. Any discussion on the motion?

19 Seeing none, all in favor, say "aye."

20 (The Board Members said "aye.")

21 BOARD MEMBER NADEAU: Opposed?

22 MS. RAY: What about number seven?

23 BOARD MEMBER NADEAU: Item seven on the --
24 which is the Collateral Recovery.

25 MR. JUPP: Mr. Chairman?

1 BOARD MEMBER NADEAU: Yes?

2 MR. JUPP: Investigator Jupp here. Are we
3 through with number six, the Wilcox matter?

4 BOARD MEMBER NADEAU: Yes. We just voted. We
5 just voted on number six to continue it till our next
6 meeting. And we are now proceeding with number seven,
7 which is also associated with Mr. Wilcox.

8 MR. JUPP: Okay.

9 MR. MENICUCCI: I would ask for the same
10 treatment on the Collateral Recovery citation.

11 BOARD MEMBER NADEAU: Then, I would entertain a
12 motion, the motion, a similar motion as we had on number
13 six.

14 BOARD MEMBER PUTNAM: I move, Mr. Chairman,
15 that item seven be continued until the next regularly
16 scheduled meeting of this Board.

17 BOARD MEMBER UITHOVEN: Second.

18 BOARD MEMBER NADEAU: And a second. Any
19 discussion on the motion?

20 Seeing none, all in favor say "aye."

21 (The Board Members said "aye.")

22 BOARD MEMBER NADEAU: Opposed?

23 BOARD MEMBER ZANE: No.

24 BOARD MEMBER NADEAU: We have one opposed,
25 Mr. Zane?

1 BOARD MEMBER ZANE: I oppose this one.

2 MS. RAY: You oppose this one?

3 BOARD MEMBER ZANE: Yes.

4 MS. RAY: You seconded the other one?

5 BOARD MEMBER ZANE: I opposed the other one.

6 MS. RAY: Okay.

7 BOARD MEMBER NADEAU: Three to one. Okay. So

8 we've now finished with number six and number seven.

9 We'll proceed with number eight.

10 MR. MENICUCCI: Yes.

11 BOARD MEMBER NADEAU: George Franco,

12 Investigative Services Corporation.

13 MR. MENICUCCI: Mr. McGann is released as a
14 witness, too, if he's still there.

15 Thank you for appearing, even though we
16 couldn't use you today.

17 BOARD MEMBER UITHOVEN: Mr. Chairman, I've got
18 to leave.

19 BOARD MEMBER NADEAU: Okay.

20 BOARD MEMBER UITHOVEN: So you still have a
21 quorum?

22 BOARD MEMBER NADEAU: Yes, we still have a
23 quorum.

24 BOARD MEMBER UITHOVEN: Thank you.

25 BOARD MEMBER NADEAU: Have a safe drive and a

1 safe return.

2 BOARD MEMBER UITHOVEN: Thank you.

3

4 AGENDA ITEM 8

5 GEORGE FRANCO OF INVESTIGATIVE SERVICES CORPORATION

6

7 BOARD MEMBER NADEAU: Could you identify
8 yourself, please.

9 MR. FRANCO: Yes, sir. George Franco.

10 BOARD MEMBER NADEAU: Thank you, Mr. Franco.
11 Were you here earlier this morning when the witnesses
12 were sworn?

13 MR. FRANCO: Yes, sir.

14 BOARD MEMBER NADEAU: So you did swear in?

15 MR. FRANCO: Yes, I have.

16 BOARD MEMBER NADEAU: Thank you. All right.
17 Mr. Menicucci, proceed.

18 MR. MENICUCCI: As the first order of business,
19 Investigator Murphy, could you please provide a copy of
20 all the documents in the Franco case to Mr. Franco.

21 MR. FRANCO: Thank you.

22 I've reviewed the documents.

23 MR. MENICUCCI: All right. Do you have any
24 objection to the admission of any of them, Mr. Franco?

25 MR. FRANCO: No, sir, not at all.

1 MR. MENICUCCI: Okay. I would move exhibits A
2 through E in evidence, which I'll now provide to the
3 Board.

4 MR. FRANCO: Okay.

5 MR. MENICUCCI: And my first witness will be
6 Investigator Whatley.

7 MR. FRANCO: Yes.

8 BOARD MEMBER NADEAU: Okay. So documents A
9 through E have been accepted for submission as evidence.

10

11 T A M M Y W H A T L E Y,
12 having been duly sworn/affirmed by the Prosecutor,
13 was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. MENICUCCI:

17 Q. Ms. Whatley, you took the oath earlier this
18 morning, correct?

19 A. Yes, I did.

20 Q. First of all, will you identify yourself and
21 your role with the Board, please.

22 A. My name is Tammy Whatley. I'm the sworn law
23 enforcement officer investigator for the Private
24 Investigator's Licensing Board.

25 Q. Looking at Exhibit A, is that a citation that

1 you issued in this case to Mr. Franco?

2 A. Yes, it is.

3 Q. Can you tell me what caused you to issue the
4 citation which is Exhibit A?

5 A. The Private Investigators Licensing Board
6 received a complaint of alleged unlicensed activity for
7 advertising.

8 Q. Okay. That Mr. Franco was doing?

9 A. His company, Investigative Service Corp.

10 Q. Okay. And did you investigate that matter?

11 A. Yes, I did.

12 Q. What did you do?

13 A. I actually -- the fax was of a phone book. And
14 I called the number listed in the phone book and --

15 Q. Okay. Let me stop you there.

16 A. Okay.

17 Q. I have a copy of the phone book page that I
18 believe you may have used. We've called it Exhibit C.

19 A. Yes, that is what I used.

20 Q. Is that the page?

21 A. Yes, sir.

22 Q. And you called the number for Investigative
23 Service Corp.?

24 A. Yes, that's correct.

25 Q. And that would be 474-0910?

1 A. Yes.

2 Q. Go ahead, please.

3 A. And when I called that number, they answered
4 the phone Investigative Service Corp. I asked if there
5 was a -- an office in -- let me just refresh my memory
6 to see if I asked about Las Vegas or Nevada. An office
7 in Nevada. And I was told there was.

8 And when I started inquiring further, they
9 wanted -- they asked, started asking me a lot of
10 questions I was not prepared to answer. I was not able
11 to use the block on my state phone, so I was quite sure
12 that my number had registered on their end. And so I
13 told them I had to go and I would call back later.

14 And I immediately received a call back from
15 Mr. Franco.

16 Q. He identified himself?

17 A. Yes.

18 Q. Okay. And what did he tell you?

19 A. Basically, he told me that they did not have an
20 office in Nevada, and he vehemently denied any
21 wrongdoing of any kind.

22 Q. Did you do any further investigation into that
23 telephone number that you called?

24 A. Yes, I did.

25 Q. What did you do?

1 A. I subpoenaed the telephone records from Embarq.

2 Q. Asking you to look at Exhibit D.

3 A. Yes.

4 Q. Were those some of the records that you got?

5 A. That is correct.

6 Q. What does -- look at the third page of

7 Exhibit D. Can you tell me what that shows?

8 A. That is the payment history. And it shows the
9 account number. It shows the date of the deposit for
10 the payment. It shows the payment amount. And it shows
11 checking, a partial bank account number and the check
12 number.

13 Q. Okay. And what are the dates of the bank
14 deposits on this exhibit?

15 A. Okay. 2-23-08, 3-21-08, 4-18-08, 5-16-08,
16 6-20-08, 7-18-08, 8-15-08, 9-19-08, 10-19-08, 11-13-08,
17 12-19-08, and 1-19-09.

18 Q. Okay. Did you have any discussions with
19 Mr. Franco about why he had a phone number if he didn't
20 have -- if he wasn't doing business in Nevada?

21 A. He denied having that phone number. He told me
22 that he had that number disconnected.

23 Q. Let me ask you to look at what we've marked
24 Exhibit E.

25 A. Yes.

1 Q. This appears to be a letter from Process
2 Servers, Inc. to the Private Investigators Licensing
3 Board. If you look down on the bottom, it looks like
4 there's a business card of Mr. Franco?

5 A. Yes.

6 Q. And do you see the number that was being used
7 on that business card?

8 A. Yes, I do.

9 Q. Is that the same number that you called which
10 led to the issuance of this citation?

11 A. Yes, it is.

12 Q. Okay. And this was provided to the Board on
13 November 28th of 2006, correct?

14 A. That is correct.

15 Q. Okay. Did this come from your files?

16 A. Yes.

17 MR. MENICUCCI: All right. I have no further
18 questions for the investigator. Mr. Franco?

19 MR. FRANCO: Yes, sir?

20 MR. MENICUCCI: Do you have any questions?

21 MR. FRANCO: No. I do want to say a few
22 things, if I may.

23 MR. MENICUCCI: Just, the way we do things, if
24 you want to --

25 MR. FRANCO: Yes, sir.

1 MR. MENICUCCI: -- ask questions of
2 Ms. Whatley, now would be the time. But you'll get a
3 chance to present your --

4 MR. FRANCO: Okay.

5 MR. MENICUCCI: -- case as well.

6 MR. FRANCO: I -- the only question, or really
7 statement, I would really have is, number one, when she
8 did telephone, called my office in California, I was
9 standing right there. Number one, we never have
10 answered the phone Investigative Services Corp. Number
11 two --

12 MR. MENICUCCI: Let me just stop you here.

13 MR. FRANCO: Sure.

14 MR. MENICUCCI: If you have a question for
15 her --

16 MR. FRANCO: Oh, no, sir. No, sir. I'm sorry.

17 MR. MENICUCCI: You will get a chance to
18 testify.

19 MR. FRANCO: Thank you. I'm sorry.

20 MR. MENICUCCI: Sure.

21 MR. FRANCO: No questions.

22 MR. MENICUCCI: Are there any questions from
23 the Board?

24 BOARD MEMBER PUTNAM: No.

25 BOARD MEMBER ZANE: No.

1 BOARD MEMBER NADEAU: No questions.

2 MR. MENICUCCI: Okay. Then, I -- my case is
3 concluded with Ms. Whatley.

4 MR. FRANCO: Thank you.

5 MR. MENICUCCI: So Mr. Franco, if he has
6 information he wants to present, I would turn that over
7 to him at this time.

