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

Thursday, June 17, 2010  
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

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR  
Certified Court, Shorthand and Registered Merit Reporter  
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A P P E A R A N C E S

Board Members Present in Carson City:

David Spencer, Chairman  
Jim Nadeau  
Richard Putnam  
Robert Uithoven

Also: Mechele Ray  
Executive Director

Jeffrey D. Menicucci  
Deputy Attorney General

Thoran Towler  
Deputy Attorney General

Christine S. Munro  
Senior Deputy Attorney General

Tammy Whatley  
Investigator

Other Participants in Carson City:

Richard Antuzzi

Board Members Present in Las Vegas via  
Videoconferencing:

Mark Zane

Also: Colin Murphy  
Compliance Investigator

Stephen Jupp

Elyse Gresnick-Smith

(continued...)

1 Other Participants in Las Vegas:

2 Warren Markowitz, Esq.

3 Jeff Quijano, Esq.  
4 Kurt Strakaluse

5 Mace Yampolsky, Esq.  
6 James P. Thomas  
7 Steven Quinn  
8 Dennis Prince, Esq.  
9 Collette D. Putnam

10 Nicholas Trovato

11 Cortez Norsworthy

12 Joseph Marshall

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1 CARSON CITY, NEVADA, JUNE 17, 2010, 9:07 A.M.

2 -oOo-

3 BOARD CHAIRMAN SPENCER: All right. Let's get  
4 moving. Today is the second day of the regularly  
5 scheduled quarterly meetings, which is primarily devoted  
6 to disciplinary hearings and appeal hearings.

7

8 AGENDA ITEM 1

9 ROLL CALL OF BOARD MEMBERS

10

11 BOARD CHAIRMAN SPENCER: Roll call of members,  
12 please.

13 MS. RAY: Board Member Zane?

14 BOARD MEMBER ZANE: Present.

15 MS. RAY: Board Member Uithoven?

16 BOARD MEMBER UITHOVEN: Present.

17 MS. RAY: Board Member Nadeau?

18 BOARD MEMBER NADEAU: Here.

19 MS. RAY: Board Member Putnam?

20 BOARD MEMBER PUTNAM: Here.

21 MS. RAY: Chairman Spencer?

22 BOARD CHAIRMAN SPENCER: Here.

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AGENDA ITEM 2

ALL APPLICANTS AND WITNESSES TO BE SWORN IN

BOARD CHAIRMAN SPENCER: Would any parties who will give testimony in anything that will appear today please rise and be sworn in.

Who's going to do the swearing, folks?

MR. TOWLER: Please raise your right hands. Do you swear that the testimony you are about to give today is the truth, the whole truth and nothing but the truth?

(The potential witnesses present were sworn.)

AGENDA ITEM 13

YOHANNES FARAH

BOARD CHAIRMAN SPENCER: All right. The first, first hearing we have, we're going to move out of order so that Mr. Yohannes Farah can go to class. That's number 13.

Mr. Farah, would you like to come up to the front, please.

MS. GRESNICK-SMITH: Nobody here.

BOARD CHAIRMAN SPENCER: Nobody here by that name?

MS. GRESNICK-SMITH: No.

1 MS. RAY: All right.

2

3 AGENDA ITEM 3

4 JAMES THOMAS, DBA JIM THOMAS & ASSOCIATES

5

6 BOARD CHAIRMAN SPENCER: Okay. Then, moving  
7 right along, we'll go to a disciplinary hearing in the  
8 matter of James Thomas, dba Jim Thomas & Associates.

9 Move to continue to the next meeting?

10 MS. RAY: No, no, he's just running late.

11 BOARD CHAIRMAN SPENCER: Okay. I didn't know  
12 about that.

13

14 AGENDA ITEMS 4 AND 5

15 HENRY MICHAEL WILCOX OF RED KORAL GROUP

16 HENRY MICHAEL WILCOX OF COLLATERAL RECOVERY

17

18 BOARD CHAIRMAN SPENCER: All right. Continued  
19 appeal hearings. Number four, Henry Michael Wilcox of  
20 Red Koral Group.

21 MR. MARKOWITZ: Counsel present.

22 BOARD CHAIRMAN SPENCER: Is anybody there?

23 MR. MARKOWITZ: Yes, sir, I am.

24 BOARD CHAIRMAN SPENCER: Okay. You want to  
25 sit -- oh, there you go. Great.

1 MR. MARKOWITZ: Thank you.

2 MR. TOWLER: For the record, Thoran Towler,  
3 Deputy Attorney General. I believe, in the audience  
4 there is Mr. Malkowitz.

5 MR. MARKOWITZ: Markowitz. Yes, sir, that's  
6 correct.

7 MR. TOWLER: Markowitz. I have a possible  
8 resolution to this matter, if the court approves. In  
9 this, we have two citations against Mr. Wilcox, number  
10 C-093-09, and number C-096-09.

11 I've talked with counsel for Mr. Wilcox. And  
12 we found it's agreeable that Mr. Wilcox will agree to  
13 pay the Red Koral fine, which is the 093-09, and then we  
14 would dismiss the second fine, which is the lesser, in  
15 our opinion, of the fines, the 096-09.

16 BOARD CHAIRMAN SPENCER: Is there an admission  
17 of guilt to what they were doing?

18 MR. TOWLER: Well, I believe -- and I'm not  
19 sure. Counsel could answer to that. But it's my  
20 understanding that he is -- there was a  
21 misunderstanding, is their point of view, and they --  
22 they know that there was a violation. That's why  
23 they're agreeing to pay the fine on the first one.

24 BOARD CHAIRMAN SPENCER: Do the Board  
25 members --

1 MR. MARKOWITZ: That is correct, Your Honor.

2 BOARD CHAIRMAN SPENCER: Do the Board members  
3 have any questions?

4 BOARD MEMBER NADEAU: What will the fine be,  
5 Mr. Chairman?

6 BOARD CHAIRMAN SPENCER: Yes, what will the  
7 fine be?

8 MR. TOWLER: \$2,500.

9 BOARD CHAIRMAN SPENCER: \$2,500. Okay.

10 BOARD MEMBER NADEAU: And it'll be stipulated  
11 that this will be the first. So, therefore, any  
12 additional violation would then ratchet up to the next  
13 step.

14 BOARD CHAIRMAN SPENCER: Yes.

15 MR. TOWLER: That's correct. This is the first  
16 violation. So, of course, any future violations will be  
17 dealt with accordingly, and the next fine, I believe,  
18 will be a \$5,000 fine, if there is a subsequent fine.

19 BOARD CHAIRMAN SPENCER: Are there any further  
20 questions from the Board?

21 If not, I would entertain a motion as to the  
22 suitability of this arrangement.

23 BOARD MEMBER NADEAU: Thank you. Thank you,  
24 Mr. Chair. I move that we accept the settlement  
25 agreement on behalf of Mr. Wilcox and Red Koral.

1 BOARD CHAIRMAN SPENCER: Do I have a second?

2 BOARD MEMBER PUTNAM: Second.

3 BOARD CHAIRMAN SPENCER: I have a motion and a  
4 second. All in favor, signify by saying "aye."

5 (Board members said "aye.")

6 BOARD CHAIRMAN SPENCER: Opposed?

7 BOARD MEMBER ZANE: No.

8 BOARD CHAIRMAN SPENCER: Okay. It's a go.  
9 You're good.

10 MR. TOWLER: All right.

11 BOARD CHAIRMAN SPENCER: So that's both.

12 MR. MARKOWITZ: Is that all? Thank you very  
13 much.

14

15 AGENDA ITEM 6

16 KURT STRAKALUSE

17

18 BOARD CHAIRMAN SPENCER: Number six, Mr. Kurt  
19 Strakaluse. And I apologize if I butchered that name.

20 MR. STRAKALUSE: That's okay. You did fine,  
21 sir. Thank you.

22 BOARD CHAIRMAN SPENCER: Would you educate me  
23 as to the proper pronunciation, please.

24 MR. STRAKALUSE: Sure. It's "STRAK-A-LOOS."  
25 And that's Greek, but I am Italian.

1 BOARD CHAIRMAN SPENCER: Yeah. Okay.

2 MR. STRAKALUSE: All right. I just thought I'd  
3 throw that in there.

4 BOARD CHAIRMAN SPENCER: Well, I did pronounce  
5 it right, then.

6 MR. STRAKALUSE: Yes, very good.

7 BOARD CHAIRMAN SPENCER: Oh, good. This is an  
8 unlicensed activity citation appeal, citation number  
9 C-093-09.

10 Please proceed, counsel.

11 MR. TOWLER: Again --

12 MS. RAY: Oh. Pardon me. Can we just make  
13 sure that Las Vegas has the exhibits that they need  
14 before we begin?

15 BOARD CHAIRMAN SPENCER: Mark, do you have the  
16 exhibits you need?

17 BOARD MEMBER ZANE: I do, yes, sir.

18 MR. TOWLER: Again, for the record, Thoran  
19 Towler, Deputy Attorney General.

20 In this case, this is a violation of 648.060.  
21 The first witness I have is Investigator Tammy Whatley.

22 And, Vegas, do you have a copy of the exhibit  
23 packet?

24 BOARD MEMBER ZANE: I have the stuff that was  
25 sent down via the Internet, and then I've received the

1 packet of the faxed exhibits.

2 MR. TOWLER: I'd ask that Mr. Strakaluse be  
3 given a copy of that packet.

4 MR. STRAKALUSE: Thank you.

5 MR. TOWLER: All right.

6

7 T A M M Y W H A T L E Y,  
8 having been previously sworn by the Deputy Attorney  
9 General, was examined and testified as follows:

10

11 DIRECT EXAMINATION

12 BY MR. TOWLER:

13 Q. All right. Could you please state your name  
14 and spell your last name for the record.

15 A. Tammy Whatley, W-H-A-T-L-E-Y.

16 Q. All right. Where do you work?

17 A. I work for the Nevada Attorney General's  
18 Office, Private Investigators Licensing Board.

19 Q. And what's your title there?

20 A. Investigator.

21 Q. How long have you had that title?

22 A. Since October 2008.

23 Q. Does that position mean that you investigate  
24 possible violations of NRS 648?

25 A. Yes, it does.

1 Q. All right. Did you, in your official capacity,  
2 did you ever have reason to investigate  
3 30-MinuteSecurity.com LLC?

4 A. Yes.

5 Q. And a Mr. Kurt Strakaluse?

6 A. Yes.

7 Q. Okay. When was Mr. Strakaluse or that company,  
8 30-MinuteSecurity.com LLC first brought to your  
9 attention?

10 A. We first received a complaint in October.  
11 Well, I first issued a cease and desist October 15th,  
12 2009.

13 Q. Okay. And why did you issue that cease and  
14 desist letter?

15 A. Our office received a complaint regarding a  
16 Craigslist advertisement.

17 Q. Okay. Did you investigate that complaint?

18 A. I did.

19 Q. What did you discover?

20 A. I discovered that there was unlicensed activity  
21 by advertising, and I did send a cease and desist  
22 letter.

23 Q. Okay. So when you said you researched it, did  
24 you go to look at their website?

25 A. I did.

1 Q. Okay. I'd like you to look at number  
2 exhibit -- what's been marked as Exhibit C.

3 A. Okay.

4 Q. That looks like a screenshot from the website,  
5 doesn't it?

6 A. That's correct.

7 Q. Did you print this screenshot out?

8 A. Yes, I did.

9 Q. And is this the same screenshot that you  
10 remember printing out?

11 A. Yes.

12 Q. Do you see anywhere on there that says they're  
13 advertising for services in Las Vegas?

14 A. Yes. In the mission statement, it's the last  
15 sentence: Whatever your security needs are, we are  
16 committed to delivering quality service to the Las Vegas  
17 community.

18 Prior to that, it did refer to home and  
19 business security.

20 Q. Okay. Let's also go to Exhibit F, and that's  
21 the last exhibit in the packet, several pages. I  
22 believe, this would be several different screenshots of  
23 the website you investigated; is that correct?

24 A. Yes, that is correct.

25 Q. If you'd turn now to the last one, F-4, does

1 that have a contact information?

2 A. It does.

3 Q. And do you recognize that, that area code?

4 A. Yes. That's -- 702 is the Clark County area.

5 Q. And, of course, that's in Nevada?

6 A. That's correct.

7 MR. TOWLER: I'd ask that Exhibit C and F, and  
8 that's F-1 through 4, be admitted into evidence.

9 If there's any objection --

10 BOARD CHAIRMAN SPENCER: Any objections,  
11 Mr. Strakaluse?

12 MR. STRAKALUSE: No. I have my attorney here.

13 BOARD CHAIRMAN SPENCER: Are you counsel, sir?

14 MR. QUIJANO: Yes, sir. Jeff Quijano.

15 BOARD CHAIRMAN SPENCER: Okay. Thank you very  
16 much. Do you have any objections?

17 MR. QUIJANO: We have a request that the fine  
18 be reduced. Excuse me. Because Mr. Strakaluse didn't  
19 receive the first -- he didn't receive the first  
20 occasions of the cease and desist letter. It was  
21 returned to --

22 BOARD CHAIRMAN SPENCER: Excuse me just a  
23 second. We'll get to that part. But do you have any  
24 objections to the introduction of this, these exhibits?