8 MR. FRANCO: Thank you very much.

9 Yes. If I may, just number one is when the
10 call did come in, I was standing right next to my
11 assistant's desk. And at no time did my assistant ever
12 mention that we have an office in Las Vegas. Because we
13 don't. We don't answer the phone Investigative Services
14 Corporation.

15 And the reason that I called back after she
16 hung up is my assistant asked her who she was and what
17 her name was. She refused to give it. So I was curious
18 who was calling. I called back the number, at which
19 time we did engage in a conversation. I was attempting
20 to explain to her that I don't have the phone number,
21 the 474 number, and that it was cancelled in two
22 thousand -- I believe, it was two thousand -- excuse me,
23 2008.

24 The state fined me \$2,500 for a violation. I
25 was not able to appear. I was going to defend myself,

1 but I was not able to appear. I had a conversation with
2 Ms. Mechele Ray on the 8th of May of '08. At that
3 juncture, we -- she confirmed an e-mail I sent her
4 regarding a proposal, repayment proposal. The last
5 thing Ms. Ray said to me was, "Please don't forget to
6 disconnect or cancel your telephone, the 474." And I
7 said, "Absolutely." That same day, I called Embarq, and
8 I spoke to an individual by the name of Ruben, telling
9 him that we needed to have the telephone cancelled. He
10 took my order and gave me a confirmation number of
11 R-double-8-6805.

12 At that juncture, I was -- well, I was
13 California. I didn't think any more of it at all.
14 We -- we've never paid for advertising, nor did we pay
15 when we had the number operative in Nevada. And, I
16 think, your exhibit shows that the service was initially
17 established in '03. So it wasn't a change or a new
18 service.

19 After I received the telephone call from your
20 investigator in February, I immediately called Embarq.
21 And I wanted to understand why the number was still
22 active, et cetera, et cetera. What I found out was that
23 the cancellation never took place. Somehow, some way,
24 and it wasn't my name that was on their -- well, their
25 computer, if you will. There was a change whereby the

1 bills were being sent to my California office I no
2 longer have. I had an accountant at that time that
3 would pay the bills and present me with checks to sign,
4 which I did.

5 I asked Embarq if they could send me copies of
6 previous bills. They didn't, but they were kind enough
7 to talk to me over the phone regarding the invoices,
8 which you have as an exhibit. I'm not -- there's no
9 dispute about that. Because we did pay those. But I
10 was totally unaware of the fact that that number was
11 still operative. It would make -- it would make -- it
12 would have made -- and it doesn't make no sense for me
13 to be doing that.

14 If you look at -- well, you don't have it, but
15 I have -- or I don't have, but I've been conversing with
16 Embarq. My company has never, ever, ever been charged
17 for any type of advertising, specifically in the Yellow
18 Pages. What Embarq did for my company, after I called,
19 again, by virtue of your investigator's telephone call,
20 I asked them to refund, to look at the account and
21 refund some monies to me, which they did, to the tune of
22 \$63, or \$73. And I asked them, again, whether at any
23 point, at any time I ever had any sort of advertisement
24 or paid for any advertising. I never did. If anything,
25 the number should have been cancelled the same date that

1 I spoke with Ms. Ray. They didn't do it.

2 On my end, I am responsible in the sense that
3 my accountant -- I did not look at every bill that I was
4 signing. And we did continuously pay for this number.

5 You don't have the copy of the bill, but in
6 speaking with Embarq, the -- and I wish I would have got
7 it, so I could show you. The same bills that are in
8 question, there are no outgoing calls on these bills at
9 all. At all. And the reason for that is that the 474
10 number, in terms of a physical phone, doesn't -- never
11 existed in my office in California after we cancelled it
12 or when I thought I cancelled it.

13 So there are no outgoing calls at all. And the
14 calls that are listed on there for each month are about
15 10 calls that were forwarded, not by us, but by Embarq
16 to my California number. Those calls are in line with
17 possibly either family members that have called me, one
18 of which was my father, who is now deceased, out here.
19 Because I don't, I don't work out here. I don't come
20 out to Las Vegas at all. And the rest of them might
21 have been previous clients that we've had that called
22 that number.

23 But as I sit here, we do not do work in
24 Las Vegas. I don't pay for -- aside from this incident,
25 I don't have any phone numbers. I don't have an office.

1 I don't have rent. I don't lease. I don't do anything
2 out here under Investigative Services at all.

3 And, basically, that's really all I have to
4 say. Oh, I'm sorry. Except for the fact that the -- on
5 the same bills, and this was per Embarq, there are no
6 long distance charges at all, ever, on the bills. My
7 point is, if there was activity as a business for the
8 months or dates in question, there should be outgoing
9 phone calls, there should be charges for advertising.
10 Which there are not, at all. And if you look at the
11 amounts, for any business -- I'm a small business
12 owner -- this, the charges were \$20 for each, or \$20 for
13 the phone line, and then their fees, et cetera,
14 et cetera. And the amounts that are here are pretty
15 close to maybe 40, 50, 60 dollars, which is in line with
16 normal service.

17 And, well, that's basically it. If there were
18 outgoing phone calls, long distance phone calls, there
19 would have been, on the statement or on the invoice, an
20 indication of who the long distance carrier is. And
21 there is not. There would have been long distance phone
22 calls. And there wasn't. We don't operate in
23 Las Vegas, or in Nevada.

24 And that's what I'd like to submit to the
25 Board, please.

1 Oh, if I may, one other thing. The letter from
2 the process servers, I don't know who this person is.
3 I've never met them. That business card that they were
4 making reference to is a very old business card, really
5 old. So I don't even know who this person is. We
6 don't -- I don't deal with process servers. I don't
7 believe I ever have when I was working out here in 1998.
8 So I've never heard of this person. I don't know who it
9 is.

10 MR. MENICUCCI: All right.

11 MR. FRANCO: And, please, that's what I want to
12 submit.

13 MR. MENICUCCI: Okay.

14 BOARD MEMBER PUTNAM: Sir, I have a question.

15 BOARD MEMBER NADEAU: Go ahead.

16 MR. FRANCO: Yes, sir?

17 BOARD MEMBER PUTNAM: You say this is a very
18 old business card. How old is it?

19 MR. FRANCO: Yes, sir. My guess would be
20 probably prior to 2003, maybe late 2004.

21 BOARD MEMBER PUTNAM: Okay. But does that show
22 a -- does it list on that card Nevada license number
23 579?

24 MR. FRANCO: Yes, sir, which is -- which was
25 our old investigative license that the president of the

1 company put in abeyance, I believe. Yes, sir.

2 BOARD MEMBER PUTNAM: So that license was held
3 by Investigative Service Corporation?

4 MR. FRANCO: Yes, sir, in Las Vegas, prior,
5 yes, sir.

6 BOARD MEMBER PUTNAM: Is that --

7 MS. RAY: That is correct.

8 BOARD MEMBER PUTNAM: That is correct?

9 MS. RAY: But the license that's in abeyance,
10 though, is license number 539, which were Mr. Franco's
11 individual licenses.

12 BOARD MEMBER PUTNAM: And the telephone number,
13 again, is -- well, it's the same one.

14 MS. RAY: Same.

15 MR. FRANCO: Yes, the 474-0910, which is
16 inactive. After the phone call, it was -- I, obviously,
17 made a stink when I called Embarq, and it was
18 immediately terminated, immediately.

19 MR. MENICUCCI: Mr. Franco, do you have any
20 documents to show that Embarq has now, in fact,
21 terminated that Nevada number?

22 MR. FRANCO: I've not received -- we don't have
23 any bills from them. I have -- no, I don't actually.
24 We can dial it now if you wish. I mean it's -- yeah,
25 it's gone. That same date, I made a stink, because I

1 thought it was already cancelled. And I called, and I
2 spoke to one of the supervisors. So we've not received
3 any bills from them. We -- not recently, but maybe a
4 month or two after the phone number was terminated, for
5 the second time, from our office, I've called it just to
6 ensure that it is disconnected. And it is, it is
7 disconnected.

8 MR. MENICUCCI: Okay. Did they say they were
9 going to refund the money that you'd paid on that phone
10 line?

11 MR. FRANCO: They -- they didn't -- they were
12 not amenable to give me what I requested, which was a
13 refund of every month. So what they were kind enough to
14 do, and didn't want to really dispute it with them,
15 they -- I don't know whether they prorated, but they
16 gave me X amount of dollars for each month. And it was
17 like 60, maybe 70 dollars, 73 dollars, something along
18 those lines.

19 MR. MENICUCCI: Okay. And if I understand your
20 testimony correctly, you're saying that these bills were
21 coming in to your California accountant and getting
22 paid, and you didn't know about it?

23 MR. FRANCO: Correct, yes, sir. The bills were
24 coming in to Los Angeles. I did not make the change in
25 terms of the address that's listed for the California

1 address that's on here. It might have been my
2 accountant. It could have been one of my other
3 investigators prior. I didn't do it. But the bills
4 were coming to my office. I did sign the payments for
5 these as I would get them.

6 Once, we had a part-time accountant that would
7 come in, do my accounting for me. At the end of the
8 week, they would present me with bills. And to be very
9 frank with you, I'm smalltime, but I didn't really pay
10 attention to, you know, small dollars, if you will; 50,
11 60, anything under a hundred, I would just sign. Of
12 course, I've changed that procedure now, and I pay
13 everything myself. I don't have anybody handle anything
14 for me. This was part of it. This was part of the
15 reason I started doing that.

16 MR. MENICUCCI: So you didn't notice that 50
17 bucks a month was being paid on a phone line that you
18 weren't using?

19 MR. FRANCO: Correct, I did not. I did not pay
20 attention. I should have, but I did not.

21 MR. MENICUCCI: Actually, more than 50.

22 MR. FRANCO: Well, it ranged between 40 to 50,
23 sometimes 60 or 70 dollars a month.

24 MR. MENICUCCI: Let me ask you to look at one
25 of the documents in Exhibit D. It's actually the first

1 page.

2 MR. FRANCO: The first page?

3 MR. MENICUCCI: Yeah, the first page. It's 150
4 East Olive Avenue, Suite 105.

5 MR. FRANCO: Yes, sir.

6 MR. MENICUCCI: Burbank, California.

7 MR. FRANCO: Yes, sir.

8 MR. MENICUCCI: Is that your California office?

9 MR. FRANCO: Yes, sir, it is.

10 MR. MENICUCCI: Okay. Did you ask Embarq to
11 send bills to that office?

12 MR. FRANCO: No, sir. As I stated a few
13 minutes ago, I did not make a request to have the
14 address changed, but it could have been done by my
15 accountant, one of my investigators prior. Because we
16 closed our business out here in Las Vegas and went back
17 to California. We were -- a lot of what we did was in
18 transition. So it's very possible that they might have
19 done that.

20 I'm not disputing it. It's there. I mean we
21 did it. It wasn't me personally, but I take
22 responsibility for it.

23 MR. MENICUCCI: I should mention that Exhibit D
24 does show a disconnect date of 4-29-09. So.

25 MR. FRANCO: 4-29? I don't know why it took

1 that long, but. That call was made the same day that
2 your investigator called me.

3 MR. MENICUCCI: Okay. I have no further
4 questions for Mr. Franco.

5 BOARD MEMBER NADEAU: I have a question for
6 Mr. Franco.

7 MR. FRANCO: Yes, sir.

8 BOARD MEMBER NADEAU: Mr. Franco, what's the
9 name of your California corporation?

10 MR. FRANCO: Investigative Services
11 Corporation.

12 BOARD MEMBER NADEAU: So how did they answer
13 the phone?

14 MR. FRANCO: ISC, which is how we've always
15 answered it for 20 years.

16 BOARD MEMBER NADEAU: Mr. Menicucci, turn to
17 page two of the -- no, page -- actually, it's page three
18 of D. Is that just -- what is that? Not the one ahead
19 of that. One preceding that. May I ask what that is?
20 And the reason I'm asking is it says "subscriber
21 information, Trisha Johnson and George" -- something.
22 And I was trying to figure out if that's a continuation
23 of the previous page or if that's part -- in other
24 words, is that part of that record?

25 MR. MENICUCCI: Investigator Whatley may know.

1 MS. WHATLEY: This is just the documentation
2 they sent me. It was a sheet they included. They did
3 not explain this particularly, but it does show
4 something occurred on 2-13-09. And that may be a call
5 from Mr. Franco. I don't know. This page does not
6 explain it.

7 BOARD MEMBER NADEAU: Mr. Franco, do you know a
8 Trisha Johnson or --

9 MR. FRANCO: Yes, I do.

10 BOARD MEMBER NADEAU: -- George --

11 MR. FRANCO: She's my assistant.

12 BOARD MEMBER NADEAU: Okay. So is she the one
13 that handled the termination, or did you handle the
14 termination? You indicated that you handled the
15 termination yourself.

16 MR. FRANCO: I called personally. I called.

17 BOARD MEMBER NADEAU: Okay. So, but --

18 MR. FRANCO: If I may, what I do, and, again,
19 I'm a small business owner, but I work a lot, and I
20 travel in California a lot. In my absence, I give
21 Ms. Johnson in some cases authority to speak on my
22 behalf. And something of this nature, which, of course,
23 is serious, I didn't want to miss the call, I wanted to
24 make sure that was handled, if and when we received a
25 call from Embarq or return call with any questions,

1 please.

2 BOARD MEMBER NADEAU: Okay. If I -- so I'm
3 going to -- I guess, just for my own edification here,
4 the -- and it's Exhibit C, which is the Embarq phone
5 directory. And at the top of page two, where it says
6 "Investigative Service Corp." --

7 MR. FRANCO: Yes, sir.

8 BOARD MEMBER NADEAU: -- you're indicating that
9 you gave them no authorization to publish that?

10 MR. FRANCO: Absolutely not. Never. We've
11 never advertised, ever, ever. I don't even have a -- I
12 don't even have the updated website, sir. Never. Even
13 when we were operative, if they gave it to us free or
14 they had it posted, there's nothing they have that can
15 show you that I paid for it, that I authorized it,
16 nothing. Because I didn't.

17 BOARD MEMBER NADEAU: Okay. And you notice
18 that that's the January through July 2009 publication?

19 MR. FRANCO: Yes, sir, most definitely. Yes.
20 Again, I don't -- we've never paid for advertising. I
21 never paid. I never authorized, instructed anybody to
22 list that company name or my company name with that
23 phone number in Las Vegas. If -- again, it would be
24 stupid on my part to do anything like that. It doesn't
25 make -- I don't work that way.

1 We had an issue before. I was not able to come
2 and defend it. I paid. I move on. I'm in California.
3 When your investigator called, I was standing right
4 there. I called her from California. Every piece of
5 paper that's been sent, your subpoena, your notices, I'm
6 the one that signed everything. I'm never in Las Vegas.

7 BOARD MEMBER NADEAU: When Investigative
8 Service Corporation ceased operations in Nevada, what
9 year was that?

10 MR. FRANCO: It would have been 2003, maybe
11 early 2004.

12 BOARD MEMBER NADEAU: This, this appears to be
13 an automatic rollover, so that when you dial a Nevada
14 number, it automatically rolls over to California.

15 MR. FRANCO: That's exactly right, and that's
16 what happened. Somehow, some way, they had the number
17 forwarded to my Los Angeles number. That, again, I
18 don't have the bills in front of me. Because I quizzed
19 them on that. That was not done by me. That would be
20 stupid. I would not do anything like that.

21 And to be very frank with you, part of the
22 reason that we weren't doing business out here anymore,
23 it was not lucrative. That's really the bottom line.
24 So I wouldn't. Why would I spend any time or money in
25 chasing something that wasn't there? If anything, my

1 business in California has been a little bit more robust
2 than we did out here and, you know.

3 BOARD MEMBER NADEAU: So if I can follow up on
4 that, then, you're asserting that someone from Embarq,
5 then, initiated an automatic rollover to a number in
6 California that -- so that's your assertion, that they
7 did it without any -- anyone from your company
8 initiating that?

9 MR. FRANCO: If it was done from anybody from
10 my company, it would have been one of two people. And
11 if they did it, they would have done it without my
12 authorization. I'm still responsible for it. And they
13 would have done it maybe just to maintain the continuity
14 of the account, the phone numbers, et cetera. If I
15 was -- if they did it, which I don't have any knowledge
16 nor information from Embarq, when I spoke to them, if
17 they did it, if they would have asked me prior would I
18 want that done, it would have been no. I would have
19 just -- because it should have been cancelled. And
20 that's what I did back in -- on May 8th, 2009.

21 BOARD MEMBER NADEAU: I understand. I
22 understand your testimony. Thank you.

23 MR. FRANCO: Yes, sir.

24 BOARD MEMBER PUTNAM: Sir, I have another
25 question for you. You say you ceased business in -- on

1 your Nevada license in 2004?

2 MR. FRANCO: Around that time, sir. I don't --
3 I'm not a hundred percent on it. 2003, 2004 or so. I'm
4 not a licenseholder. I was just the vice president of
5 the company.

6 BOARD MEMBER NADEAU: Okay.

7 MR. FRANCO: At that time.

8 BOARD MEMBER NADEAU: But you ceased operation
9 in 2004?

10 MR. FRANCO: Around that time. Don't quote me
11 exactly, please.

12 BOARD MEMBER PUTNAM: Can you explain to me,
13 please, why it took, what, almost five years for you to
14 be -- to take any action on this phone line and for it
15 to continue to appear in phone books for Las Vegas?

16 MR. FRANCO: Yes, sir. As I explained, I
17 called on May 8th, 2008, right after my phone call with
18 Ms. Ray, where her last sentence was, "Please make sure
19 that you terminate this number." I made a phone call to
20 Embarq. I can't -- I told them I'd like to have the --
21 the number cancelled. They took my order. They gave me
22 an order number, which I have. And, apparently, it was
23 not done.

24 BOARD MEMBER PUTNAM: Well, pardon me, sir.
25 But if you ceased operations in 2004 or thereabout, then

1 why did it take the time, that period of a number
2 years --

3 MR. FRANCO: M-hm (affirmative).

4 BOARD MEMBER PUTNAM: -- for you to find out
5 that you were paying that bill -- again, we're talking a
6 number of years -- and it took a call from Ms. Ray to
7 get you to shut the phone line down?

8 MR. FRANCO: I was not aware of it. That's a
9 very good question. The only answer I can give you is I
10 was just not aware of it, because it would have been
11 done prior. And, actually, it should have been done
12 prior. We had other issues. After I left, the business
13 was still winding down. I was gone, you know, before
14 the building was sold and everything, lights and all
15 that other stuff was turned down.

16 I was not the owner of the business. I was the
17 manager of the business. So when I left, everything, as
18 far as what I did, was done completely. Because they
19 are -- Investigative Services Corporation was two
20 separate corporations, although with the same name. In
21 California, I am the owner. In Las Vegas, I was only a
22 manager.

23 BOARD MEMBER NADEAU: Mr. Menicucci, any
24 additional questions?

25 MR. MENICUCCI: Well, I think that the Board

1 has all the testimony and the facts that we have
2 available on this. There's clearly a discrepancy as to
3 what happened during Ms. Whatley's call to Investigative
4 Services and what was said in answering the phone.

5 We have records from the telephone company
6 showing that they continued to bill on this number.
7 Obviously, it continued to work. And Mr. Franco
8 explained that the bills were getting paid without his
9 knowledge, and he has now taken action to terminate that
10 phone line.

11 If, in fact, he intentionally maintained a
12 Nevada phone number when he wasn't licensed, that, we
13 would consider that to be a violation.

14 BOARD MEMBER NADEAU: Any additional? Members,
15 do you have any questions? Member Zane?

16 BOARD MEMBER ZANE: No.

17 BOARD MEMBER NADEAU: Member Putnam, any
18 additional questions?

19 BOARD MEMBER PUTNAM: No, sir.

20 BOARD MEMBER NADEAU: All right. So we will
21 allow Mr. Franco to go ahead and do his summation first,
22 or do you do your summation first?

23 MR. MENICUCCI: I think, you have mine. I just
24 gave it. So Mr. Franco.

25 BOARD MEMBER NADEAU: All right. Mr. Franco,

1 you're afforded an opportunity to -- for a summation of
2 your case or your defense.