25 MR. QUIJANO: I do not.

1 BOARD CHAIRMAN SPENCER: Okay. And would you  
2 spell your last name, please.

3 MR. QUIJANO: Sure. Q-U-I-J-A-N-O.

4 BOARD CHAIRMAN SPENCER: Common spelling?

5 MR. QUIJANO: Right.

6 BOARD CHAIRMAN SPENCER: Okay. Do you have  
7 anything further, counsel?

8 MR. TOWLER: I do.

9 BY MR. TOWLER:

10 Q. After the investigation of the website, how did  
11 your investigation continue?

12 A. Can you -- for the cease and desist or for the  
13 citation?

14 Q. For the -- well, what was the next step after  
15 you saw the website?

16 A. Okay. When -- the very -- the first complaint,  
17 I viewed and determined that unlicensed activity had  
18 occurred, I sent a cease and desist letter to  
19 Mr. Strakaluse's address listed, 8966 Castledowns  
20 Street, Las Vegas, Nevada, 89148, which is the address  
21 listed on the Secretary of State website. And that  
22 letter was returned unclaimed.

23 Q. Okay. Did you -- so you're saying you did  
24 check with the Secretary of State website?

25 A. I did.

1 Q. Can you turn to Exhibit Number D?

2 A. Yes.

3 Q. And on there, is that where you found the  
4 address?

5 A. That is correct.

6 Q. And we don't have copies of the letter. I do  
7 have the original letter here. And we can publish that  
8 to the Board, too. But it does appear to be sent to the  
9 address listed on the Secretary of State website.

10 Also, could you turn to Exhibit Number E.

11 A. Yes.

12 Q. That looks like it's another Secretary of State  
13 filing that Mr. Strakaluse is listed on; is that  
14 correct?

15 A. That is correct.

16 Q. And what address does it have him listed at?

17 A. The same, 8966 Castledowns, Las Vegas, Nevada,  
18 89148.

19 Q. And, again, that's the address you sent the  
20 certified cease and desist letter to?

21 A. That is correct.

22 Q. But it was returned to sender unclaimed?

23 A. That is correct.

24 MR. TOWLER: All right. I'd ask that Exhibit D  
25 and E both be admitted into evidence.

1 BOARD CHAIRMAN SPENCER: Counsel, any  
2 objections?

3 MR. QUIJANO: No, sir.

4 BOARD CHAIRMAN SPENCER: Okay.

5 BY MR. TOWLER:

6 Q. Was there any investigation regarding the  
7 Craigslist ad that was placed?

8 A. The Craigslist ad was provided in the  
9 complaint.

10 Q. Okay. And did you -- did anybody from your  
11 office respond to the Craigslist ad?

12 A. Not in my office.

13 Q. Okay. Could you look at Exhibit B. It's the  
14 second one.

15 A. Yes.

16 Q. Do you recognize that e-mail?

17 A. I do.

18 Q. Was that ever put into your possession?

19 A. This is what was sent to me to file the  
20 complaint.

21 Q. Okay. And on there, do you see anything that  
22 shows you this was a Las Vegas advertisement?

23 A. Actually, it's on Craigslist, if you're  
24 familiar with Craigslist. It does show Las Vegas here,  
25 in parentheses, of firearms, weapons training, women.

1 But, also, according to -- I thought there was one other  
2 place that it also -- but it does state in firearms,  
3 weapons training, women, Las Vegas, in parentheses, and  
4 down below, location, Las Vegas.

5 Q. And there's also a contact phone number, isn't  
6 there?

7 A. That is correct, with a 702 phone number.

8 Q. And as you stated before, that's -- is that the  
9 Clark County area code?

10 A. That is correct.

11 Q. And that's located in Nevada?

12 A. Correct.

13 Q. Okay. If you'll turn to the front page of the  
14 packet. Based on your investigation and the return of  
15 the cease and desist letter, did you issue a citation?

16 A. From this one, yes, I did.

17 Q. Okay. And is this a citation that you issued?

18 A. Yes.

19 Q. Okay. What was the violation that you cited  
20 for?

21 A. Advertising private investigator and private  
22 patrolman services in the state of Nevada without a  
23 license.

24 Q. And that's a violation of which chapter of NRS?

25 A. 648.060.

1 Q. Okay. And what's the violation amount?

2 A. \$2,500.

3 MR. TOWLER: Okay. I'd ask that the citation,  
4 Exhibit A, be admitted into evidence.

5 BOARD CHAIRMAN SPENCER: Any objection,  
6 counsel?

7 MR. QUIJANO: No.

8 MR. TOWLER: I have no more questions.

9 BOARD CHAIRMAN SPENCER: All right. Counsel,  
10 do you have some questions or offerings?

11 MR. QUIJANO: No, we don't. We don't have any  
12 additional documents to enter.

13 Mr. Strakaluse doesn't dispute that, that he  
14 was involved in having any of these postings put on  
15 Craigslist or having the -- retaining the website  
16 designer to begin constructing his website in  
17 anticipation of his application for his private  
18 investigator's license.

19 Mr. Strakaluse didn't receive the cease and  
20 desist letter. And upon receiving the citation, he  
21 immediately removed the website and the Craigslist  
22 postings and would have done the same had he received  
23 the cease and desist letter.

24 So based on that, we'd just request that the  
25 fine be reduced.

1 BOARD CHAIRMAN SPENCER: Okay. And,  
2 Mr. Strakaluse, did you obtain any licensing information  
3 prior to this?

4 MR. STRAKALUSE: Well, sir, just be clear that  
5 my knowledge of the marketing in reference to the  
6 company, which is in the process of completing its  
7 license and handing it in, was not aware of one of the  
8 computer techs issuing it live. This was not planned to  
9 go live for another six months. It is actually not even  
10 completed. And as soon as I found out, by the citation,  
11 that this computer tech did put it live, I immediately  
12 took it down.

13 And I apologize that this did not happen in the  
14 appropriate order that it should have happened. And I  
15 would ask that the Board take a look at my background,  
16 being a retired policeman, the people I associate with,  
17 and my professionalism in reference to the business and  
18 how I did want to complete this in the proper manner.

19 BOARD CHAIRMAN SPENCER: Okay. Where are you  
20 retired from?

21 MR. STRAKALUSE: Back east in Rhode Island.

22 BOARD CHAIRMAN SPENCER: Okay. Questions from  
23 the Board?

24 BOARD MEMBER PUTNAM: Mr. Chairman, I have a  
25 question.

1 BOARD CHAIRMAN SPENCER: Please.

2 BOARD MEMBER PUTNAM: This registered letter,  
3 the cease and desist letter, was sent to 8966  
4 Castledowns Street. Is that your correct address?

5 MR. STRAKALUSE: Correct, sir, and that's why I  
6 don't understand why I never received it, and it was  
7 returned unsend. I have not moved. I have not changed  
8 addresses. And I did receive the citation only.

9 BOARD CHAIRMAN SPENCER: Hm.

10 MR. TOWLER: And I could pass this around to  
11 the Board. I know Vegas won't be able to see it, but  
12 this has the address on the front, says "Unclaimed."  
13 And it matches the address of the citation.

14 BOARD CHAIRMAN SPENCER: What type of a mailbox  
15 situation do you have, Mr. Strakaluse, at Castledowns  
16 Street?

17 MR. STRAKALUSE: Sir, I own my own home that I  
18 built in a private gated residential area. I am very  
19 familiar with my mailman. I just cannot have -- I don't  
20 understand why I did not receive that. It just makes no  
21 sense. I haven't changed addresses. It is a  
22 single-family home. And me and my wife live there. And  
23 I just don't understand why I didn't get it.

24 BOARD CHAIRMAN SPENCER: Do you have individual  
25 mailboxes or a group mailbox?

1 MR. STRAKALUSE: Yes. On each corner of the  
2 street is a group of mailboxes, which we have only one  
3 key for each mailbox, individual mailboxes.

4 BOARD CHAIRMAN SPENCER: Okay. Did you ask  
5 your post office fellow about it?

6 MR. STRAKALUSE: After I had received the  
7 citation was the first knowledge that I ever had of it.  
8 I did go up to him and ask him was there any other  
9 documentation or certified mail that would have come to  
10 me. And he says that you should have gotten everything  
11 that you got.

12 Every time -- he knows me. He gives me all my  
13 certified mail that I have to sign. And this just, it  
14 just made no sense why I didn't get this. I -- I mean I  
15 didn't change addresses. I would expect them to have  
16 tried several more times if -- you know, since I know my  
17 mailman, but.

18 BOARD CHAIRMAN SPENCER: Yes, I would think,  
19 two or three times.

20 MS. RAY: They gave him notice, the return.

21 BOARD CHAIRMAN SPENCER: What I don't  
22 understand here, though, is that it says "Return to  
23 sender, unclaimed." Which --

24 BOARD MEMBER UITHOVEN: Is there another option  
25 on certified mail?

1 BOARD CHAIRMAN SPENCER: Certified mail. I  
2 have the same type of mailbox that he does.

3 BOARD MEMBER UITHOVEN: Right.

4 BOARD CHAIRMAN SPENCER: They bring it to my  
5 door.

6 BOARD MEMBER UITHOVEN: Right. Yeah, same with  
7 me. You have an individual box.

8 BOARD CHAIRMAN SPENCER: Right.

9 BOARD MEMBER UITHOVEN: You go to -- with  
10 certified mail --

11 BOARD CHAIRMAN SPENCER: But that doesn't say  
12 that. It says "unclaimed." So I don't know what that  
13 means.

14 MR. TOWLER: Mr. Strakaluse, did you testify --

15 MR. STRAKALUSE: Yes.

16 MR. TOWLER: -- that certified mail is  
17 delivered to your door?

18 MR. STRAKALUSE: Yes. I generally get a knock  
19 on my door from my mailman, and he has me sign the green  
20 card. That's -- that's, basically, how it works.

21 MR. TOWLER: Have you ever not signed a card?

22 MR. STRAKALUSE: Oh. No. I signed every card.  
23 I inspect every one of my mails. I don't decline any  
24 mail. I have no reason to.

25 MR. STRAKALUSE: So you're saying you signed

1 the certified mail card, then he hands you the certified  
2 letter?

3 MR. STRAKALUSE: Correct. Usually that's the  
4 way it works, yes. And then, in the citation, if you  
5 look on the citation, I signed that certified mail for  
6 that citation. But there was -- there was just no cease  
7 and desist.

8 MR. TOWLER: You just said usually it works  
9 that way. Has there ever been any occasion where it  
10 didn't work that way, meaning did you ever receive the  
11 card and weren't given the letter, or did the mailman  
12 ever drop off the card for you, as maybe you weren't  
13 home?

14 MR. STRAKALUSE: No, there have been certified  
15 mails that I have not received before. And, I think,  
16 that is due to the fact that in my area, up at  
17 Mountain's Edge, it is -- there is only one post office.  
18 And I don't know why, but there has been other mail that  
19 I have not received.

20 MR. TOWLER: Were you expecting certified mail  
21 from the Private Investigators Licensing Board?

22 MR. STRAKALUSE: In regards to the cease and  
23 desist, I had no knowledge, no. I mean I would have --  
24 like a phone call, I would have recognized and taken  
25 everything down immediately, that I didn't know was

1 live.

2 MR. TOWLER: How about not in reference to the  
3 cease and desist; were you ever expecting any certified  
4 mail from the P.I. Licensing Board?

5 MR. STRAKALUSE: On that date that the cease  
6 and desist letter was supposed to be certified mail?

7 MR. TOWLER: How about after that date?

8 STRAKALUSE: I was -- when I received the  
9 citation at my door, then I was expecting probably more  
10 mail, sure.

11 MR. TOWLER: What I'm getting at is, I believe,  
12 you were expecting mail regarding a work card  
13 application?

14 MR. STRAKALUSE: Like I said, I don't know the  
15 date of the cease and desist letter. So, yes, I was  
16 putting in for my work card letter, I mean my work card  
17 application. And there was issues with that. But I'm  
18 not sure if that was after or before or during. I don't  
19 know what that date on that certified mail for that  
20 cease and desist letter says. I don't have it.

21 MR. TOWLER: You said that you sometimes don't  
22 get your certified mail. You said it's happened before.

23 MR. STRAKALUSE: It's happened before, yes.

24 MR. TOWLER: How do you know, if you didn't get  
25 it?

1 MR. STRAKALUSE: Somebody sent me something,  
2 called me and told me they sent it, and I went down to  
3 the post office and asked where it was, and they had no  
4 knowledge. And I said, "Well, it was supposed to get  
5 here. I was expecting it. They called me and told me  
6 it was coming. And I did not receive it."

7 BOARD CHAIRMAN SPENCER: Any questions from the  
8 Board?

9 BOARD MEMBER PUTNAM: I have another question,  
10 sir. You indicate you were intending to take -- get a  
11 license and do all these, follow all the steps necessary  
12 to open this kind of a business. Did you read Nevada  
13 Revised Statute 648?

14 MR. STRAKALUSE: I did read, read it and look  
15 it over. And as I stated, I had no intention of making  
16 this marketing website or Craigslist ad live until that  
17 application was processed in the next six months. That  
18 was my intention. Unfortunately, my computer tech that  
19 I hired to help design this website didn't -- and it's  
20 not an excuse. It's an explanation. That's all I'm  
21 giving. I'm asking the Board for some sympathy. But  
22 this is -- this was not supposed to be live. And the  
23 minute I found out about it, I would ask that you look,  
24 that everything came down, the minute I found out about  
25 it. Take that for --

1 BOARD MEMBER PUTNAM: Do you recall, in your  
2 reading of NRS 648 --

3 MR. STRAKALUSE: Yes.

4 BOARD MEMBER PUTNAM: -- do you recall noting  
5 that you cannot advertise for these specific things  
6 without first obtaining a license?

7 MR. STRAKALUSE: Yes, sir.

8 BOARD MEMBER PUTNAM: Thank you.

9 MR. STRAKALUSE: You're welcome.

10 MR. TOWLER: If we could look at the dates  
11 really quickly, Exhibit D is the Secretary of the State  
12 filing. That was filed on 7-31, 2008. You could see  
13 that in the top right corner, Exhibit D.