3 MR. FRANCO: Yes, sir.

4 BOARD MEMBER NADEAU: And then the Board will
5 take it, whatever action.

6 MR. FRANCO: Yes, sir. I appreciate that very
7 much.

8 Again, to capsulize this, we never paid for any
9 advertising in Las Vegas. Upon notification of -- from
10 Ms. Ray of that number, the Embarq was contacted. I
11 have the name of an individual and a cancellation or
12 confirmation number indicating that I did request it.
13 Since that time, the bills were coming to my office. I
14 did sign the checks that paid the bills.

15 The calls that are reflected on the phone calls
16 that are reflected on the bills do not show any outgoing
17 calls, they don't show long distance, whereby an active
18 business was functioning, although the number was
19 active. I take full responsibility for it. I've
20 already terminated, for the second time, in my opinion,
21 the numbers and have changed my internal procedures
22 whereby I look and sign for everything.

23 The company has not worked in Las Vegas for
24 many, many years. I have no presence here. I'm not
25 here at all. I don't -- didn't make any money off any

1 calls that might have been or calls that were made, by
2 virtue of the 474 number, to my office.

3 And, again, the main thing for me is the
4 advertising. We don't, we don't pay. We've never paid
5 for advertising. And I don't, I just don't have any
6 presence out here.

7 BOARD MEMBER NADEAU: Okay.

8 MR. FRANCO: Everything I do is in California.
9 The call was made to California. I was standing right
10 there. Your investigator got a call not even two
11 minutes, one minute later. Every piece of paper that's
12 been sent to my office in California has been signed by
13 me, because I'm always in California.

14 BOARD MEMBER NADEAU: Okay. Thank you,
15 Mr. Franco.

16 MR. FRANCO: Thank you.

17 BOARD MEMBER PUTNAM: Mr. Franco, one other
18 question for you.

19 MR. FRANCO: Yes, sir?

20 BOARD MEMBER PUTNAM: Because, you know, when
21 you're in private business, and you get a business
22 telephone number, that number is automatically published
23 in the Yellow Pages. Are you aware of that, or have --

24 MR. FRANCO: No, sir.

25 BOARD MEMBER PUTNAM: -- you been aware of that

1 in all the years you've been in business?

2 MR. FRANCO: No, sir, I'm not aware of that.
3 Again, I don't advertise. Everything we've done and
4 everything we do is by referral. I would not have any
5 knowledge of that.

6 BOARD MEMBER PUTNAM: Thank you, sir.

7 BOARD MEMBER NADEAU: Thank you, Mr. Franco.

8 MR. FRANCO: Thank you all very much.

9 BOARD MEMBER NADEAU: Counsel Marcher, would
10 you go through our options on this as far as what our
11 options are as far as we can either sustain the
12 citation --

13 MR. MARCHER: You can uphold the citation, or
14 you can just dismiss it. I mean those are, basically,
15 the two options.

16 BOARD MEMBER NADEAU: Okay. And automatically,
17 by upholding the citation, then it goes to the second,
18 because this is a second offense, it goes to the second
19 offense as far as --

20 MR. MARCHER: Off the top of my head, I don't
21 know if that's mandatory. Is it mandatory to exercise
22 discretion or not?

23 MS. RAY: I don't believe there's any
24 discretion.

25 MR. MENICUCCI: I think, it's mandatory.

1 MS. WHATLEY: It says first offense this
2 amount, second offense this amount, third offense this
3 amount.

4 BOARD MEMBER NADEAU: Statutorily, I know it's
5 set that way. So that's what -- but that was really
6 what I was kind of asking.

7 MR. MARCHER: Yeah, I'd have to see the
8 statute. Do we have the statute?

9 Shall. So if it -- you consider this to be --
10 if you uphold the citation, and you consider this to be
11 a second violation, then it mandates that you issue --
12 the fine would be 5,000.

13 BOARD MEMBER NADEAU: Thank you.

14 Okay. Bring it back to the Board for
15 discussion and consideration.

16 BOARD MEMBER ZANE: Are you ready for a motion?

17 BOARD MEMBER NADEAU: Yes, I'll take a motion.

18 BOARD MEMBER ZANE: Oh, okay. All right. I
19 move to uphold the citation.

20 BOARD MEMBER PUTNAM: Second.

21 BOARD MEMBER NADEAU: All right. We have a
22 motion and a second to uphold the citation. Any
23 discussion on the motion?

24 Okay. Then, in that case, all in favor of the
25 motion, say "aye."

1 (The Board Members said "aye.")

2 BOARD MEMBER NADEAU: Opposed?

3 No opposition. Mr. Franco, the citation has
4 been upheld.

5 MR. FRANCO: I appreciate, well, I appreciate
6 your time. Thank you.

7 BOARD MEMBER NADEAU: Thank you.

8 BOARD MEMBER NADEAU: We will now, then, move
9 to item number nine, John, Derek and Keyna Cornell of Go
10 Towing and Sin City Metro Towing.

11

12 AGENDA ITEM 9

13 JOHN, DEREK AND KEYNA CORNELL

14 OF GO TOWING AND SIN CITY METRO TOWING

15

16 BOARD MEMBER NADEAU: Are they present?

17 MR. MURPHY: No, we don't have either one of
18 them here.

19 MR. MENICUCCI: Okay. I think, we can still
20 proceed, then.

21 BOARD MEMBER NADEAU: By statute, we can?

22 MR. MENICUCCI: Yeah.

23 BOARD MEMBER PUTNAM: We can, but is it
24 necessary?

25 MR. MENICUCCI: We've not received a request.

1 There was some discussion with Investigator Whatley, as
2 I understand, about whether they could be here or not.
3 She told them that we needed something in writing
4 requesting a continuance, if they were asking for one.

5 And, I believe, if I can ask Investigator
6 Whatley, did we receive anything actually requesting the
7 continuance from any of the people or organizations
8 listed on citation C-066-08?

9 MS. WHATLEY: As of this morning, no.

10 BOARD MEMBER NADEAU: And let me just confirm,
11 there's no one from Go Towing or Sin City Metro Towing
12 in the audience?

13 MS. WHATLEY: The audience are the witnesses
14 for this case.

15 BOARD MEMBER NADEAU: The audience are the
16 witnesses. Okay.

17 MR. MURPHY: There is one for -- the witness
18 for Go Toe.

19 MR. CLEMMER: I was subpoenaed by --

20 BOARD MEMBER NADEAU: I'm sorry. Could you,
21 Investigator Murphy, could you encapsulate what was just
22 said. We can't, we couldn't hear it.

23 MR. MURPHY: There is a witness in the audience
24 that was subpoenaed for item number nine, Mr. Clemmer.

25 BOARD MEMBER NADEAU: Okay.

1 MR. MENICUCCI: Given that we've got a witness
2 present, I think we ought to proceed.

3 BOARD MEMBER PUTNAM: Or perhaps I could make a
4 motion at this point, based upon paragraph four, NRS
5 648.170, that they failed to appear at the hearing,
6 which, according to that paragraph, is maybe considered
7 as an admission, I would move that the citation be
8 upheld.

9 BOARD MEMBER NADEAU: Is that motion in order?

10 MR. MARCHER: Just, also, for the record,
11 there's a provision in NRS 622A that allows the Board to
12 consider the allegations in the complaint as true if the
13 person who's the subject of the complaint doesn't show
14 up for the hearing. This is kind of the same thing, in
15 that you have allegations in a citation that, I think,
16 the statute would be applicable to, where if they don't
17 show up to the hearing, you consider them as true and
18 uphold the citation.

19 BOARD MEMBER NADEAU: So the motion is in
20 order?

21 MR. MARCHER: The motion's in order. You have
22 two options, either -- it's kind of like a default.
23 They didn't show up. Then, consider it true and uphold
24 the citation. Or you can hear from the witnesses. In
25 my opinion, it's not absolutely necessary.

1 BOARD MEMBER NADEAU: I think, we have a valid
2 motion on the floor. Do we have a second?

3 BOARD MEMBER ZANE: I think, we need to submit
4 something on the record that they were notified.

5 MR. MARCHER: Right. The only thing you need
6 is a record that they were served with the notice for
7 today's hearing.

8 BOARD MEMBER PUTNAM: Counsel, does that notice
9 exist?

10 MR. MENICUCCI: Yes, I believe, it does.

11 BOARD MEMBER NADEAU: Okay. Go ahead,
12 Mr. Menicucci.

13 MS. WHATLEY: Mechele, do you -- I don't have
14 the actual letter. I have the green card but not the
15 letter.

16 MS. RAY: It should be in the file. Wait.

17 MS. WHATLEY: We have the green card showing
18 they picked up the notice.

19 MR. MARCHER: And is the return receipt and the
20 green card associated with the notice letter that went
21 out?

22 MS. WHATLEY: I'm sorry. What was that?

23 MR. MARCHER: The notice letter that went out,
24 is the green card associated with it?

25 MR. MENICUCCI: We have a return receipt on it.

1 BOARD MEMBER NADEAU: For the letter of
2 notification?

3 MR. MENICUCCI: Yes.

4 BOARD MEMBER NADEAU: Okay. Can you go ahead,
5 and, I guess, that would be -- we want to place that as
6 an exhibit.

7 MR. MARCHER: Can you match it up to the
8 letter? Do you have the letter?

9 MS. WHATLEY: In the office. The letter,
10 somehow, the letter is in the office, and the green card
11 made it in the file.

12 MR. MARCHER: Okay. So you do have location,
13 either on the letter or the certificate of mailing, that
14 matches with the number on the return receipt, correct?

15 MS. RAY: Yes.

16 MR. MARCHER: Okay. As long as you have that.

17 MS. RAY: It's from the previous hearing.

18 MS. WHATLEY: Yes.

19 MR. MARCHER: Because the certificate of
20 service will have the number on it, and the green card
21 has the number on it.

22 MS. RAY: The receipt.

23 BOARD MEMBER NADEAU: Do we have -- we have
24 that in our packet.

25 MR. MARCHER: If they wanted to challenge that,

1 they could challenge that.

2 MS. RAY: They were continued from the last
3 hearing.

4 BOARD MEMBER NADEAU: Okay.

5 MS. RAY: So that was their notice from the
6 previous hearing.

7 BOARD MEMBER NADEAU: Oh, okay.

8 MS. WHATLEY: Is it in the copy I gave you?
9 Because I don't have it in my file.

10 MS. RAY: Okay.

11 MS. WHATLEY: Okay. All right.

12 MR. MARCHER: Do you want to just make that an
13 exhibit?

14 MR. MENICUCCI: Yes, I'd like to make this an
15 exhibit and just clarify the record on this. I'd like
16 to just mark this as Exhibit A-1, being a letter
17 dated -- oh, this is the wrong thing.

18 MS. RAY: That was the last one.

19 MR. MENICUCCI: Yeah.

20 MS. WHATLEY: We could take a five-minute
21 break, and I'll --

22 MR. MENICUCCI: A-1 would be the return receipt
23 to the Go Towing, Sin City Metro Towing, and the
24 Cornells; looks to be signed by Keyna Cornell.

25 This is the matter that's in your file, Tammy?

1 MS. WHATLEY: Yes.

2 MR. MARCHER: Yeah, I think, what you want to
3 do is --

4 MS. WHATLEY: Make copies of it?

5 MR. MARCHER: Well, no. I think, what you want
6 to do is match it up with the letter.

7 MS. WHATLEY: Okay.

8 MR. MARCHER: Mechele's trying to get that file
9 in the office.

10 BOARD MEMBER NADEAU: We're going to take a --

11 MR. MARCHER: Probably five minutes.

12 BOARD MEMBER NADEAU: Five-minute recess.

13 MS. WHATLEY: And, sir, what is your name?

14 MR. CLEMMER: Robert Clemmer.

15 MS. WHATLEY: Okay. I thought so, but because
16 I haven't seen you face to face. Thank you for coming.

17 And we will -- do we need him in a few minutes,
18 or no?

19 MR. MENICUCCI: No.

20 BOARD MEMBER NADEAU: I think, if we have the
21 letter, then --

22 MR. MENICUCCI: I think, we can let him go. We
23 can release the witness at this time. We'll be just
24 showing that they were notified and didn't appear.

25 BOARD MEMBER NADEAU: Thank you very much.

1 MS. WHATLEY: Thank you so much.

2 MR. CLEMMER: Thank you.

3 MS. WHATLEY: Thank you, guys.

4 * * * * *

5 (A break was taken, 2:14 to 2:30 p.m.)

6 * * * * *

7 BOARD MEMBER NADEAU: All right. We're back in
8 session.

9 And we have had Exhibit 1-A -- A-1, A-1
10 submitted. That's the signed receipt for the letter and
11 a copy of the letter, correct?

12 MR. MENICUCCI: Okay. And I'd like to add A-2
13 as -- designate the letter as A-2.

14 BOARD MEMBER NADEAU: Okay.

15 MR. MENICUCCI: Letter dated November 3rd of
16 2009 to the Cornells, as well as their entities, Go
17 Towing, Sin City Metro Towing, addressed to 3630 Basin
18 Street, North Las Vegas, Nevada, 89030, together with a
19 returned receipt, PS13811, from the same address signed,
20 apparently, by Keyna Cornell.

21 Is that correct, Ms. Whatley?

22 MS. WHATLEY: Yes, it is.

23 BOARD MEMBER NADEAU: All right. So accepted.

24 BOARD MEMBER PUTNAM: Mr. Menicucci?

25 MR. MENICUCCI: Yes?

1 BOARD MEMBER PUTNAM: This paragraph four says
2 that if the Board takes action based on such an
3 admission, which it comes about as a result of them not
4 appearing, it shall include in the record which evidence
5 was the basis for the action. Have we already done
6 that?

7 MR. MENICUCCI: I don't believe we have. But
8 what I could probably do, just to make it real quick, is
9 to ask Investigator Whatley to, first of all, identify
10 Exhibit A as the citation that was issued. Is that
11 correct?

12 MS. WHATLEY: Yes, it is.

13 MR. MENICUCCI: And including return receipt
14 cards on that?

15 MS. WHATLEY: Yes.

16 MR. MENICUCCI: Exhibit B, you received
17 information from Mr. Robert Clemmer. Is that a letter
18 from him?

19 MS. WHATLEY: Yes, it is.

20 MR. MENICUCCI: It indicates he was contacted
21 to -- contacted Derek Cornell to tow and recover
22 vehicles?

23 MS. WHATLEY: That's correct.

24 MR. MENICUCCI: You have a statement from
25 Mr. Paul --

1 MS. WHATLEY: Raul.

2 MR. MENICUCCI: Or excuse me. Raul Regalado,
3 Exhibit C; is that correct?

4 MS. WHATLEY: Correct.

5 MR. MENICUCCI: Mr. Regalado said that he used
6 Mr. Cornell, Derek Cornell, and knows him and used him
7 to repossess vehicles, correct?

8 MS. WHATLEY: Correct.

9 MR. MENICUCCI: Exhibit D appears to be a cover
10 from an Embarq phone book, correct?

11 MS. WHATLEY: Yes, it is.

12 MR. MENICUCCI: And the next page is a page
13 from that phone book listing Go Towing Recovery. Do you
14 see that?

15 MS. WHATLEY: Yes.

16 MR. MENICUCCI: And Exhibit E, were you, in the
17 course of your investigations, supplied a check from
18 Silver State Auto Parts, Inc. to Go Towing for
19 repossession of '01 Explorer?

20 MS. WHATLEY: Yes.

21 MR. MENICUCCI: And that's Exhibit E, correct?

22 MS. WHATLEY: Yes.

23 MR. MENICUCCI: All right. I ask to admit
24 exhibits A through E.

25 BOARD MEMBER NADEAU: Accepted.

1 MR. MENICUCCI: Does anybody else want --

2 BOARD MEMBER PUTNAM: Mr. Chairman, I have a
3 motion.

4 BOARD MEMBER NADEAU: Proceed with the motion.

5 BOARD MEMBER PUTNAM: Mr. Chairman, I move that
6 the failure of John, Derek and Keyna Cornell to appear
7 on citation C-066-08 be considered an admission of all
8 facts alleged in the complaints and the complaint be
9 upheld.

10 MR. MENICUCCI: Could I ask the investigator
11 one more question, just to clarify the record?

12 BOARD MEMBER NADEAU: Absolutely. We don't
13 have any motion.

14 MR. MENICUCCI: Did you check all of the people
15 and all of the entities named on citation C-066-08 to
16 see if any of them had a license for repossession?

17 MS. WHATLEY: Yes.

18 MR. MENICUCCI: Do any of them have such a
19 license?

20 MS. WHATLEY: No, they do not. No.

21 MR. MENICUCCI: No.

22 BOARD MEMBER NADEAU: Thank you.

23 MR. MARCHER: So, in essence, the motion is to
24 uphold the citation.

25 BOARD MEMBER NADEAU: I'm sorry?

1 MR. MARCHER: In essence, the motion is to
2 uphold the citation.

3 BOARD MEMBER PUTNAM: So moved. Is there a
4 second?

5 BOARD MEMBER ZANE: Second.

6 BOARD MEMBER NADEAU: All right. Any
7 discussion on the motion?

8 Seeing none, all in favor, say "aye."

9 (The Board Members said "aye.")

10 BOARD MEMBER NADEAU: Opposed?

11 The motion passes. The citation is upheld.
12 Thank you, Mr. Menicucci.

13 MS. RAY: You're opposed?

14 BOARD MEMBER NADEAU: I'm sorry?

15 MS. RAY: Are you opposed?

16 BOARD MEMBER NADEAU: No. It was unanimous.

17 MS. RAY: Oh.

18 BOARD MEMBER NADEAU: The citation was upheld.
19 We have to have all three votes in order to do that.

20 MS. RAY: I didn't hear you say anything.

21 MR. MARCHER: Actually, you only need two
22 votes. You just need a majority of the quorum present.

23 BOARD MEMBER NADEAU: Is that right?

24 MR. MARCHER: You just need at least two.

25 BOARD MEMBER NADEAU: Thank you. That's good.

1 Okay. So now we'll move to the next item. We
2 have the next item.

3 MS. RAY: Item 10.

4 BOARD MEMBER NADEAU: The next item is item
5 number 10, David -- I believe, it's Nienbert, of
6 Shadowstopper.com.

7

8 AGENDA ITEM 10

9 DAVID NIENBERT OF SHADOWSHOPPER.COM LLC

10

11 BOARD MEMBER NADEAU: And, I believe,
12 Mr. Nienbert is going to join us by telephone
13 conference.

14 (Phone ringing.)

15 MS. RAY: Hello?

16 MR. NIENBERT: Hello.

17 MS. RAY: Hi. This is Mechele. You're on
18 speaker.

19 MR. NIENBERT: How are you doing?

20 MS. RAY: Good. How are you?

21 MR. NIENBERT: Hopping.

22 MS. RAY: Can you hear us okay?

23 MR. NIENBERT: Yes, I can hear you fine. Can
24 you hear me?

25 MS. RAY: Yes.

1 BOARD MEMBER NADEAU: Yes, we can. Could you
2 please identify yourself.

3 MR. NIENBERT: Dave Nienbert,
4 Shadowshopper.com.

5 BOARD MEMBER NADEAU: Okay. And you're
6 calling, and we're talking -- where are you located at
7 this time, sir?

8 MR. NIENBERT: Houston, Texas.

9 BOARD MEMBER NADEAU: In Houston, Texas. Thank
10 you.

11 All right. We'll go ahead and we'll start this
12 proceeding with the summary of the case and the
13 presentation of the case by -- oh, that's right.

14 Mr. Marcher, could you swear Mr. -- It's
15 Nienbert?

16 MR. NIENBERT: Nienbert, yes.

17 BOARD MEMBER NADEAU: Nienbert. Could just you
18 put Mr. Nienbert under oath.

19 MR. MARCHER: Mr. Nienbert, even though we
20 can't see you, would you raise your right hand.

21 MR. NIENBERT: I got it.

22 MR. MARCHER: All right. Do you swear to tell
23 the truth, the whole truth, and nothing but the truth?

24 MR. NIENBERT: I do.

25 MR. MARCHER: All right. Thank you.

1 BOARD MEMBER NADEAU: Thank you very much.
2 So. And we're -- just for your information, this is
3 being recorded by a stenographer. So.