14 And then the websites were printed January of  
15 last year, 2009.

16 So it looks to me as if there was a systematic  
17 creation of the advertising system. And it would be one  
18 thing if it was a website only or if it was Craigslist  
19 only. But we have two different ways of advertising.  
20 And whether or not -- I guess, my concern is using a  
21 defense that sometimes I don't get certified mail at my  
22 house, even though I've got two different Secretary of  
23 State filings -- that would be D and E -- with my house  
24 address, I don't think that's really a defense, from my  
25 perspective.

1           BOARD CHAIRMAN SPENCER: I would agree, except  
2 I'm troubled by the statement on there "unclaimed." If  
3 you take it to the house, and you attempt to deliver it,  
4 and no one's there, I believe that a notice is left that  
5 an attempt was made to service it, a copy of which  
6 should appear with the letter.

7           BOARD MEMBER NADEAU: It's been my experience  
8 that on certified mail you have at least, at least one  
9 or two attempts to serve. And so there's -- if the  
10 notice didn't get there, then that's, obviously, a  
11 difficulty. But my question of the witness is do we  
12 have -- is the web administrator here, or do we have a  
13 deposition from the web administrator indicating that it  
14 was his fault that the website went active?

15           BOARD CHAIRMAN SPENCER: Did you hear that  
16 question all right?

17           MR. STRAKALUSE: No, I did not hear that. I'm  
18 sorry.

19           BOARD MEMBER NADEAU: I'll speak up.

20           MR. STRAKALUSE: What was the question?

21           BOARD MEMBER NADEAU: I'll speak up. Do you  
22 have -- is your web administrator here, present, or do  
23 you have a deposition from your administrator indicating  
24 that it was his fault that the site went live?

25           MR. STRAKALUSE: I wish I could have that

1 individual here, because he actually stole some computer  
2 equipment. And I have not seen him for months. Which  
3 is why I had no knowledge of it. So, no, I do not have  
4 him here. But I wish I did.

5 BOARD MEMBER NADEAU: Okay.

6 MR. TOWLER: On the certified letter, I'm not  
7 an expert as to certified letters or what codes mean,  
8 but it looks like it was sent on October 16, 2009.  
9 There's a stamp that says "Received, Las Vegas, 19  
10 October 2009." There is a handwritten notation that  
11 says -- it looks to me like it says "LN 10-20-09." And  
12 I don't know if that's -- if anybody else is familiar  
13 with certified mail, but if that means that there's more  
14 than one opportunity to try to serve it.

15 BOARD CHAIRMAN SPENCER: "Left notice" is the  
16 only thing I could think of that that would be. But I  
17 know that there are forms for that.

18 BOARD MEMBER UITHOVEN: On a cease and desist,  
19 are phone calls ever made?

20 MS. WHATLEY: I did not make a phone call  
21 during that one.

22 BOARD MEMBER PUTNAM: Mr. Chairman?

23 BOARD CHAIRMAN SPENCER: Yes?

24 BOARD MEMBER PUTNAM: May I make a comment?

25 BOARD CHAIRMAN SPENCER: Certainly.

1 BOARD MEMBER PUTNAM: It's been my experience  
2 that when an attempt is made to send a certified letter  
3 or to deliver a certified letter to my home, they leave  
4 a notice in our mailbox that the attempt was made and it  
5 can be picked up at the post office. Then they try a  
6 second time. And, again, a notice is stuck in the  
7 mailbox. They try it again. And then I have until, I  
8 don't know, a week or five days or whatever to come to  
9 the post office to pick it up.

10 Did you -- do you recall receiving anything  
11 like this, sir?

12 MR. STRAKALUSE: Sir, I never received  
13 anything. I pick up all my mail. I have no reason not  
14 to.

15 As I said, as soon as I got the citation, I  
16 took everything down, because I had the knowledge that  
17 it was up, live. And I took it all down. Had I gotten  
18 the cease and desist, I can assure the Board, it would  
19 have come down immediately until the application is  
20 completed. We're waiting for one more form before we  
21 send it in. And this was not supposed to happen. And I  
22 apologize. I'm not excusing it. I'm just looking for  
23 sympathy in regards to getting this taken care of, so it  
24 doesn't effect me in future -- my future application.

25 MR. QUIJANO: My understanding is that when a

1 certified letter is delivered and they aren't able to  
2 reach you, that they then put a notice in your mailbox  
3 that you have a letter waiting on you. Mr. Strakaluse  
4 didn't receive that notice, either.

5 BOARD MEMBER PUTNAM: I have another question,  
6 sir. When did the -- when did the site becomes active?

7 MR. STRAKALUSE: According to me, it should not  
8 have been active. But the computer guy said that he had  
9 to put it active sometimes to see how it would look like  
10 and then take it down immediately and --

11 BOARD MEMBER PUTNAM: Pardon me, sir. My  
12 question was when --

13 MR. STRAKALUSE: I'm sorry.

14 BOARD MEMBER PUTNAM: When did it become  
15 active?

16 MR. STRAKALUSE: As far -- I don't have an  
17 exact date on that, because I only knew about it the day  
18 I got the citation. So I don't know the exact date of  
19 when he put it live.

20 BOARD MEMBER PUTNAM: When was the first  
21 complaint made?

22 MS. WHATLEY: Actually, I have a paper printed  
23 off, November 17th, 2008, and it refers to a Craigslist  
24 ad in which he advertises that website in November 2008  
25 in his Craigslist ad.

1 BOARD MEMBER PUTNAM: 2008. And did you have  
2 knowledge that it was up and active?

3 MR. STRAKALUSE: No, not at that time, either.  
4 I had the same computer guy, but I did not -- I did not  
5 have knowledge. And I'm not excusing that.

6 BOARD MEMBER PUTNAM: And that --

7 MR. STRAKALUSE: I --

8 BOARD MEMBER PUTNAM: Pardon me again,  
9 Ms. Whatley. Did you -- there was an advertisement put  
10 up by the company.

11 MR. STRAKALUSE: Does it also -- excuse me.  
12 Does it also say how long it was active and when it came  
13 down immediately, or was it active -- does it say how  
14 long it was active?

15 BOARD MEMBER PUTNAM: Sir, my question -- let  
16 me first get an answer to --

17 MR. STRAKALUSE: Sorry.

18 MS. WHATLEY: Part of -- part of my original  
19 complaint includes an e-mail where our complainant  
20 e-mailed based on the Craigslist ad. And this e-mail  
21 says "Hello. We are Las Vegas's newest security  
22 company. We are only armed retired police officers.  
23 Check us out to fill any time slots you may need. Thank  
24 you, and have a great day. [www.30MinuteSecurity.com](http://www.30MinuteSecurity.com).  
25 President, slash, CEO, Mr. Kurt Strakaluse. Office,

1 702-768-5666."

2 And that is dated November 17th, 2008.

3 BOARD MEMBER PUTNAM: And that letter does make  
4 reference to the website?

5 MS. WHATLEY: It does.

6 BOARD MEMBER PUTNAM: I'm sorry, sir, but it  
7 sure looks like, at least to me, that you knew that it  
8 was up back in 2008, based on that particular letter.

9 MR. STRAKALUSE: Well, again, I apologize.  
10 That's not, you know, to my knowledge. None of this  
11 should have been up until the license was through. And  
12 I'm not excusing it. I've taken full responsibility for  
13 it. I'm just asking the Board for sympathy in  
14 conducting whatever fine you decide on me.

15 BOARD CHAIRMAN SPENCER: We can sit here all  
16 day and look at dates and whatnot. The gentleman admits  
17 that, that it was up. He's fallen on his sword.  
18 Whether his intent was to have it up or not, he says no.  
19 So the issue is not whether he did or didn't do it. The  
20 issue is are we going to find sympathy with him and do  
21 something with the fine. So I'd take comment on that.

22 BOARD MEMBER NADEAU: Mr. Chairman?

23 BOARD CHAIRMAN SPENCER: Yes?

24 BOARD MEMBER NADEAU: It's been my  
25 understanding that it's a statutorily set fine. So,

1 therefore, we have -- we do not have the ability to  
2 reduce it. The Board had -- or the Board has the  
3 ability to provide a payment plan or something of that  
4 nature. But because it's statutorily set, we are not  
5 able to reduce the fine. We can only impose the fine  
6 and then allow a payment schedule to be worked out with  
7 Mechele.

8 Am I mistaken there or?

9 MS. RAY: Mr. Chairman, no. That is correct,  
10 Board Member Nadeau.

11 BOARD MEMBER UITHOVEN: Is there a set policy  
12 on doing a call as well as certified mail, if they have  
13 a listed phone number, or is that just -- is that a  
14 decision that's made on an individual case matter?

15 MS. WHATLEY: It would be an individual case  
16 matter and the workload of the office. During this  
17 time, I was the only investigator statewide, so I had a  
18 tremendous workload.

19 BOARD MEMBER UITHOVEN: Right.

20 MR. TOWLER: And, also, it's important to  
21 remember a certified letter is the best record that we  
22 would have available. A phone call could be easily  
23 unclaimed. With the letter, at least we have something  
24 that says it was unclaimed and that we tried to send it  
25 to his correct address. In this case, we had two

1 different Secretary of State filings with that address  
2 on it.

3 BOARD CHAIRMAN SPENCER: I'm playing the  
4 devil's advocate here. When he didn't accept -- if we  
5 say that he didn't accept it on purpose, then he didn't  
6 accept the one thing that would have allowed him not to  
7 have to pay the fine. And he accepted and openly  
8 admitted or responded to the one that imposes a fine,  
9 because it is, in fact, a citation.

10 MR. TOWLER: A lot of people, I believe, do not  
11 want to claim their certified mail, because they don't  
12 know what it is. And some people want to avoid that. I  
13 think that's not a defense. In this case, yes, if he  
14 would have claimed it, maybe things would have worked  
15 out better for him. But that's the gamble you have to  
16 take, I think.

17 BOARD CHAIRMAN SPENCER: All right.

18 MR. STRAKALUSE: Has it ever been the practice  
19 of the Board to send both a first class mail and  
20 certified letter, as is common when delivering  
21 pleadings?

22 MS. RAY: Mr. Chairman, that was suggested by  
23 counsel at the last meeting on another issue, and that  
24 is something that we will do moving forward. However,  
25 we have always sent our cease and desist letters and

1 citations certified mail.

2 BOARD CHAIRMAN SPENCER: Well, any further  
3 questions from the Board members?

4 Mark, do you have anything?

5 BOARD MEMBER ZANE: Yes. There is no  
6 requirement for the cease and desist to proceed, a  
7 citation for violation, is there, legally?

8 MS. WHATLEY: No.

9 BOARD MEMBER PUTNAM: No.

10 BOARD CHAIRMAN SPENCER: No.

11 BOARD MEMBER ZANE: Okay. So we're just  
12 dealing with whether or not there was some mitigation  
13 here?

14 BOARD CHAIRMAN SPENCER: Right.

15 BOARD MEMBER ZANE: This could have been just  
16 arbitrarily issued out of the office as a citation just  
17 as easily as a cease and desist, correct?

18 BOARD CHAIRMAN SPENCER: Yes.

19 MS. WHATLEY: M-hm (affirmative).

20 BOARD MEMBER ZANE: Okay. That's the only  
21 question I had.

22 BOARD CHAIRMAN SPENCER: All right. I'd  
23 entertain a motion if there are no further questions.  
24 Any observation -- no, we don't take it from the  
25 audience, do we? Different day.

1 BOARD MEMBER PUTNAM: Mr. Chairman?

2 BOARD CHAIRMAN SPENCER: Yes?

3 BOARD MEMBER PUTNAM: I move that the citation  
4 be upheld.

5 BOARD CHAIRMAN SPENCER: I have a motion.

6 BOARD MEMBER ZANE: Second.

7 BOARD CHAIRMAN SPENCER: And a second. All in  
8 favor of the motion, signify by saying "aye."

9 (Board members said "aye.")

10 BOARD CHAIRMAN SPENCER: Opposed?

11 BOARD MEMBER UITHOVEN: No.

12 BOARD CHAIRMAN SPENCER: Three-two carries.

13 BOARD MEMBER ZANE: Mr. Chairman, with the  
14 caveat that the matter can be forwarded and a payment  
15 plan with staff, with the Executive Director.

16 MS. RAY: Payment arrangements.

17 BOARD CHAIRMAN SPENCER: Okay. By all means.

18 BOARD MEMBER ZANE: From my perspective, that  
19 would be the sympathy.

20 BOARD CHAIRMAN SPENCER: Yes. By statute,  
21 that's the best we can do. I would hasten to tell you  
22 to get your paperwork in here as quickly as you can and  
23 get licensed.

24 MR. STRAKALUSE: Yes, sir.

25 BOARD CHAIRMAN SPENCER: But if you'll

1 contact -- contact Mechele in Carson City, she'll work  
2 out a payment plan with you.

3 MR. STRAKALUSE: I appreciate the Board's time.  
4 And I'm sorry that this had to happen. And I will  
5 definitely get in touch with Mechele in reference to the  
6 final form that we're waiting for, for the application  
7 process.

8 BOARD CHAIRMAN SPENCER: Okay. Thank you.

9 MR. QUIJANO: Thank you.

10 MR. STRAKALUSE: Thank you.

11 MR. MURPHY: Excuse, Mr. Chairman.

12 BOARD CHAIRMAN SPENCER: Yes?

13 MR. MURPHY: I believe, all the parties for  
14 item number three are now here.

15 BOARD CHAIRMAN SPENCER: Thank you, sir.

16

17 AGENDA ITEM 3

18 JAMES THOMAS, DBA JIM THOMAS & ASSOCIATES

19

20 BOARD CHAIRMAN SPENCER: Let's proceed with  
21 item number three, hearing in the matter of James  
22 Thomas, dba Jim Thomas & Associates.

23 MR. MENICUCCI: Could I have a short recess  
24 before we begin, to make sure that we have the necessary  
25 exhibits in Las Vegas and everything's available?

1 BOARD CHAIRMAN SPENCER: Certainly. We'll take  
2 about a five- or 10-minute break.

3 \* \* \* \* \*

4 (A break was taken, 9:45 to 10:05 a.m.)

5 \* \* \* \* \*

6 BOARD CHAIRMAN SPENCER: Good morning.

7 MR. YAMPOLSKY: Good morning.

8 MR. THOMAS: Good morning.

9 BOARD CHAIRMAN SPENCER: Couple of things. If  
10 you wouldn't mind, before you speak, if you would  
11 identify yourself and spell your names for the court  
12 reporter.

13 And have both -- have you been sworn in?

14 MR. THOMAS: Yes, sir.

15 MR. YAMPOLSKY: Yes.

16 BOARD CHAIRMAN SPENCER: Okay.

17 MR. MENICUCCI: But there may be some other  
18 witnesses as well who may have not.

19 BOARD CHAIRMAN SPENCER: Do you have other  
20 witnesses that were not sworn in?

21 MR. YAMPOLSKY: We have one additional witness  
22 who has not arrived yet, Collette Putnam.

23 BOARD CHAIRMAN SPENCER: All right. Well,  
24 we'll swear her, then, when she does arrive.

25 Okay. Counsel, you take it away.

1 MR. MENICUCCI: This is the time and place set  
2 for the hearing in case number 09-845-02, in the matter  
3 of James Thomas, Jim Thomas & Associates, license number  
4 845 and 845a.

5 This matter has been continued several times,  
6 and the Board requests that it go forward today.

7 I would start by just verifying that  
8 Mr. Yampolsky is here as counsel for Mr. Thomas.

9 I believe, Mr. Yampolsky, we've provided you a  
10 copy of documents that we've Bates-numbered 0 through  
11 33. Is that correct?

12 MR. YAMPOLSKY: Yes, that's accurate.

13 MR. MENICUCCI: Good. The documents that I  
14 referred to consist of the Notice of Complaint, a copy  
15 of the -- copy of Notice of Complaint and Request for  
16 Answer, a Complaint form filed with the Board by Dennis  
17 Prince, excerpts from a deposition of Mr. Thomas that  
18 Mr. attached to Mr. Prince's Complaint.

19 MR. PRINCE: And for the record, that's the  
20 entirety of the deposition transcript, not excerpts.

21 MR. MENICUCCI: No, I -- who's speaking,  
22 please?

23 MR. PRINCE: Dennis Prince.

24 MR. MENICUCCI: These are not in the -- the 33  
25 pages I'm referring to now. We have a copy of your full

1 Complaint available.

2 MR. PRINCE: Very good.

3 MR. MENICUCCI: Page 23 is -- pages 23 and 24  
4 are the Answer filed by Mr. Yampolsky on behalf of  
5 Mr. Thomas. And the additional pages are matters that  
6 were submitted with the Answer.

7 Mr. Yampolsky, can we stipulate to admit pages  
8 0 through 33 for the Board's consideration in this  
9 matter?

10 MR. YAMPOLSKY: Yes.

11 MR. MENICUCCI: Okay. Those items being  
12 admitted, normally the first thing to do would be to  
13 read the Complaint. But since everyone has a copy of  
14 it, may we stipulate to waive the reading of the  
15 Complaint in this case?

16 MR. YAMPOLSKY: Yes.

17 MR. MENICUCCI: Thank you.

18 Based on the Notice of Complaint and the Answer  
19 filed by the respondent, it appears that there is not a  
20 dispute as to a violation with regard to hiring or  
21 engaging a person as an independent contractor rather  
22 than an employee, that person not having a license with  
23 the Board and no employee having been registered.

24 So in the first matter, I believe that we've  
25 agreed that Mr. Thomas has committed a violation. It

1 would be -- it is my proposal to Mr. Yampolsky that we  
2 stipulate to that and allow Mr. Thomas to present to the  
3 Board any evidence in mitigation that he chooses to  
4 admit on that, present on that topic.

5 MR. YAMPOLSKY: That's accurate.

6 MR. MENICUCCI: Okay. In terms of proceeding,  
7 then, I believe the next order of business for the Board  
8 would be an opening statement on the matter. And I will  
9 make that. And then Mr. Yampolsky can make a statement  
10 on behalf of the licensee, the respondent. And then I  
11 would present a case to the Board on the remaining  
12 matter.

13 My witness would be Mr. Prince, who will --  
14 who's available here to testify and can authenticate the  
15 Complaint he filed and the attachments and exhibits to  
16 the Complaint, and testify as to why he filed that  
17 Complaint. Then, Mr. Thomas would be able to present  
18 evidence and testimony in his defense. And then there  
19 would be closing arguments.

20 So if there be no further business, I'll try to  
21 just summarize what we have before the Board.

22 BOARD CHAIRMAN SPENCER: Okay.

23 MR. MENICUCCI: The reason for the continuances  
24 in this case are that Mr. Thomas is facing some civil  
25 litigation that relate to the same allegations in the

1 Complaint before the Board here. And of most concern to  
2 him are the allegations that he obtained criminal  
3 history information and personal information from the  
4 Department of Motor Vehicles in ways that he should not  
5 have obtained it, and violated the statutes and  
6 regulations governing the practice of a private  
7 investigator in this state.

8 As indicated, we'll present the testimony of  
9 Mr. Prince, who filed the Complaint. And he also  
10 provided us a complete deposition in a case that was  
11 given by Mr. Thomas, and he can authenticate that and  
12 explain his reason.

13 I would argue to the Board that what we're  
14 dealing with here are allegations that, if proven true,  
15 would be a violation of NRS 648.150, paren 2, which  
16 involves violation of the provisions of either the  
17 statute or the regulations that the Board has adopted,  
18 and NRS 648.150, paren 4, involving any unprofessional  
19 conduct or fitness of the licensee or any person who's  
20 employed.

21 I also notice NRS 648.157, paren 1, that a  
22 private investigator licensed pursuant to this chapter  
23 shall not obtain or seek information from the Department  
24 of Motor Vehicles, pursuant to Section 3 of NRS 481.063,  
25 for purposes that he's not authorized.

1           That would be the essential nature of the  
2 charge against Mr. Thomas.

3           The evidence will show that Mr. Thomas was well  
4 aware that when asked -- when he asked for information  
5 from law enforcement agencies, he was asking for things  
6 they were not supposed to give him. It would be a  
7 violation of law. He also obtained information from the  
8 Department of Motor Vehicles. And under the statute,  
9 although private investigators can sometimes obtain that  
10 information, the statute appears to limit those  
11 circumstances as to when they're investigating an  
12 insurance claim.

13           And that would be the summary of the State's,  
14 the Board's position on this matter.

15           Mr. Yampolsky, do you have a statement?

16           MR. YAMPOLSKY: Yes. Before I proceed, even  
17 though we are planning to proceed today, as I objected  
18 last time, Mr. Thomas is involved in a federal lawsuit  
19 in which Mr. Prince is the opposing attorney. It is my  
20 understanding the discovery cutoff has been continued  
21 several times, and it ends after this hearing. For that  
22 reason, I've requested that this hearing be continued.  
23 And I believe that the reason that the discovery cutoff  
24 has been continued was simply to use the transcript and  
25 the testimony at this hearing, even though the rules for

1 this hearing, which are governed by the Nevada  
2 Administrative Code, are quite different than that of  
3 federal court.

4 With that being said, the statute, NRS  
5 648.152(2) and NRS 648.157(1) talks about mention of a  
6 private investigator who uses information for an  
7 improper purpose. In this particular statute, it limits  
8 that to a purpose that is, quote, directly related to  
9 his investigation of an insurance claim.

10 However, in the actual Complaint filed with  
11 this Board, prepared by Mr. Prince, he also references a  
12 federal statute, which is commonly called the Federal  
13 Driver's Privacy Protection Act, 18 U.S.C., 2721 through  
14 2725. Now, with that particular statute, it sets forth  
15 times when the investigator may obtain information. And  
16 under 2721(b), where it says "Permissible uses," number  
17 three says "for use in the normal course of business by  
18 a legitimate business or its agents, employees or  
19 contractor, but only," and now I'm going to, I guess,  
20 3(b)(4); it says, and I quote, "for use in connection  
21 with any civil, criminal, administrative or arbitral  
22 proceeding in any federal, state or local agency or  
23 before any self-regulatory body, including the service  
24 of process, investigation in anticipation of litigation  
25 in the execution or enforcement of judgments and orders

1 or pursuant to an order of federal, state or local  
2 court." And it says "for use by any licensed private  
3 investigative agency or licensed security service for  
4 any purpose permitted under this subsection."

5 I don't believe there's a dispute that during  
6 Mr. Thomas's investigation, which is the subject of this  
7 hearing, that he was investigating regarding present  
8 litigation and, also, that he was a licensed private  
9 investigator or private investigator at that point in  
10 time.

11 Regarding the allegations that he improperly  
12 accessed SCOPE, the Metropolitan Police Department has  
13 an agreement with people who want to obtain SCOPE. And  
14 Mr. Thomas has a valid agreement. Persons and agencies,  
15 and this is -- it talks about NRS 171.150 -- authorized  
16 by statute or as an executive order, court rule or court  
17 decision to be considered appropriate. Now, Metro  
18 itself, who had the information, determined that  
19 Mr. Thomas was authorized to receive it.

20 And regarding the DMV, investigators may obtain  
21 information from the DMV. And I have two printouts --  
22 and I apologize, I don't have copies -- which show that  
23 it is information provided directly from the DMV to  
24 Mr. Thomas regarding vehicle information and personal  
25 information.

1           Based on that, I do not believe that Mr. Thomas  
2 violated neither the letter nor the spirit of the  
3 applicable laws. And, therefore, he should not be  
4 sanctioned by this Board.

5           I'll submit.

6           MR. MENICUCCI: We, then, call our first  
7 witness, Mr. Prince.

8           MR. PRINCE: Yes.

9           MR. MENICUCCI: You're available there?

10          MR. PRINCE: I am. I'm here.

11          MR. MENICUCCI: Okay.

12          MR. PRINCE: Can you see me?

13          BOARD CHAIRMAN SPENCER: No.

14          MR. MENICUCCI: You're not on camera at this  
15 moment, so.

16          BOARD CHAIRMAN SPENCER: There we go.

17          (Moving chairs in Las Vegas.)

18          MR. PRINCE: I'm ready whenever are you.

19          BOARD CHAIRMAN SPENCER: Go ahead.

20          MR. MENICUCCI: Could we have just a moment,  
21 please?

22                 Does the Board want to consider the continuance  
23 motion before we proceed?

24          BOARD CHAIRMAN SPENCER: I think, we should.

25          MR. MENICUCCI: Okay. All right. I may have

1 stepped out of order. Because Mr. Yampolsky made a  
2 motion for a continuance based on the civil case that  
3 Mr. Thomas is a defendant in. And the Board has not  
4 ruled upon that.

5 Our -- you know, I do not oppose a continuance.  
6 But I note for the Board, and as you can see, Mr. Prince  
7 has appeared in response to the agenda on this matter.  
8 I'd certainly like to be fair to him. It would not be  
9 fair to call him and have him then put off for another  
10 time. But the Board may consider the request for the  
11 continuance that Mr. Yampolsky made in this case.

12 BOARD CHAIRMAN SPENCER: When was the request  
13 made, just now?

14 MR. MENICUCCI: Well, it's been a continuing  
15 request in this case. And as I recall the last Board  
16 meeting, the Board said we're going to proceed today,  
17 one way or the other. So that's why we're here.

18 BOARD CHAIRMAN SPENCER: And the reason at that  
19 time had been because it had been put off so many times.

20 MR. MENICUCCI: Yes.

21 BOARD CHAIRMAN SPENCER: But now we have some  
22 additional information.

23 Does anyone have a flavor for --

24 BOARD MEMBER NADEAU: Mr. Chairman, I have a  
25 question.

1 BOARD CHAIRMAN SPENCER: Yes.

2 BOARD MEMBER NADEAU: Thank you, Mr. Chair. It  
3 would seem to me that the benefit of this would be to  
4 Mr. Thomas, as far as bringing this forward. And if, in  
5 fact, their concern is that there may be elements that  
6 may -- information that may arise through this --

7 MR. YAMPOLSKY: Mr. Chairman, we can't hear  
8 Mr. Nadeau very good. It's cutting in and out. We  
9 can't --

10 BOARD MEMBER NADEAU: All right. I'll try to  
11 speak up. Okay. I apologize.

12 It seems to me that the benefit is to  
13 Mr. Thomas to get this -- to continue this. Because,  
14 according to his attorney, there's issues that may arise  
15 in this that may be used in that.

16 Is there -- and I'm asking our counsel. Is  
17 there a means by which Mr. Thomas could place his  
18 license in abeyance, pending adjudication of this  
19 matter, so that our concern that there may be some  
20 issues here as to the public concern to -- do you  
21 understand what I'm asking?

22 MR. MENICUCCI: I think, a person can always  
23 place his license in abeyance. The Board then needs to  
24 decide whether that's a basis on which they might want  
25 to put this thing into a continuance until his civil

1 litigation is resolved.

2           So it's really up to the Board. I think that  
3 Mr. Thomas would have the option of doing that, but the  
4 Board needs to decide if that is sufficient grounds on  
5 which to continue this matter to some further date.

6           Another possibility that I might raise is that,  
7 if Mr. Prince wants to go forward today, we could take  
8 his testimony so that he doesn't have to come back. But  
9 that's kind of unwieldy to have one witness testify on  
10 one day and then have other witnesses on a subsequent  
11 occasion.