4 MR. NIENBERT: Okay.

5 BOARD MEMBER NADEAU: So all information is
6 being transcribed. Mr. Jeff Menicucci is the counsel
7 that will be presenting his case. He will begin. You
8 will have an opportunity, upon completion of his
9 submission of the case, you will have an opportunity to
10 submit your case in point. Okay?

11 MR. NIENBERT: Okay.

12 BOARD MEMBER NADEAU: All right. Thank you.
13 Mr. Menicucci, please proceed.

14 MR. MENICUCCI: All right. My first witness is
15 Investigator Tammy Whatley.

16 MS. WHATLEY: Yes.

17

18 T A M M Y W H A T L E Y,
19 having been duly sworn/affirmed by the Prosecutor,
20 was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MR. MENICUCCI:

24 Q. Investigator Whatley, you're an investigator
25 with the Private Investigators Licensing Board, correct?

1 A. Yes, I am.

2 Q. And you're a peace officer, correct?

3 A. Yes, that's correct.

4 Q. And you issued citation C-056-09, correct?

5 A. Yes, I did.

6 Q. And that is Shadowshopper.com LLC?

7 A. That's correct.

8 Q. Okay. Showing you what we've marked as
9 Exhibit A, is that a copy of the citation that you
10 issued?

11 A. Yes, it is.

12 Q. And the citation alleges that Shadowshopper was
13 engaged in investigative activities without having the
14 appropriate license from the Private Investigators
15 Licensing Board, correct?

16 A. Correct.

17 Q. Did you check to make sure that there was no
18 license of any kind for Shadowshopper with the Board?

19 A. Yes, I did.

20 Q. And do they have anything?

21 A. No, they did not. And, in fact, the Board
22 issued a cease and desist letter previously.

23 Q. Since you mentioned it, let me jump to
24 Exhibit H in our packet. Is that a copy of the cease
25 and desist letter to which you have referred?

1 A. Yes.

2 Q. Okay. Let me ask you about the rest of the
3 documents. Then we'll get some more testimony.

4 Exhibit B seems to be a response to you
5 referencing an appeal from that citation. Is that
6 correct?

7 A. Correct.

8 Q. And the next page of Exhibit B is a letter to
9 you from Mr. Nienbert, correct?

10 A. Yes, it is.

11 Q. And they're appealing their citation?

12 A. Yes.

13 Q. Exhibit C appears to be a letter, November 3rd
14 of this year, notifying them of the hearing; is that
15 right?

16 A. Correct.

17 Q. You investigated Shadowshopper to determine if
18 they were engaged in unlicensed activity; is that
19 correct?

20 A. That is correct.

21 Q. Did you examine whether they had a webpage?

22 A. Yes, I did.

23 Q. Okay. If you'd look at Exhibit D we've marked,
24 it appears to be documents dated 4-2-2009. If you could
25 look through those and tell me if those are copies of

1 webpages that you got?

2 A. Yes, they are.

3 Q. Can I ask you if the -- in the webpages, does
4 Shadowshopper give an address in the state of Nevada?

5 A. Yes, they do.

6 Q. What is that address?

7 A. It's 1894 U.S. Highway 50 East, Number 4-215,
8 Carson City, Nevada, 89701-3202.

9 Q. Did you investigate what that address consists
10 of?

11 A. Yes. That is a mail drop.

12 Q. Did you go out to look?

13 A. Yes, I did. I drove by there, realized it was
14 a mail drop, and I went back and prepared a subpoena to
15 determine who the mail drop actually belonged to.

16 Q. And who do you find?

17 A. Shadowshopper.com

18 Q. Okay. Showing you what we've marked as
19 Exhibit E, it appears to be a printout from the
20 Secretary of State showing Shadowshopper.com LLC as a
21 domestic limited liability company. Do you see that?

22 A. Yes, I do.

23 Q. Okay. And you obtained that?

24 A. I did obtain it from the website.

25 Q. From the Secretary of State?

1 A. That's correct, Secretary of State. I did a
2 business entity search.

3 Q. Okay. I see Mr. Nienbert's name appears as one
4 of the officers?

5 A. Yes.

6 Q. Now I'm asking you to look at what we've marked
7 as Exhibit F. Can you identify that for the Board?

8 A. Yes. It is, it is from the previous file,
9 where a cease and desist letter was sent. And it is
10 pages from their website at that time.

11 Q. Does Exhibit F appear to offer jobs within the
12 state of Nevada?

13 A. Yes, it does. The location states Nevada on
14 each of these entries. And then this goes on. Then,
15 other than Nevada, it shows Carson City, Nevada; Galena,
16 Nevada; Reno, Nevada; Virginia City, Nevada; and so
17 forth and so on, all of them being in the Nevada area.

18 MS. RAY: Excuse me, Mr. Chairman.

19 Mr. Nienbert, did you receive the e-mail with
20 the exhibits?

21 MR. NIENBERT: Have I?

22 MS. RAY: Yes.

23 MR. NIENBERT: No, I still have not.

24 MS. RAY: Oh, well, it was sent 10 minutes ago.
25 So.

1 MR. NIENBERT: I should definitely have it by
2 now, then.

3 MS. RAY: It's Dave@Shadowshopper.com, right?

4 MR. NIENBERT: That's right,
5 Dave@Shadowshopper.com. Sometimes people will actually
6 put an S. Oh, wait. Hang on.

7 MS. RAY: You got it?

8 MR. NIENBERT: No, still haven't got it.

9 MS. RAY: It's coming from a Rebecca Jenkins.

10 MR. NIENBERT: I'm looking here. Yeah, there's
11 nothing in my e-mail yet.

12 Even though I don't have a copy, I'm pretty
13 familiar with what you're talking about.

14 MR. MENICUCCI: Okay. Well, it should be
15 coming shortly, sir. Let me ask Ms. Whatley a couple of
16 other questions.

17 BY MR. MENICUCCI:

18 Q. The next item we've identified as Exhibit G.
19 Can you tell us what Exhibit G consists of?

20 A. Yes. On December 4th, 2009, I went back to the
21 website and printed off new pages from the website on
22 that page.

23 Q. Does this new printout also show Nevada jobs?

24 A. Yes, it does.

25 Q. In Reno?

1 A. Yes.

2 Q. And Las Vegas?

3 A. Yes.

4 MR. MENICUCCI: That is -- that concludes the
5 description of the exhibits that we have in this case.
6 I'd move that all of them be admitted. Obviously,
7 Mr. Nienbert would want to see them, but they should be
8 coming very shortly.

9 BOARD MEMBER NADEAU: Okay. We'll -- all the
10 exhibits have been submitted and accepted.

11 MS. RAY: She sent it a second time.

12 MR. NIENBERT: Okay. I'm checking my mail.

13 There we go. Okay. I got it.

14 MS. RAY: Good.

15 MR. NIENBERT: I got it.

16 BOARD MEMBER NADEAU: Would you like a few
17 minutes to review the exhibits?

18 MR. NIENBERT: No, I can do this on the fly.

19 BOARD MEMBER NADEAU: All right. Good enough.

20 MR. NIENBERT: What do you do, are you going to
21 ask me questions, or how does this go?

22 MR. MENICUCCI: Well, we may. But, first, I
23 think, the next order of business is I've asked the
24 Board to consider exhibits A through H as admitted into
25 evidence in this case.

1 MR. NIENBERT: M-hm (affirmative).

2 MR. MENICUCCI: And I'd ask if you have any
3 objection to that.

4 MR. NIENBERT: I'm sorry. I'm having a little
5 bit of trouble hearing you.

6 MR. MENICUCCI: Oh. Do you have any objection
7 to admitting exhibits A through H into evidence here?

8 MR. NIENBERT: No, not at all.

9 MR. MENICUCCI: Okay.

10 BOARD MEMBER NADEAU: Okay.

11 BOARD MEMBER NADEAU: Mr. Menicucci, anything
12 else?

13 MR. MENICUCCI: I actually have no further
14 questions. We're prepared to proceed on the basis of
15 the exhibits and Ms. Whatley's testimony regarding her
16 investigation activities.

17 BOARD MEMBER NADEAU: Mr. Nienbert, do you have
18 any questions of Investigator Whatley?

19 MR. NIENBERT: No.

20 BOARD MEMBER NADEAU: Okay. Then, it's your
21 turn.

22 MR. NIENBERT: Okay. Like I said, I'm not sure
23 how to start, because you're asking us to disprove a
24 negative. But we don't just employ anyone, we're --
25 your local newspaper or anyone else that lists jobs.

1 We're talking to shopping companies. We're an abrogator
2 of mystery shopping jobs. So we are a step above a
3 mystery shopping company.

4 And that's what -- I wrote a letter to you all
5 listing all the companies that we have that do business
6 in Nevada. That was our mystery shopping companies.
7 And to my knowledge, they're -- each one of those has a
8 private investigator license.

9 So we're well aware of the requirements. They
10 work for a private -- or a licensed private investigator
11 in Nevada. In fact, it's in one of your pieces of
12 evidence. Let's see if I can see what page it is.

13 It's on the common questions. And we have a
14 question and answer section there, where we let mystery
15 shoppers know, that would be our customers, know that
16 when they work for one of these mystery shopping
17 companies, that they have to be licensed.

18 BOARD MEMBER NADEAU: So am I understanding,
19 your contention is that you don't mete out any jobs, you
20 strictly take the names and then refer them to --

21 MR. NIENBERT: Exactly. It's -- I'm a
22 headhunter.

23 BOARD MEMBER NADEAU: But you do have a -- most
24 headhunters have a presence somewhere. You have a
25 presence. From what I'm reading here on your website,

1 it shows that you have an office here in Carson City,
2 Shadowshopper.

3 MR. NIENBERT: No, we don't have an office.
4 That's a mailing address.

5 BOARD MEMBER NADEAU: Okay. You have a
6 presence in Nevada?

7 MR. NIENBERT: Yes.

8 BOARD MEMBER NADEAU: Okay. And as that
9 presence, then, you try, you seek to find secret
10 shoppers, to then mete them out; is that -- to various
11 companies?