12           BOARD CHAIRMAN SPENCER: Mr. Yampolsky, could  
13 you repeat. I don't -- I think, you went over your  
14 objection or your motion so quickly, that perhaps not  
15 everybody understood it.

16           MR. YAMPOLSKY: Okay. My objection is based on  
17 the same objections that I voiced at the previous  
18 hearing.

19           Mr. Thomas is presently involved in a federal  
20 lawsuit. Mr. Prince is represented -- is the opposing  
21 counsel. Federal court, they have deadlines for people  
22 to obtain discovery. Specifically, in this case, what  
23 I'm referring to is the deposition of Mr. Thomas.

24           Based on this hearing, I was concerned that  
25 Mr. Thomas may make statements which could hurt him or

1 could be detrimental to his position in the federal  
2 lawsuit. I have concurred with counsel, Marsha --

3 MR. THOMAS: Stephenson.

4 MR. YAMPOLSKY: Marsha Stephenson. She agrees  
5 with me. But based on this situation, the reason for  
6 continuing it, and we're ready, willing and able to  
7 testify, is because his testimony in this case could  
8 ultimately prove detrimental in that case. So he's  
9 between a rock and a hard place essentially.

10 (There was a brief discussion off the record  
11 between Mr. Yampolsky and Mr. Thomas.)

12 MR. YAMPOLSKY: Right. And one of the reasons  
13 for the continuance last time was our understanding that  
14 the deadline for discovery was two days later. However,  
15 that was continued again. So we are in the same  
16 position as we were before.

17 I think that the Board's suggestion that  
18 Mr. Prince's testimony be taken today, and then, after  
19 the discovery cutoff, Mr. Thomas is allowed to testify  
20 makes perfect sense.

21 BOARD CHAIRMAN SPENCER: When do you anticipate  
22 that that federal legislation -- or legislation. Excuse  
23 me -- that federal issue will be resolved?

24 MR. PRINCE: Mr. Chairman, Dennis Prince. May  
25 I weigh in on this issue at all? I don't know if you're

1 speaking to Mr. Yampolsky or not. I'm a witness. But  
2 I'm the only one here that has any knowledge of the  
3 status of the federal court litigation. The reason why  
4 the discovery deadline was extended, I could explain  
5 that if you're interested --

6 BOARD CHAIRMAN SPENCER: Yes.

7 MR. PRINCE: -- in what I have to say. The  
8 federal court allowed my client, Mr. Quinn, who's  
9 present here with me, who's my client, to amend our  
10 Complaint to name two additional defendants in that  
11 lawsuit, both Paul Osuch, who was the informant from the  
12 Las Vegas Metropolitan Police Department, who Mr. Thomas  
13 refused to disclose in his deposition previously given,  
14 that you have -- he's now been named as a defendant, as  
15 well as a Kai Degner, who was previously in the Internal  
16 Affairs Bureau within the Las Vegas Metropolitan Police  
17 Department. It's because of the naming of those two  
18 additional defendants that the time period for discovery  
19 was extended.

20 However, Mr. Thomas has already testified. And  
21 the basis for our complaint was in connection with a  
22 prior lawsuit which he was engaged as a private  
23 investigator. He gave his deposition in August of 2008.  
24 You have a copy of his deposition transcript. He's  
25 already testified.

1           Thus, the argument from Mr. Yampolsky that  
2 there's a necessity to continue this hearing until he  
3 gives his testimony at some point later in the federal  
4 court is really somewhat misleading in the sense that  
5 the basis for his conduct and his engagement in why he  
6 was investigating my client, he's already testified to  
7 that in the lawsuit Precision Construction vs. Jeffrey  
8 Guinn, state court, district court case number 8519586.  
9 He's been sued in court, in federal court for, among  
10 other reasons, violation of my client's privacy rights  
11 for the very acts that we made the Complaint before you.

12           Thus, there's nothing that's going to come in  
13 the federal lawsuit, other than maybe another deposition  
14 of Mr. Thomas, that could supplement this record. So if  
15 you're interested in that, we can certainly take his  
16 deposition to supplement our Complaint. But you have  
17 all the information available to you. And irrespective  
18 of whether he's a litigant in a civil lawsuit, you have  
19 the obligation to finish your investigation and  
20 adjudication of the Complaint.

21           MR. YAMPOLSKY: Well, Mr. Thomas was deposed  
22 previously, Mr. Prince. He was deposed in his capacity  
23 as a witness. He was not represented by counsel.

24           So my position are it's two completely  
25 different types of depositions and actions. And that's

1 why, in an abundance of caution and in order to  
2 completely protect Mr. Thomas' rights under federal law,  
3 as Nevada law, that his testimony should be continued.

4 BOARD CHAIRMAN SPENCER: Well --

5 BOARD MEMBER NADEAU: Mr. Chairman?

6 BOARD CHAIRMAN SPENCER: Yes.

7 MS. RAY: Speak up.

8 BOARD MEMBER NADEAU: I don't have a problem.

9 MS. RAY: Speak up.

10 BOARD MEMBER NADEAU: But, to me, the issue is,  
11 with these violations, to continue and allow Mr. Thomas  
12 to continue conducting business. Part of -- as I  
13 understand, part of the -- what do I want to say? The  
14 issue that's arisen with the Board and the continuation  
15 is it allows Mr. Thomas to continue his activities.  
16 And, to me, I guess, I would be maybe more supportive of  
17 a continuation if Mr. Thomas was willing to place his  
18 license in abeyance. I realize he's probably a  
19 qualifying agent for his company. But, to me, if he was  
20 willing to put his license in abeyance pending the  
21 outcome of this, or an appropriate time to proceed, then  
22 I guess, I'd be more supportive of that.

23 But, I guess, that's my concern.

24 BOARD MEMBER PUTNAM: Mr. Chairman?

25 BOARD CHAIRMAN SPENCER: Yes?

1           BOARD MEMBER PUTNAM: My concern is just that  
2 all of us are subject to certain biases and prejudices.  
3 And should this Board take action on this Complaint  
4 today and was made available to the triers of the fact  
5 what action we took, in my mind, that presents a  
6 possibility that this Board action could somehow  
7 influence the outcome of the -- the federal matter.  
8 And, again, it might be very, very slightly, but I don't  
9 think that -- in my mind, that would not be fair.

10           BOARD CHAIRMAN SPENCER: And I tend to agree  
11 with you.

12           Is there any other Board comments?

13           BOARD MEMBER ZANE: Yes, Mr. Chairman.  
14 Previously, when we heard this matter and the issues of  
15 continuance, the same arguments were made, and we  
16 indicated that we had desired to get the matter resolved  
17 from the administrative standpoint. I don't see where  
18 anything has changed here. All the particular parties  
19 have an opportunity to approach the court having  
20 jurisdiction over the matter for any type of protective  
21 order and make these arguments before a magistrate or a  
22 judge which credibly say we're going to tie the Board's  
23 hands.

24           Absent that, that interruption or order from a  
25 particular court, either those arguments haven't been

1 made, or the court has heard some argument and decided,  
2 the court, to find the issue and order tying our hands.  
3 I can understand that.

4           However, we have a job to do, and this has been  
5 lingering. It would be my impression that we should do  
6 our job.

7           BOARD CHAIRMAN SPENCER: Robert, do you have  
8 anything to say?

9           BOARD MEMBER UITHOVEN: No, I don't.

10          BOARD CHAIRMAN SPENCER: I guess, the only way  
11 to resolve it is if someone wishes to make a motion.

12          BOARD MEMBER PUTNAM: Mr. Chairman, I move that  
13 this matter be continued to the next hearing, and in the  
14 interest of protecting our possibilities to protect the  
15 public, that this extension would only be granted if  
16 Mr. -- oh, boy, I'm sorry.

17          MS. WHATLEY: Thomas.

18          BOARD MEMBER PUTNAM: Thomas -- Thomas is  
19 willing to place his license in abeyance until such time  
20 as this can be heard.

21          BOARD CHAIRMAN SPENCER: Okay. We have that  
22 for the purpose of discussion?

23          BOARD MEMBER PUTNAM: Yes.

24          BOARD MEMBER NADEAU: I'll second that motion.

25          BOARD CHAIRMAN SPENCER: Okay. Counsel, is

1 there any flavor for whether or not your client would  
2 accept those terms?

3 MR. YAMPOLSKY: He will not.

4 BOARD CHAIRMAN SPENCER: I'm sorry?

5 MR. YAMPOLSKY: He will not.

6 BOARD CHAIRMAN SPENCER: Okay.

7 MR. YAMPOLSKY: He will not put his license in  
8 abeyance.

9 BOARD CHAIRMAN SPENCER: Then, I suppose, we  
10 have no other alternative than to proceed.

11 MR. MENICUCCI: Okay.

12 BOARD MEMBER PUTNAM: Well, let's vote on the  
13 motion.

14 BOARD CHAIRMAN SPENCER: Let's vote on the  
15 motion.

16 BOARD MEMBER PUTNAM: Let's vote on the motion.  
17 I'll change my motion to simply that we postpone this  
18 hearing until the next session or when this matter is  
19 resolved.

20 BOARD MEMBER NADEAU: And I'll withdraw my  
21 second.

22 BOARD CHAIRMAN SPENCER: Do we have a second?  
23 For resolution purposes, I'll second it.

24 All in favor, signify by saying "aye."

25 (Board members said "aye.")

1 BOARD CHAIRMAN SPENCER: Opposed?

2 BOARD MEMBER NADEAU: No.

3 BOARD MEMBER UITHOVEN: No.

4 BOARD CHAIRMAN SPENCER: Okay. Continue.

5 Mark, did you vote?

6 BOARD MEMBER ZANE: Yes. I voted no.

7 BOARD CHAIRMAN SPENCER: Okay. Thank you.

8 MR. MENICUCCI: So we will proceed.

9 BOARD CHAIRMAN SPENCER: We will proceed.

10 MR. MENICUCCI: All right. Okay. So we have

11 Mr. Prince at the table.

12 Mr. Prince, were you sworn previously?

13 MR. PRINCE: I was -- I was not.

14 MR. MENICUCCI: Could you please stand and be  
15 sworn.

16 Do you solemnly swear or affirm that the  
17 testimony you'll give in this proceeding before the  
18 Board will be the truth, the whole truth and nothing but  
19 the truth?

20 MR. PRINCE: Yes.

21 MR. MENICUCCI: Mr. Murphy, do you have  
22 available the full Complaint form filed by Mr. Prince?

23 MR. MURPHY: I do.

24 MR. MENICUCCI: Could you show that to him,  
25 please.

1 MR. PRINCE: I have it.

2

3 D E N N I S P R I N C E,  
4 having been first duly sworn/affirmed by Mr. Menicucci,  
5 was examined and testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. MENICUCCI:

9 Q. Okay. Do you have, also, the exhibits that  
10 were attached to that?

11 A. Yes, I do.

12 Q. All right. So this is -- is this the complete  
13 Complaint and exhibits that you filed with the Board?

14 A. Yes. And I understand there may have been a  
15 possible revision to the Complaint given directly by my  
16 client, Mr. Quinn, who I filed the Complaint on behalf  
17 of. But other than that, yes, this is the original  
18 complaint form with exhibits.

19 MR. MENICUCCI: Okay. Thank you.

20 I would move the admission of the original  
21 Complaint and exhibits before the Board.

22 Mr. Yampolsky?

23 MR. YAMPOLSKY: No objection.

24 MR. MENICUCCI: Thank you.

25 ///

1 BY MR. MENICUCCI:

2 Q. Mr. Prince, why did you file a Complaint with  
3 the Private Investigators Licensing Board regarding  
4 Mr. Thomas?

5 A. During the course of my representation of  
6 Mr. Quinn and his company, Precision Construction,  
7 what -- involving a dispute over construction of two  
8 commercial projects, I learned that Jeffrey Guinn, the  
9 son of former Governor Kenny Guinn, had hired a private  
10 investigator to conduct an asset search of Mr. Quinn.  
11 And in connection with that asset search, I got the  
12 report from Mr. Thomas, which included the fact that he  
13 ran a SCOPE on Mr. Quinn. He unauthorizely accessed his  
14 credit information and accessed the DMV.

15 In response, after receiving that singular  
16 report, because Mr. Guinn didn't provide me with any  
17 other reports, I then served a subpoena duces tecum upon  
18 Mr. Thomas's investigative agency. And I was given  
19 literally hundreds, if not, potentially, over a thousand  
20 pages of documents, concerning his investigation of  
21 Mr. Quinn, but also surveillance of Mr. Quinn and his  
22 family, surveillance of his business, and reports  
23 detailing Mr. Thomas's systematic attempts to  
24 investigate people who drove in and out of my client's  
25 commercial business project, which is a commercial

1 office project on Western Avenue here in Las Vegas. And  
2 what he did was he had an investigator sitting out  
3 across the street, filming every car that came in and  
4 out of there, at the request of Mr. Guinn.

5           And he -- we had contacts in the Las Vegas  
6 Metropolitan Police Department. And he would give  
7 updates to Mr. Guinn, according to these reports, not  
8 only about DMV information, but also information he got  
9 from the Las Vegas Metropolitan Police Department, run  
10 through SCOPes, criminal history information, as well as  
11 some federal information, concerning their backgrounds  
12 and criminal history.

13           And it was based upon that that I took the  
14 deposition of Mr. Thomas on August 25th, 2008 to ask  
15 about his investigative efforts of my client, as well as  
16 all these other unknowing individuals who had their  
17 personal record run through Metro for DMV information,  
18 personal identifier information, as well as criminal  
19 history information.

20           And, as I remember, Mr. Yampolsky said, in his  
21 opening statement, that Mr. Thomas had authority to get  
22 this, had an agreement to get this. I can assure you,  
23 he did not. In fact, on pages 68 and 67 of his  
24 deposition, I started asking him about people who he was  
25 getting information from at Metro. He would not give me

1 their information, because they weren't allowed to do  
2 it.

3 He also admits, testified in his deposition, on  
4 page 68, that he knew it was inappropriate for members  
5 of the Las Vegas Metropolitan Police Department to give  
6 out that information. He always knew that. And he also  
7 knew it was against the department rules and regulations  
8 for Metro to give that information out. And I asked  
9 him, is it -- the question, "Why are you asking people  
10 to violate the rules?" Answer, "Because I need the  
11 information. It's my job."

12 So it was 248 people that we have record of,  
13 including Mr. Quinn, that he actually contacted someone  
14 at Metro and violated their rights to privacy by  
15 accessing criminal history information.

16 The reports that he identified to or produced  
17 to Mr. Guinn, which were weekly, identified his efforts  
18 for each and every week of his surveillance. And then  
19 he would give supplemental reports. Once he identified  
20 the vehicles, he would, in turn, give them a  
21 supplemental report, Mr. Guinn the report, of their DMV  
22 information, Metro information, the criminal history,  
23 trying to suggest that there's some link between  
24 Mr. Quinn, on the one hand, and some people who may have  
25 had criminal backgrounds, suggesting there's some kind

1 of relationship. At one point, he thought he was  
2 engaging in illegal activity such as prostitution or  
3 illegal sex acts in his office building, a relationship  
4 with known drug dealers and, potentially, a tie to  
5 terrorists.

6 That's the type of information he was giving to  
7 Mr. Guinn. And that information, once I learned that  
8 information and took his deposition, that I decided to  
9 make the complaint to this Board.

10 Q. Mr. Prince, you actually took the deposition  
11 personally, correct?

12 A. I took it personally, that's correct.

13 Q. And the copy that you supplied to the -- of the  
14 deposition transcript, that you submitted to the Board,  
15 was that a true and correct copy of the transcript?

16 A. Yes, it is.

17 Q. Were any changes made by the witness after the  
18 copy that you submitted to the Board?

19 A. None.

20 Q. Did you also have a concern about access to DMV  
21 records as well?

22 A. I did.

23 Q. On what basis?

24 A. On the basis that he got the information,  
25 took -- according to his reports, through

1 representatives of the Las Vegas Metropolitan Police  
2 Department. And he got access to that information not  
3 just about vehicle registration, but about personal  
4 identifier information, including dates of birth and  
5 Social Security number.

6 And the concern was not only for my client,  
7 Mr. Quinn, but also for business associates and others  
8 who may have been entering through his business, that  
9 there was someone like Mr. Thomas accessing that  
10 information and, respectively, selling it to someone who  
11 may abuse it. And that could somehow have an impact on  
12 my client, not only legally, but from his reputation,  
13 that somehow they were involved, he may have been  
14 involved in some nefarious conduct.

15 So I was very concerned about that.

16 Q. Okay. Do you contend Mr. Thomas violated  
17 federal law in getting information from the Department  
18 of Motor Vehicles?

19 A. I do.

20 Q. And would that be the Federal Driver's Privacy  
21 Protection Act?

22 A. That's one of them, that's correct. Also,  
23 Section 1983 of the Civil Rights Act is also another  
24 basis for violation of federal law, gaining access to  
25 confidential identifier information that he wasn't

1 otherwise entitled to, without consent.

2 Q. Do you contend that it's a violation to obtain  
3 the information, or is a violation for the DMV to  
4 release the information, or both?

5 A. Both. In connection with this type of a case,  
6 correct. This was a breach of contract case, or a  
7 construction contract. It was not in connection with  
8 any type of insurance claim. And it was really  
9 unrelated to the nature of the dispute between Mr. Guinn  
10 and my client. Completely unrelated.

11 Q. Okay. Is there anything else that you'd like  
12 to present to the Board in connection with your  
13 complaint before I give Mr. Yampolsky a chance?

14 A. Yes, I would. And, I think, it's the -- it's  
15 the tone of Mr. Thomas's deposition and his willfulness  
16 about accessing this information that he knew he wasn't  
17 entitled to. He knew he wasn't entitled to -- to get it  
18 under Nevada law and federal law, but he also knew that  
19 the people who were giving it out were also violating  
20 their responsibilities as employees of Las Vegas  
21 Metropolitan Police Department.

22 He refused to identify anyone who he got the  
23 information from. And he has done so to this day. And  
24 he was very arrogant in the way he answered the  
25 questions. As long as he got the information, he didn't

1 care. Well, I believe, that's a violation of the rules  
2 and regulations, as well as the NRS, governing  
3 Mr. Thomas's conduct.

4 And it wasn't just one violation. It's 248.  
5 And it's the systematic way that he went about it which  
6 made it so egregious.

7 And, also, he accessed my client's credit  
8 history without consent. He called a financial  
9 institution and got that information without my client's  
10 consent. And it's because of the whole, the totality of  
11 his conduct and just how egregious he was that form the  
12 basis of this Complaint.

13 Q. Anything else, Mr. --

14 A. And just so you know, Metro, Paul Osuch, who  
15 was determined to be at least one of the contacts at  
16 Metro, they -- he retired as they were doing the  
17 internal affairs investigation. And they were --  
18 refused to give him his retirement badge because he  
19 violated department policy.

20 You also need to know that during my  
21 investigation, or subpoena of Mr. Thomas's documents, I  
22 also got record that he was doing this for Mr. Guinn for  
23 his other personal reasons. Mr. Jeffrey Guinn asked him  
24 to investigate a friend of his son's and run a -- and  
25 run a SCOPE. And he used the private -- an investigator

1 in the Clark County Public Defender's Office, Chris  
2 Bubel -- that's B-U-B-E-L -- who's also lost his  
3 employment with the Public Defender because of  
4 Mr. Thomas's attempts to gain access to confidential  
5 information that was otherwise not accessible and  
6 illegal.

7 Q. Mr. Prince, was this matter, regarding the last  
8 two items you've talked about, the fellow who retired  
9 and wasn't given his retirement badge and the access for  
10 Mr. Guinn's personal reasons, were those matters  
11 contained in the deposition transcript at any time, any  
12 place?

13 A. No. No, they were not. I'm testifying to it  
14 under oath that I have the e-mail from Chris Bubel to  
15 Mr. Thomas, who is with the Public Defender's Office,  
16 giving out SCOPE information. And if you're interested  
17 in me producing that to supplement this record, I'm  
18 happy to do so.

19 The -- I did not know of the -- Mr. Osuch's  
20 loss of his retirement badge until I was taking  
21 depositions of his supervisors at the Las Vegas  
22 Metropolitan Police Department in connection with a  
23 civil lawsuit against Metro.

24 Q. Okay.

25 A. So I learned that during the course of

1 discovery.

2 Q. You may have testified to this earlier, but I  
3 want to be certain. You asked Mr. Thomas in deposition  
4 to identify the individuals from whom he received the  
5 criminal history information; is that correct?

6 A. Correct.

7 Q. Did -- did Mr. Thomas supply that information?

8 A. No. This is -- page 67 of the deposition, I  
9 asked the following questions: What are the names of  
10 the people you have called in the past for information  
11 the at detective bureaus, the Las Vegas Metropolitan  
12 Police Department? Answer: I'm not going to give you  
13 my sources' names. Question: Are you refusing to  
14 answer to the question? Answer: I'm answering the  
15 question. I won't give you the sources' names.

16 So he repeatedly refused to supply me this  
17 information.

18 Q. Did he tell you why he would not give you their  
19 names?

20 A. Yes, he did. And, also, on page 67 of the  
21 deposition, I asked the question: Why won't you give me  
22 their names? His answer was: Because they do me  
23 favors. I'm not going to burn them.

24 Q. Did he tell you that he knew that the officers  
25 should not have given him that information?

1           A.    Yes.

2           BOARD CHAIRMAN SPENCER:   What page?

3           MR. MENICUCCI:   Page 68, I think.   I have it.

4           MR. PRINCE:   It's actually page 70.   And the  
5 question was:   Is there something within the department  
6 that's against the rules to give information out like  
7 that?   Answer, his answer was:   Yes.   Why are you asking  
8 people to violate the rules?   Answer:   Because I needed  
9 the information.   It's my job.   The next question:  
10 However you get it is however you get it?   Answer:  
11 That's how I get it.

12           MR. MENICUCCI:   I have no further questions of  
13 Mr. Prince.

14           Mr. Yampolsky?

15

16                               CROSS-EXAMINATION

17 BY MR. YAMPOLSKY:

18           Q.    Mr. Prince, all the evidence that you testified  
19 to or was obtained pursuant or during your  
20 representation of Mr. Quinn, correct?

21           A.    Correct.

22           Q.    And Mr. Quinn has waived his attorney-client  
23 privilege regarding that information?

24           A.    What information?

25           Q.    The information by you.

1 A. I didn't give any confidential information  
2 here. I gave what I gathered as the lawyer for  
3 Mr. Quinn.

4 Q. But the information that you have provided is  
5 waiving any privilege he may have; is that accurate?

6 A. No, because I'm not sure what information  
7 you're talking about.

8 Q. I'm talking about all the information you  
9 testified to --

10 A. Oh, with --

11 Q. -- regarding the deposition and the other  
12 information that you had that was not present in -- in  
13 the deposition.

14 A. I don't believe there's any privilege that  
15 attaches to the deposition transcript of Mr. Thomas.  
16 But to the extent there is, yes, Mr. Quinn is waiving  
17 any -- anything that I testify to here today, Mr. Quinn  
18 is waiving any attorney-client privilege as to that,  
19 that's correct.

20 Q. Now, your position that -- is Mr. Thomas is not  
21 authorized to obtain information from the DMV?

22 A. Uh, under certain circumstances, he is not,  
23 that is correct. In this case, he was not.

24 Q. Are you aware that private investigators may  
25 open an account with the DMV to obtain certain

1 information?

2 A. I am.

3 Q. And the information that one may access with  
4 this account is the same information, the same type of  
5 information that Mr. Thomas had obtained, the base of  
6 this Complaint?

7 A. It is my understand that it is not. He could  
8 not have gotten the same information. He may have  
9 gotten similar information, but not the same.

10 Q. What information did he obtain that would not  
11 be available from the people that are authorized, as the  
12 private investigators that are authorized to obtain?

13 A. My understanding is date of birth and Social  
14 Security number.

15 Q. Okay. You also testified regarding information  
16 that Mr. Thomas obtained during his investigation,  
17 during surveillance, people going in, people going out  
18 of Mr. Quinn's establishment, correct?

19 A. Correct.

20 Q. And is your position that surveillance is legal  
21 under Nevada law?

22 A. No, just as long it does not violate their  
23 right of privacy, no. No.

24 Q. And would taking pictures of the individuals  
25 going in and out of Mr. Quinn's business violate those

1 individuals' rights of privacy?

2 A. Generally not.

3 (The Las Vegas videoconference connection was  
4 lost, then reestablished at 10:50 a.m.)

5 BOARD CHAIRMAN SPENCER: All right. We're  
6 back.

7 Counsel for the defense was contemplating a  
8 question when we disconnected.

9 MR. MENICUCCI: Could the reporter read back  
10 the last question.

11 (The Reporter read back the last question and  
12 answer.)

13 BY MR. YAMPOLSKY:

14 Q. You indicated that Mr. Thomas -- Mr. Thomas had  
15 sold this information to Mr. Quinn, correct?

16 A. Correct.

17 Q. Are you aware that Mr. Thomas was working for  
18 Mr. Quinn?

19 A. Correct.

20 Q. And in the course and scope of the employment  
21 of Mr. Quinn, he was to surveil those individuals, based  
22 on the deposition testimony, correct?

23 A. That's what I understand, that's correct.

24 Q. And it would appear that during the course and  
25 scope of his employment, that he would provide this

1 information to Mr. Quinn?

2 A. I'm not sure exactly what he was asked to  
3 provide, but he did provide them.

4 Q. Now, you stated that it was a violation for  
5 Mr. Thomas to obtain the information that he did from  
6 the DMV, correct?

7 A. Correct, and Metro. I mean the thrust of our  
8 complaint is primarily what he got through Metro.

9 Q. All right. But I want to focus on the DMV.  
10 You did say that he obtained unauthorized information  
11 from the DMV, correct?

12 A. He did.

13 Q. And you also testified that it was a violation  
14 for the DMV -- I assume you're talking about DMV  
15 employees -- to provide that information to Mr. Thomas?

16 A. Correct.

17 Q. And on that basis is the reason that the DMV  
18 was a defendant in the federal lawsuit, correct?

19 A. That they were a defendant. They are not now.

20 Q. And they're not because you dismissed them from  
21 the lawsuit?

22 A. Correct. Because the record demonstrated that  
23 they couldn't identify that Mr. Thomas accessed  
24 Mr. Quinn through DMV records. So it had to, therefore,  
25 come from Metro. Because we did learn that it came from

1 Metro during the discovery. So we had no basis against  
2 the Department of Motor Vehicles.

3 Q. Now, are you aware that Metro has agreements  
4 with individuals from Metro to provide SCOPE to them?

5 A. No. And I -- and I've taken depositions of the  
6 deputy sheriff, Ray Flynn. They are not allowed to  
7 provide any type of information like this to a third  
8 party that's not in connected with law enforcement.  
9 They were unequivocal on that point.

10 And Mr. Thomas testified he has no such  
11 agreement.

12 MR. YAMPOLSKY: Mr. President, I apologize that  
13 I haven't made this as an exhibit. We can do that later  
14 and provide it to the -- as an exhibit to this hearing.

15 BY MR. YAMPOLSKY:

16 Q. Mr. Prince, I'm giving you a piece of paper  
17 where it references, where it says "Obtaining SCOPE from  
18 Las Vegas Metropolitan Police Department." Correct?