12 MR. NIENBERT: Exactly. Yes. Basically, what
13 we do is have the -- recruit people who are looking to
14 do mystery shopping all across the U.S. and Canada.

15 BOARD MEMBER NADEAU: Okay.

16 MR. NIENBERT: We collect those members, and
17 then we put them in touch with mystery shopping
18 companies. Like I said, we're -- the best analogy would
19 be a headhunter, the best analogy of Shadowshopper.com
20 gets with Monitor.com.

21 MR. MENICUCCI: Could I ask some questions?

22 BOARD MEMBER NADEAU: Sure, Mr. Menicucci, go
23 ahead.

24 MR. MENICUCCI: Mr. Nienbert, how does
25 Shadowshopper make its money?

1 MR. NIENBERT: We charge members for instant
2 notification of jobs in their area that meet their
3 criteria. So if you were to join as a member of mine,
4 you go in and you set your preferences and say, "I want
5 to do this type of work, this far away from me." And
6 when our employers post the jobs in our system, we do a
7 matchmaking, and then we shoot you an e-mail that says,
8 "Hey, there's a new job in your area that meets your
9 criteria."

10 So we charge our members for, you know,
11 basically, for that notification.

12 MR. MENICUCCI: Okay. Do you charge the
13 companies that have the shopping jobs to offer anything?

14 MR. NIENBERT: No.

15 MR. MENICUCCI: Do you pay any fees or reward
16 to the shadowshoppers themselves?

17 MR. NIENBERT: No. No, not at all.

18 MR. MENICUCCI: What, if anything, do you do to
19 make sure that the shopper is qualified to do that work
20 in the particular state; for instance, in Nevada --

21 MR. NIENBERT: That --

22 MR. MENICUCCI: -- do they have a license?

23 MR. NIENBERT: That is really outside of the
24 scope of what we do. Anymore than I would try to ensure
25 that they punctuate their report correctly. Our

1 relationship ends at the recruitment stage, not the
2 performance of any job.

3 MR. MENICUCCI: Okay. So it's fair to say that
4 you don't really do anything to assure that the people
5 who respond to your website are actually qualified to do
6 shadowshopping in Nevada?

7 MR. NIENBERT: Like I said, we refer them to
8 the companies. It's up to the companies whether they
9 want to hire them to perform a mystery shop.

10 BOARD MEMBER NADEAU: Okay.

11 MR. MENICUCCI: Did you ever verify that the
12 people are hired as employees by any of the companies?

13 MR. NIENBERT: No. Once again, that goes
14 beyond our purview.

15 BOARD MEMBER NADEAU: Any of the Board members
16 have any questions? Mr. Zane?

17 BOARD MEMBER ZANE: No.

18 BOARD MEMBER PUTNAM: No.

19 BOARD MEMBER NADEAU: Any other questions,
20 Mr. Menicucci?

21 MR. MENICUCCI: I don't think so, other than to
22 just clarify the position taken by Shadowshopper here.

23 Is it your position that you do not need to
24 have an investigator's license because you do not
25 actually employ the shadowshoppers themselves?

1 MR. NIENBERT: Yeah, I would say exactly that.
2 And there's no evidence whatsoever presented that we
3 employ anyone that's required to have a -- or have a
4 private eye or investigator's license, nor do we need a
5 private investigator's license, based on my
6 understanding of what the requirements are.

7 MR. MENICUCCI: And, in fact, the shoppers pay
8 you to be sort of a member of your circle of perspective
9 shoppers that get notification of jobs that might be
10 available?

11 MR. NIENBERT: I would say definitely they pay
12 us for a job notification service.

13 MR. MENICUCCI: Okay.

14 BOARD MEMBER NADEAU: All right. Mr. Nienbert,
15 do you have -- I don't think we have any other questions
16 up here. And so you have an opportunity to make your
17 summation, and then Mr. Menicucci will do his summation.

18 MR. NIENBERT: Okay.

19 BOARD MEMBER NADEAU: So this --

20 MR. NIENBERT: Do I go first?

21 BOARD MEMBER NADEAU: This is your opportunity,
22 yes, sir.

23 MR. NIENBERT: Okay. Basically, I would
24 summarize it that, I think, we're kind of spending each
25 other's times in maybe not the best of ways here.

1 Again, there's no evidence provided that we are breaking
2 any sort of law on hiring shoppers or mystery shoppers
3 without a private investigator's license, because we
4 don't employ those people. There's not a W-2. There's
5 no evidence whatsoever.

6 You have evidence of an ad of us recruiting
7 people who are interested in mystery shopping. No
8 different than a newspaper, no different than dot com,
9 no different from anything. And, I guess, another good
10 analogy would be I don't have a pilot's license, either,
11 because I don't have an airplane. So I don't need a
12 private investigator's license, because I'm not doing, I
13 guess, what falls under your domain.

14 So, again, no evidence was provided. It's my
15 opinion that the case should be dismissed.

16 BOARD MEMBER NADEAU: All right. Thank you
17 very much.

18 Mr. Menicucci.

19 MR. MENICUCCI: Well, I think that the issue's
20 actually fairly clear. There's no dispute that the
21 function of mystery shopping falls within the definition
22 of private investigator, as the Board has held many
23 times in the past, that it does, in fact, involve going
24 out and obtaining identification on the identity,
25 habits, conduct, business, occupation, and so forth, of

1 people who are being observed in mystery shopping. So
2 that's really not the issue here.

3 The issue is whether -- whether Shadowshopper,
4 having once received a cease and desist order, has been
5 able to maneuver their way around the requirement for a
6 private investigator's license. And the way that
7 they've done that is by charging people for
8 disseminating what they call job opportunities and then
9 trying to place all burden on the people who offer the
10 jobs to assure that the folks that are doing the mystery
11 shopping are duly licensed and qualified to do that
12 work.

13 But what they're doing is, essentially, turning
14 a blind eye on the fact that they are facilitating an
15 arrangement that is going to be evading the private
16 investigator's licensing requirements, because they
17 don't do any efforts to make sure that the people that
18 they assemble as available to do mystery shopping are
19 actually qualified to do it at the particular location
20 in which they are offered the job.

21 So the issue is fairly well-defined here. And
22 whether or not they fall within the definition of NRS
23 648.060 of engaging in the business of private
24 investigator, advertising your business as such, my
25 contention would be they do advertise. And it is a

1 shadowshopping business. It's not really an employment
2 opportunity business if you look at the entire website.

3 Mr. Nienbert points out, and you can find it in
4 one of our exhibits, that there is a statement saying,
5 you know, in Nevada, you have to have a private
6 investigator's license to do mystery shopping. But
7 there's no follow-up on that to determine if the people
8 taking these jobs, in fact, have that qualification.

9 BOARD MEMBER NADEAU: That said, then, we'll
10 bring it back to the Board for discussion. Any Board
11 members have any follow-up, any comments or whatever?

12 BOARD MEMBER PUTNAM: No, sir.

13 BOARD MEMBER NADEAU: All right. Mr. Zane?

14 BOARD MEMBER ZANE: So is the content of the
15 citation exactly for conducting the shadowshopping
16 activity or mystery shopping activity or that they are
17 advertising that they are providing the service?

18 MR. MENICUCCI: Either would be a violation. I
19 think, the words of the citation are operating a company
20 that provides mystery shopping which involves offering
21 employment to individuals for compensation for the
22 individuals who conduct an investigation for the purpose
23 of obtaining information, and then further description
24 thereafter.

25 So my point would be either actively conducting

1 or the shopping or advertising one's business as
2 shopping would be a violation.

3 BOARD MEMBER PUTNAM: Well, Mr. Chairman, I
4 have a motion.

5 BOARD MEMBER NADEAU: Okay. I guess, we're
6 prepared to take a motion.

7 BOARD MEMBER PUTNAM: All right. Mr. Chairman,
8 I move that citation C-056-09, issued to David Nienbert
9 of Shadowshoppers.com LLC, be upheld.

10 BOARD MEMBER NADEAU: Okay. I have a motion to
11 uphold the citation. Is there a second?

12 I don't hear a second. Is there an alternative
13 motion?

14 BOARD MEMBER ZANE: I would move -- well --

15 MR. MARCHER: Well, you really have two
16 alternatives. You uphold it, or you dismiss it. Those
17 are, basically, it.

18 BOARD MEMBER ZANE: Well, is the -- my issue is
19 the way the citation reads. I have no problem filing or
20 making a motion for the advertising of the service. But
21 based upon the proof, I have a problem making the motion
22 for the conducting the business, from the testimony.

23 MR. MARCHER: Could I see the citation.

24 BOARD MEMBER NADEAU: Mr. Nienbert, we're
25 talking legal issues here at the moment.

1 MR. NIENBERT: I'm sorry. You guys are really
2 vague.

3 BOARD MEMBER NADEAU: Okay. We're still in the
4 process of discussing the form of the motion. So
5 we're --

6 MR. NIENBERT: Okay.

7 BOARD MEMBER NADEAU: So if you will please
8 bear with us.

9 MR. MENICUCCI: If I could point out to the
10 Board, on the second page of the citation, it's alleged
11 that the -- that the Shadowshopper solicited
12 shadowshoppers, saying they were desperate to find
13 shadowshoppers as one of their activities. So it's the
14 combination of solicitation or advertising, trying to
15 find shadowshoppers, as well as conducting the business,
16 either one of which would be the violation of 648.060(1)
17 if it involved the mystery shopping activity or
18 function.

19 MR. MARCHER: We can't parse this up. I mean
20 what you need to do is, based on the way that's written,
21 you make a motion to uphold it or dismiss it.

22 BOARD MEMBER NADEAU: We're still looking for a
23 motion.

24 BOARD MEMBER PUTNAM: For a second.

25 BOARD MEMBER NADEAU: Okay.

1 BOARD MEMBER ZANE: Well, I'll second it for
2 the purposes of discussion.

3 BOARD MEMBER NADEAU: Okay. So we have a
4 motion to uphold the citation and a second. Discussion?

5 BOARD MEMBER ZANE: Yes. My -- I would be
6 inclined to vote to uphold the citation if there's some
7 way that I can -- I don't believe we have evidence that
8 these people conducted themselves in a manner within the
9 state that said that they did shadowshopping. I think
10 that I'm fine with the fact that they might have
11 illegally advertised that they did.