19 A. The document, what is this?

20 Q. This is a document that I prepared that  
21 specifically --

22 A. I don't know what this is. So I don't know.  
23 What do you want me to do?

24 Q. Okay. I want you to look at it to see, so we  
25 can agree what it says.

1 A. Well, on page two?

2 Q. Yes.

3 A. What section?

4 Q. Okay. Does it say, towards the -- the middle,  
5 a little past middle, where says "Obtaining SCOPE data  
6 from Las Vegas Metropolitan Police Department"?

7 A. Yes, I see that.

8 Q. And then, under that, it says "Las Vegas  
9 Metropolitan Police Department Policy Manual Section 5,  
10 slash, 105.20, Administering and accessing SCOPE, A,  
11 period, S, period, 81, period, 2, period, 9, comma, 82,  
12 period, 1, period, 1, comma, 82 comma" -- excuse me --  
13 "period, 1, period, 6, comma, 82 point 17." Does it say  
14 that?

15 A. Yes, it does say that.

16 Q. Okay. And further below, it talks about the  
17 limitations of dissemination, correct?

18 A. That's what it says here.

19 Q. Correct. Okay. And on the bottom, it says  
20 "Information and SCOPE is not to be requested, used or  
21 released." And on the next page, number one, it says  
22 "outside of the official duties."

23 A. You and I are not looking at the same document.  
24 Because mine's on the same page.

25 Q. Oh, excuse me. But it does say "outside of

1 official duties," correct?

2 A. Correct. Meaning, meaning for the Metro  
3 police, meaning for -- that's what it's talking about.  
4 This is directly to Las Vegas Metropolitan Police  
5 Department employees, that's correct. That's what it  
6 references.

7 Q. But it does say "outside of official duties,"  
8 correct?

9 A. For the police officer. Because I've asked  
10 the -- I took the deposition of Mr. Flynn and others,  
11 and we talked about this very -- I'm not sure you've  
12 quoted exactly. But their policy on this exact issue,  
13 that's right.

14 Q. Okay. Well, does it say "outside of official  
15 duties for police officers only" in that document?

16 A. Because that's who it's directed to. It's only  
17 employees for Metro. It's to govern the conduct of the  
18 employees of Metro. So it relates only to employees of  
19 Metro in their official duty capacity. So that --

20 Q. I understand that. But my specific question  
21 is, does it say "outside of official duties for Metro  
22 employees only"?

23 A. It doesn't say that, no.

24 Q. And then, underneath, where it says "User's  
25 agreement," it says "Agencies wishing to access SCOPE

1 must enter into a user's agreement with this  
2 department," correct?

3 A. It does say that.

4 Q. And further down, on the bottom, it says,  
5 number seven, "Records of criminal history must be  
6 disseminated by an agent from criminal justice upon  
7 request to the following persons or" --

8 MR. MENICUCCI: Mr. Yampolsky, would you repeat  
9 your last question. The court reporter did not hear it.

10 BY MR. YAMPOLSKY:

11 A. Further -- actually, let me amend it. It says  
12 "Las Vegas Metropolitan Police Department nondisclosure  
13 agreement." And then, under that, number seven, it  
14 says -- or I asked, does it say "Records of criminal  
15 history must be disseminated by an agency of criminal  
16 justice upon request to the following persons or  
17 governmental entity?"

18 And, I believe, Mr. Prince answered yes.

19 A. Are you just asking me is that what the  
20 document says?

21 Q. Yes.

22 A. Okay. Right. It's, obviously, part of some  
23 statute. But I don't know what statute you're referring  
24 to, or it refers to, but it does say that in your  
25 document.

1 Q. And, then, moving on to J, which is the --

2 A. Where are you?

3 Q. Do you have -- does it continue to J in your  
4 document, subsection J?

5 A. It does.

6 Q. And under J, does it say "Persons and agencies  
7 authorized by statute, ordinance or executive order,  
8 court ruled, court decision or court order as construed  
9 by appropriate state or local officers or agencies"?

10 A. That's what the document says.

11 Q. And you'd agree that Nevada statutes authorize  
12 one to be a licensed private investigator?

13 A. I do.

14 Q. Okay. I'd like to change gears. You quoted 18  
15 U.S.C. 271 to 275, the Federal Driver's Right of  
16 Protection, correct?

17 A. Correct.

18 Q. Do you have a copy of the actual act in front  
19 of you?

20 A. I do not. No.

21 Q. And I'm handing you what is a copy of the  
22 Driver's Privacy Protection Act. Correct?

23 A. That's what it says.

24 Q. Okay. We can make this part of the record,  
25 also. And it says "Prohibition on police and use of

1 certain personal information from state motor vehicle  
2 records." And underneath number three, it says "For use  
3 in the normal course of business by a legitimate  
4 business for its agents, employees or contractors." And  
5 underneath that, it says "For the purpose of preventing  
6 fraud by pursuing legal remedies against or recovering  
7 on a death or security interest against the individual."

8 Does it say that?

9 A. Yes. Yes.

10 Q. And you would agree that Mr. Thomas was working  
11 for Mr. Guinn in connection to the lawsuit that was  
12 eventually filed against your client?

13 A. Correct.

14 Q. And underneath that, it says "For use by any  
15 licensed private investigative agency or licensed  
16 security service for any purpose permitted under this  
17 subsection"?

18 A. Yes, that's what it says, but Mr. Thomas wasn't  
19 engaging in any of those purposes.

20 Q. But that is what it says?

21 A. That is what it says. But he wasn't doing  
22 anything associated with that, that you described.

23 Q. But that is what it says?

24 A. That's true.

25 Q. Are you aware that LexisNexis has -- you are

1 aware what LexisNexis is?

2 A. I am.

3 Q. And that is a computer data base that one can  
4 use to access information, correct?

5 A. That's my understanding.

6 Q. Were you aware that there's a certain  
7 department or division that provides information to  
8 licensed private investigators?

9 A. I was not.

10 MR. YAMPOLSKY: I have copies of the pages,  
11 which Mr. Prince doesn't have at this time, and I'd like  
12 to just append it to the record, where it -- and it's  
13 difficult to see on the paper, but it's a portion that  
14 you click for law enforcement purposes. And I'll read  
15 it, what it says. It says "Click to continue law  
16 enforcement purposes. To the extent specifically  
17 permitted or required under other provisions of the law  
18 in accordance with the Right to Financial Privacy Act of  
19 1978 to law enforcement agencies, self-regulatory  
20 organizations, or for an investigation of" -- Maybe I  
21 should ask this when Mr. Thomas testifies. That would  
22 be more appropriate.

23 MR. PRINCE: Okay.

24 BY MR. YAMPOLSKY:

25 Q. One of the reasons for your complaint or one of

1 the reasons that you've testified in front of the Board  
2 that was improper conduct by Mr. Thomas was that he was  
3 arrogant, correct?

4 A. Yes, his attitude was arrogant about the  
5 conduct that he knew he engaged in was unlawful and in  
6 violation of Metro's policy. He knew both of those and  
7 did not care that -- as long as he got the information,  
8 he did not care what he did with it, the information.  
9 The information, however you get it is however you get  
10 it.

11 Q. There is no prohibition under the licensing  
12 statutes of a private investigator against being  
13 arrogant, correct?

14 A. No. It would be different to say, if he  
15 accessed it and didn't understand the consequences of  
16 his conduct. He clearly knew what he was doing, how he  
17 was doing it, why he was doing it, you know. He chose  
18 to do it anyway in a very systematic way.

19 Q. My question was there is no specific  
20 prohibition in the licensing statutes against being  
21 arrogant?

22 A. I would assume not, but I'm not familiar with  
23 those statutes. But I'm assuming arrogance is probably  
24 not illegal.

25 Q. Now, you stated that --

1 A. Otherwise, I might be illegal.

2 Q. So stipulated.

3 A. Stipulated.

4 Q. Another reason you were complaining or filed a  
5 complaint against Mr. Thomas was that he unauthorized --  
6 he obtained credit history in an unauthorized manner?

7 A. Correct.

8 Q. What credit history, to which credit history  
9 are you referring?

10 A. Mr. Quinn's.

11 Q. And what is your understanding of how  
12 Mr. Thomas obtained that information?

13 A. That he contacted a financial institution  
14 somewhere in Clark County, and they gave him the  
15 information. He refused to identify the name or the  
16 source for that information. But as far as quoting from  
17 the -- he indicated that he had contacted a  
18 representative -- let me back up. He told Mr. Guinn in  
19 a report that he contacted someone he knew at a local  
20 agency, I believe to be some kind of financial or  
21 banking institution, and got the information. And he  
22 typed that into the report, showing Mr. Guinn's credit  
23 history, correct.

24 Q. And you're not aware of what financial  
25 institution, where he obtained that information?

1 A. No. He refused to provide it.

2 MR. YAMPOLSKY: I have nothing further for this  
3 witness.

4 MR. MENICUCCI: I have no questions for this  
5 witness. Does the Board have any questions?

6 BOARD CHAIRMAN SPENCER: Any Board questions?

7 BOARD MEMBER PUTNAM: I have some questions of  
8 Mr. Thomas.

9 MR. MENICUCCI: He'll be testifying.

10 BOARD MEMBER PUTNAM: Oh. Okay. No.

11 BOARD CHAIRMAN SPENCER: No. Mark, do you have  
12 any questions?

13 BOARD MEMBER ZANE: Yes.

14 What -- do you have any -- the position of the  
15 complaint would be that Mr. Thomas violated the  
16 specified statute or regulation in his access to the  
17 criminal history provided by the third party from  
18 Las Vegas Met?

19 MR. PRINCE: Correct.

20 BOARD MEMBER ZANE: That violation would come  
21 through his right to privacy under federal law?

22 MR. PRINCE: Correct, constitutional violation  
23 of his civil rights, that's correct, as well as the  
24 other 240 people.

25 BOARD MEMBER ZANE: Okay. Would it be your

1 contention that Mr. Thomas, as an individual business  
2 owner, has the ability to violate that constitutional  
3 right, or did that right violation come by virtue of the  
4 relationship with the Las Vegas Metro connection?

5 MR. PRINCE: By virtue of the relationship with  
6 Metro, where he got the information.

7 BOARD MEMBER ZANE: So could we agree that  
8 Mr. Thomas didn't have an individual ability to violate  
9 someone's constitutional rights to privacy, by himself?

10 MR. PRINCE: Correct.

11 BOARD MEMBER ZANE: That's all I have. Thank  
12 you.

13 BOARD CHAIRMAN SPENCER: Okay.

14 MR. MENICUCCI: At this point, the prosecution  
15 in this case rests.

16 And, Mr. Yampolsky, do you have witnesses to  
17 present? Before we do, though, I might want to ask, are  
18 we going to identify the two documents that were shown  
19 to Mr. Prince?

20 MR. YAMPOLSKY: Yes. One of the documents is a  
21 copy of the Driver's Privacy Protection Act, which is 18  
22 U.S.C. 2721, et seq., and that was quoted in the  
23 Complaint filed by Mr. Prince.

24 MR. MENICUCCI: Okay. And I'll have no  
25 objection to submitting that as evidence.

1 MR. YAMPOLSKY: And the other document was --  
2 the court's indulgence.

3 Do you have that, Mr. Prince?

4 MR. PRINCE: This.

5 MR. YAMPOLSKY: Okay. The other document was  
6 something that I had prepared in anticipation of this  
7 litigation, and it's -- and it's entitled Compendium of  
8 Laws Governing Access to SCOPE, and it has Nevada  
9 Revised Statute. But, specifically, the information  
10 that I was questioning Mr. Prince about were copies of  
11 the Las Vegas Metropolitan department policy manual.  
12 And I am happy -- and, also, at the end, it says  
13 "Qualification to be a licensed private" -- excuse me --  
14 "private investigator."

15 So depending on the Board's wishes, we could  
16 have the entire document marked or just the document  
17 with the sections of the policy manual of the Las Vegas  
18 Metropolitan Police Department.

19 MR. MENICUCCI: Okay. I would propose that we  
20 simply mark it as a document shown to the witness at  
21 this time. And if you authenticate the actual  
22 Metropolitan Police Department policies, then we could  
23 admit those separately.

24 MR. YAMPOLSKY: That's fine.

25 MR. MENICUCCI: Okay.

1 Mr. Yampolsky, I believe, it's your case now.  
2 You may proceed.

3 MR. YAMPOLSKY: Would it be possible to take  
4 like a one-minute break so I can get a drink of water?  
5 Because I'm hot.

6 BOARD CHAIRMAN SPENCER: Let's take five  
7 minutes.

8 MR. YAMPOLSKY: Okay. Great. Thank you.

9 \* \* \* \* \*

10 (A break was taken, 11:10 to 11:20 a.m.)

11 \* \* \* \* \*

12 BOARD CHAIRMAN SPENCER: All right. Are you  
13 ready?

14 You have to push the button.

15 There you go. Can you hear us all right?

16 MR. YAMPOLSKY: I can hear you fine. Can you  
17 hear me?

18 BOARD CHAIRMAN SPENCER: Yep. Let 'er roll.

19 MR. YAMPOLSKY: Okay. The witness that I had  
20 talked to Mr. Menicucci about, and I informed the Board  
21 of, is here now. Her name's Collette Putnam. She is a  
22 private investigator. I'd like to have her sworn and  
23 testify. Her testimony will be brief.

24 BOARD CHAIRMAN SPENCER: All right.

25 MR. YAMPOLSKY: Okay. Ms. Putnam.

1 MR. MENICUCCI: Would you please remain  
2 standing and be sworn.

3 Do you solemnly swear or affirm that the  
4 testimony you'll give before this Board will be the  
5 truth, the whole truth and nothing but the truth?