12 So I don't have a problem upholding the
13 citation for the advertisement purposes.

14 BOARD MEMBER NADEAU: I'm going to jump in
15 here. And I got to say, I'm -- in looking at the
16 webpage and that type of thing, there is no -- there's
17 no -- to me, there's nothing here that says they're
18 going to do the hiring. They explain mystery shopping.
19 They do all of that other stuff. But I have to say that
20 there is a nuance. It may be advertising. But, to me,
21 there is a nuance that says they're not hiring anyone,
22 they're not -- they're not soliciting folks for their
23 own employment. They are a -- they're an employment,
24 for all intents and purposes, an employment agency.

25 And given that, I probably cannot support the

1 motion. I think. So that's where I'm coming from.

2 BOARD MEMBER PUTNAM: Mr. Chairman?

3 BOARD MEMBER NADEAU: Yes?

4 BOARD MEMBER PUTNAM: With regard to that, the
5 thing is they indicate in their website the number of
6 positions that are within a 50-mile range of the address
7 here. They talk about all the benefits that you can get
8 and all the rest of it. But, apparently, they're not
9 offering, they are not the ones offering these benefits.

10 But my bottom line is, is simply that it seems
11 to me that this is a dance that's being done to
12 circumvent the law. The spirit of the law is being
13 violated. And --

14 BOARD MEMBER NADEAU: Well, and --

15 BOARD MEMBER PUTNAM: And as far as that goes,
16 I mean they are advertising positions for mystery
17 shoppers. And to look at that very strictly, at least
18 in my nonlegally trained mind, that's exactly what
19 they're doing with this webpage.

20 BOARD MEMBER NADEAU: And if they were
21 engaging, then I would certainly have no qualms at all.
22 But I look at this no different than an employment
23 agency having advertising for security guards. And
24 they're not hiring the security guard. They're out
25 soliciting folks for security work. In other words,

1 they're not hiring them on behalf of a client. They're
2 out soliciting folks to be a security guard. And we
3 don't require them to -- we don't require the employment
4 agency to have a license in order to advertise that
5 there's security guard work out there, that they make a
6 good wage.

7 I guess, I'm just -- well, I see the nuance,
8 and I'm just -- I am very uncomfortable about it.

9 BOARD MEMBER PUTNAM: Yes, Mr. Chairman, what
10 makes me uncomfortable more than anything else is that
11 this organization, mystery shadowshoppers, does not say
12 we're an employment agency. The title of the business
13 itself suggests that anyone who would contact them that
14 they're the ones that are doing the hiring, even if
15 they're not.

16 BOARD MEMBER NADEAU: I understand your
17 position.

18 BOARD MEMBER PUTNAM: You know, so if an
19 employment agency was to represent themselves, when
20 they're trying to find people to fill positions as
21 security guards, as the ABC Security Company, and
22 there -- it seems, in my mind, there would be a problem
23 for that employment agency.

24 BOARD MEMBER NADEAU: If a company, if either
25 Shadowshoppers or a company associated with

1 Shadowshoppers is actually hiring mystery shoppers, then
2 I would -- I'd have no qualms with it, of upholding it,
3 if we had any evidence. If we had any evidence that
4 they were, I would have no qualms with upholding it.

5 BOARD MEMBER PUTNAM: Well, then, I think
6 it's -- we move the Board to have Mr. Nienbert supply us
7 with the names of the companies that he's in business
8 with or that he supplies shoppers to that are involved
9 in mystery shopping here in Nevada.

10 MR. NIENBERT: I have. I gave you a fill list
11 in the letter I sent you of every single company that
12 posts in our system.

13 BOARD MEMBER NADEAU: Mr. Nienbert, thank you
14 for the -- jumping in. But we're in the process of
15 discussion. It's not a proper time.

16 MR. NIENBERT: I'm sorry. I didn't understand.

17 BOARD MEMBER NADEAU: It's not appropriate for
18 you to provide additional testimony.

19 I understand your position. And I -- I think,
20 I know where I'm at.

21 So, Mr. Zane, do you have any additional
22 comments or anything of that nature?

23 BOARD MEMBER ZANE: No.

24 BOARD MEMBER NADEAU: Okay. Then, I think, we
25 can vote on the motion. The motion is to uphold the

1 citation. It's been moved and seconded. The motion is
2 to uphold the citation. All in favor say "aye."

3 BOARD MEMBER PUTNAM: Aye.

4 BOARD MEMBER NADEAU: Opposed? Nay.

5 BOARD MEMBER ZANE: Nay.

6 BOARD MEMBER NADEAU: Okay. Then, the motion
7 is defeated. By default, do we need another motion or?

8 MR. MARCHER: By default, you need to make
9 another motion.

10 BOARD MEMBER NADEAU: Okay. And, I guess, I'll
11 follow up. So we'll make a motion to --

12 MR. MARCHER: Dismiss.

13 BOARD MEMBER NADEAU: -- dismiss the citation.

14 BOARD MEMBER ZANE: Second.

15 BOARD MEMBER NADEAU: Any further discussion?

16 BOARD MEMBER PUTNAM: No.

17 BOARD MEMBER NADEAU: All in favor, say "aye."

18 Aye.

19 BOARD MEMBER ZANE: Aye.

20 BOARD MEMBER NADEAU: Opposed?

21 BOARD MEMBER PUTNAM: Nay.

22 BOARD MEMBER NADEAU: Okay. Mr. Nienbert?

23 MR. NIENBERT: Yes?

24 BOARD MEMBER NADEAU: We bought your argument
25 today. But I guarantee you that you should not be

1 conducting the business of mystery shopping in the state
2 of Nevada.

3 MR. NIENBERT: I'm sorry. Could you say that
4 again.

5 BOARD MEMBER NADEAU: I'm saying that your
6 company, Shadowshopper --

7 MR. NIENBERT: Yes.

8 BOARD MEMBER NADEAU: -- unless you achieve a
9 license, you should not engage mystery shoppers in the
10 state of Nevada.

11 MR. NIENBERT: I am not hiring any mystery
12 shoppers.

13 BOARD MEMBER NADEAU: I know that. I know
14 that.

15 MR. NIENBERT: That's something I'm not doing.
16 I guess, the question that I'm putting to you is --

17 BOARD MEMBER NADEAU: We bought your
18 supposition. We bought your argument that you're not
19 engaging them. And because of that, the citation has
20 been dismissed.

21 MR. NIENBERT: Okay.

22 BOARD MEMBER NADEAU: Okay?

23 MR. NIENBERT: All right. So the citation is
24 dismissed. So what do we do going forward? If you
25 want, I can bring in all the battens. And, essentially,

1 you're hurting people that live in Nevada, find work.
2 If you want me to do that, I -- you know, my -- it's
3 probably not economically viable for me. It would be
4 better just to ban everyone from Nevada from our system.

5 BOARD MEMBER NADEAU: That's your business
6 decision, whatever you choose.

7 MR. NIENBERT: I'm just trying to apply common
8 sense here.

9 BOARD MEMBER NADEAU: I understand. Again,
10 that's a decision you have to make on your business
11 model. That's not for our determination. Our
12 determination is to ensure that people are not being
13 engaged in the business of mystery shopping.

14 MR. NIENBERT: Right.

15 BOARD MEMBER NADEAU: Without the appropriate
16 licensure.

17 MR. NIENBERT: Okay.

18 BOARD MEMBER NADEAU: Okay.

19 MR. NIENBERT: But you said that this
20 particular citation has been dismissed?

21 BOARD MEMBER NADEAU: That's correct.

22 MR. NIENBERT: By going forward from here, so
23 if I were to change nothing, what's going to happen?

24 MR. MARCHER: Nothing.

25 BOARD MEMBER NADEAU: Nothing.

1 MR. NIENBERT: Okay. I guess, I was lost
2 there.

3 MR. MARCHER: Well, that, you know --

4 MR. NIENBERT: Am I supposed to be happy or
5 sad?

6 MR. MARCHER: You should be happy.

7 MR. NIENBERT: Okay. I'll be happy.

8 MR. MARCHER: What you should also do next week
9 is give Mechele a call and, you know, talk to her a
10 little bit about it. But, essentially, it just leaves
11 you the status quo.

12 MR. NIENBERT: Okay.

13 MR. MARCHER: All right.

14 BOARD MEMBER NADEAU: And, I guess --

15 MR. NIENBERT: I was confused there, because
16 I've never done this before.

17 BOARD MEMBER NADEAU: All right. Do you have
18 any other questions? Again, you might want to contact
19 Mechele, and she can just clarify any questions that you
20 may have.

21 MR. NIENBERT: Okay. I can follow up with
22 Mechele.

23 BOARD MEMBER NADEAU: Thank you very much.

24 MR. NIENBERT: All right. Thank you for your
25 time.

1 BOARD MEMBER NADEAU: Gentlemen in the south,
2 do we have anyone left in the audience down there?

3 MR. MURPHY: We do not.

4 BOARD MEMBER NADEAU: Okay. We have several
5 issues that we want to -- We're completed with that; is
6 that correct?

7 MR. MENICUCCI: We're completed with the
8 contested matters.

9 * * * * *

10 (The reported portion of the meeting concluded at
11 3:15 p.m.)

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REPORTER'S CERTIFICATE

I, SHANNON L. TAYLOR, a Nevada Certified Court Reporter, Nevada CCR #322, do hereby certify:

That I was present at the Office of the Attorney General, 100 North Carson Street, Mock Court Room, Carson City, Nevada, on Thursday, December 10, 2009, and commencing at 9:10 a.m. took stenotype notes of a meeting of the State of Nevada, Private Investigators Licensing Board;

That I thereafter transcribed the aforementioned stenotype notes into typewriting as herein appears, and that the foregoing transcript, consisting of pages 1 through 155, is a full, true, and correct transcription of said stenotype notes of said meeting;

I further certify that I am not an attorney or counsel for any of the parties, not a relative or employee of any attorney or counsel connected with the actions, nor financially interested in the actions.

DATED: At Carson City, Nevada, this 12th day of February, 2010.

SHANNON L. TAYLOR
Nevada CCR #322, RMR