6 MS. PUTNAM: I do.

7 MR. MENICUCCI: Please be seated.

8 BOARD CHAIRMAN SPENCER: Good morning.

9 MS. PUTNAM: Good morning.

10

11 C O L L E T T E D. P U T N A M,  
12 having been first sworn/affirmed by Mr. Menicucci,  
13 was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. YAMPOLSKY:

17 Q. Ms. Putnam, please state your name and spell  
18 the last name for the record.

19 A. Collette D. Putnam, P-U-T-N-A-M.

20 Q. Are you a licensed private investigator?

21 A. Yes, I am.

22 Q. And how long have you been a licensed private  
23 investigator?

24 A. I think, I got licensed in '94 in Nevada, but  
25 I've been doing it over 30 years.

1 Q. Okay. Are you aware of these proceedings, that  
2 the Board's investigating Mr. Thomas?

3 A. Yes, I am.

4 Q. And are you aware what the allegations of  
5 improper conduct are?

6 A. Yes.

7 Q. Now, in the course and scope of your  
8 employment, have you ever accessed DMV records?

9 A. Yes, I have.

10 Q. And how do you do that?

11 A. I have an account with the DMV. I can either  
12 do it by phone or by fax, depending on the information  
13 that I want. If I do it by phone, I get a verbal. I  
14 can get it a little quicker these days. It used to take  
15 a while. If I need the hard copy, it takes a week to 10  
16 days to get it.

17 Q. And what information is provided in the hard  
18 copy?

19 A. The hard copy can give you everything except a  
20 photo. And an interesting twist with the DMV is, if we  
21 submit a traffic accident report, they will inform a  
22 private investigator who the insurance company is, and  
23 they will not inform an attorney. So I can have  
24 everything but a DMV photo.

25 Q. Do you obtain Social Security numbers?

1           A.    Yes, I do.  They will confirm a Social Security  
2 number.

3           Q.    Now, in addition to that, in the course and  
4 scope of your employment, have you ever obtained any  
5 SCOPE?

6           A.    Yes, I have.

7           Q.    And approximately how many times have you done  
8 so?

9           A.    A lot in the course of the -- over the years.  
10 I can't give you a number, but I -- at least two or  
11 three times a month.

12          Q.    And how do you do that?

13          A.    You go down to the Metro, and you fill out  
14 their little form, and they give it to you.

15          Q.    And in the form, do you identify yourself as a  
16 private investigator?

17          A.    You identify yourself as a private  
18 investigator, and you are assigned a vendor number, as  
19 it were.  Because before you can access the SCOPE, you  
20 have to have a user's agreement with Metro to get to  
21 SCOPE.

22          Q.    Metro itself has this agreement that you sign?

23          A.    They have an agreement that I have signed.  
24 They verify your status as a licensed private  
25 investigator.  It takes about a week to 10 days.  And

1 then you, too, can access and go through.

2 Q. As a private individual, one would not have  
3 access to the SCOPE that you obtained through Metro,  
4 right?

5 A. They would not have access to anybody else's,  
6 but they could get their own.

7 MR. YAMPOLSKY: I have nothing further.

8 BOARD CHAIRMAN SPENCER: I didn't understand  
9 that last answer.

10

11

CROSS-EXAMINATION

12 BY MR. MENICUCCI:

13 Q. I'm sorry. Ms. --

14 A. Putnam.

15 Q. Ms. Putnam, you say that a private individual  
16 would not be able to get a user's agreement and get  
17 access to SCOPE, other than for his own information?

18 A. My understanding is the user's agreement is for  
19 licensees or law enforcement agencies, insurance  
20 adjustors, people like that. But as a common person  
21 without a stated purpose, no, I don't believe so.

22 Q. Okay. Do you need to state a purpose for your  
23 access when you fill out your user's agreement and  
24 application?

25 A. I believe, the form has a reason. And it can

1 be investigations. It can be anticipation of criminal  
2 or a civil investigation. It can be defense. It can be  
3 traffic accident report. It has to be within the scope  
4 and purview of what your license does.

5 Q. Do you have any information, of your own  
6 personal knowledge, as to what Mr. Thomas did to get his  
7 information?

8 A. Personal knowledge?

9 Q. Yeah.

10 A. I would assume he has access to SCOPE as any  
11 other licensee would have.

12 Q. No, I -- what my question is, do you know of  
13 your own personal knowledge by what means Mr. Thomas  
14 gained access to criminal history information in the  
15 case of Guinn vs. Quinn?

16 A. I did not work that case with him. No, I do  
17 not.

18 MR. MENICUCCI: Okay. No further questions.

19 MR. YAMPOLSKY: I have nothing further.

20 MS. PUTNAM: Thank you.

21 MR. YAMPOLSKY: I'd like to call Jim Thomas.

22 MR. MENICUCCI: Mr. Thomas, you've been sworn?

23 MR. THOMAS: Yes, sir, I have.

24 MR. MENICUCCI: Please proceed.

25 ///

1                   J A M E S     P.     T H O M A S ,  
2     having been previously sworn/affirmed by Mr. Menicucci,  
3                   was examined and testified as follows:

4  
5                                   D I R E C T   E X A M I N A T I O N

6     BY MR. YAMPOLSKY:

7             Q.    Mr. Thomas, please state your name and give us  
8     the spelling of your last name.

9             A.    It's James, middle initial P, as in Phillip,  
10    Thomas, T-H-O-M-A-S.

11            Q.    Are you a licensed private investigator in the  
12    state of Nevada?

13            A.    I am.

14            Q.    How long have you been so licensed?

15            A.    13 years.

16            Q.    And if you could give just a brief synopsis,  
17    what is -- what are the activities for which you are  
18    licensed to undertake as a private investigator?

19            A.    I conduct investigations calls for private  
20    people, attorneys. Many times, I'm appointed by the  
21    district court or the federal court. I do both criminal  
22    and civil investigations.

23            Q.    In the course and scope of your employment, do  
24    you do surveilliance?

25            A.    I do.

1           Q.    Okay.  Are you aware of any statute in the  
2 private investigators licensing portion of the NRS that  
3 would prohibit you from doing so?

4           A.    No.

5           Q.    You heard Ms. Putnam's testimony?

6           A.    I did.

7           Q.    Do you have at this time -- I believe, she  
8 called it a user agreement, for Metro?

9           A.    I do.

10          Q.    And pursuant to that agreement, are you able to  
11 obtain SCOPES?

12          A.    I can.

13          Q.    Also, at this time, do you have an agreement  
14 with the DMV to obtain information regarding  
15 individuals?

16          A.    I've had an agreement with DMV since 2000,  
17 correction, 1998.

18          Q.    So you had this agreement with DMV during the  
19 course of your investigation in the Guinn vs. Quinn  
20 case?

21          A.    I did.

22          Q.    Now, could you tell us a little bit about your  
23 investigation in the Guinn vs. Quinn case, how that  
24 went?

25          A.    I'd be happy to.  I was contacted by Jeffrey

1 Guinn, who Mr. Prince identified as the son of a former  
2 Governor. Initially, I was retained to do an  
3 investigation regarding Mr. Quinn's financial and  
4 background. As part of that, I was supplied financial  
5 information, including Mr. Quinn's Social Security  
6 number.

7 Q. Provided that by --

8 A. By Mr. Guinn. Mr. Guinn has indicated to me  
9 that this information was provided to him by Steven  
10 Quinn, at which time Steven Quinn was attempting to  
11 become a -- an investor in Mr. Guinn's company. Both  
12 the financial information and the Social Security  
13 number.

14 Q. Just let me stop you right there before you  
15 continue. Regarding -- aside from this financial  
16 information that you obtained from Mr. Guinn, did you --  
17 did you obtain any other credit reports or other  
18 financial information from any other sources?

19 A. Not on Mr. Quinn. I did receive a very vague  
20 printout regarding Mr. Quinn's company, and that was  
21 from a legitimate source, a data base I was subscribing  
22 to at the time.

23 Q. Continue to tell us about being hired.

24 A. Okay. This particular report that I did not  
25 only had financial information, it had background

1 information as regards arrests, traffic citations, court  
2 cases, all of which is public record, all of which  
3 anybody can go on line and seek and find out, if they  
4 know how to operate a computer.

5 I submitted that report. A short time later, I  
6 received a call from Mr. Guinn, again wanting to utilize  
7 my services, this time concerning threats that had been  
8 made against his personal -- well, his life. I was told  
9 that Steven Quinn had threatened to shoot Mr. Guinn. I  
10 was instructed to have employees follow Mr. Guinn around  
11 wherever -- I'm sorry -- Mr. Quinn around wherever he  
12 went. And I was to report immediately to Mr. Guinn if  
13 he started going towards any of Mr. Guinn's property or  
14 his business office or his home.

15 It was at that time that I had to scramble to  
16 hire somebody. I'm not a big company. I took a young  
17 lady in on a trial basis. And she conducted  
18 surveillance for a while. She was not acceptable.  
19 And --

20 Q. Let me interrupt you. What was her name, for  
21 the record?

22 A. To be honest, I don't remember. You do have  
23 some paperwork, I believe, that I gave you. Or I have  
24 it here. Yes, I do. Kathleen Harris. I let her go. I  
25 hired somebody else, and that somebody else was

1 registered with the Board properly.

2           During the course of the surveillance for this,  
3 this purpose, there was only one occasion that we saw  
4 Mr. Quinn going towards any of Mr. Guinn's property, and  
5 that was a shopping center or business park that was  
6 under construction at Henderson, off of Racetrack Road,  
7 I believe. And I notified Mr. Guinn that Quinn was  
8 there at that time.

9           The surveillance escalated. And during this  
10 time, several times, I tried to leave the job. I mean  
11 it was at that point a big hassle. Because I am a small  
12 company. It was taking too much of my time. And he  
13 wasn't doing a lot that we were catching.

14           Mr. Guinn then came forward with information  
15 that Mr. Quinn was believed to be importing illegal  
16 drugs into the United States from Mexico. I was told  
17 that Mr. Quinn has a home in Coronado, which I  
18 eventually confirmed, and that he also has a boat  
19 anchored in Coronado and that he could go down there a  
20 couple weeks and sail down into Mexico, and that he was  
21 coming back with loads of marijuana and other drugs.

22           It was requested that I continue the  
23 surveillance for the purpose of gathering information  
24 that Mr. Guinn could then take to the Las Vegas  
25 Metropolitan Police Department and turn over to them. I

1 did so. It was for this reason that everyone who came  
2 and went from Mr. Quinn's business was videotaped.  
3 Excuse me. They were identified through their license  
4 plates, and they were -- had a background check  
5 conducted on them.

6 I would state right here and now that probably  
7 75 to 80 percent of the people that we saw going into  
8 Mr. Quinn's business had drug arrests, drug convictions  
9 or vice and narcotics-type convictions. There was one  
10 lady who was an ex-felon for producing pornography.  
11 There were a number of dancers who had records for  
12 drugs. There were several prostitutes that we  
13 identified that were going into his business.

14 I would also state that in the year plus that  
15 we watched Mr. Quinn, never once did we see him or any  
16 of his employees go to a legitimate construction site.  
17 Mr. Quinn owns a construction company, and yet he had no  
18 work at all during that time that we could identify.  
19 There was never any materials leave. There was never  
20 Mr. Quinn going to any job site. There was never  
21 anything as such. The two to three people that he had  
22 inside besides the secretary were tailed on occasion.  
23 The only place they ever went was to a 7-Eleven or a  
24 restaurant.

25 This was the purpose. And because of the

1 investigation, at some point, Mr. Quinn -- excuse me --  
2 Mr. Guinn -- it's confusing -- did, in fact, turn over  
3 all of my investigation to Las Vegas Metro. My  
4 surveillance person was out there one day when she was  
5 approached by two detectives from the Las Vegas  
6 Metropolitan Police Department asking her to identify  
7 herself. She did. And they told her that they were on  
8 the job, they were doing the surveillance, and she  
9 didn't need to be there anymore.

10 Q. And during that time, did you access many  
11 records from the DMV?

12 A. I did.

13 Q. And whose records did you access?

14 A. That wasn't the only case I had going. I can't  
15 tell you. But I did access license plates, both through  
16 the DMV and through sources at Metro, for everybody who  
17 came and went from Quinn's business.

18 Q. And at this time, you did have the ability,  
19 through your agreement with DMV, to obtain the  
20 information that you had obtained?

21 A. I did. I'd had that ability since 1998.

22 Q. But did you actually use the DMV to obtain this  
23 information?

24 A. On occasion. The problem with DMV was I had to  
25 submit in writing at that time and fax it to them. And

1 although Ms. Putnam says you can get it by phone now,  
2 back then I wasn't able to get it by phone. And I  
3 needed it quicker.

4 Q. And at that time, did you also obtain SCOPE on  
5 that job?

6 A. I did.

7 Q. And how did you do that?

8 A. Through various sources both at the Las Vegas  
9 Metropolitan Police Department and the Public Defender's  
10 Office.

11 Q. As a private investigator at that time, did you  
12 have that access?

13 A. I'll qualify that by saying, when I first  
14 requested, I could call up and get SCOPES over the  
15 phone. And over the years, their procedure changed.  
16 And at the time of this investigation, no, I was not  
17 aware of anything. I was aware that there was a program  
18 in place where somehow the various hotels and casinos in  
19 town, various other agencies, were able to get SCOPES.  
20 But it never explained why. After this complaint was  
21 filed, we did some investigating, and we found that  
22 Metro actually does have a procedure whereby we can go  
23 through a background check and obtain SCOPES on our own,  
24 and I have since done that.

25 Q. Is there anything else that you think is

1 important for the Board to know about your situation?

2 A. Yeah. In addition to this Nevada law that says  
3 that DMV can only be used for insurance purposes, I have  
4 some documentation which I've given to my attorney,  
5 wherein we've done process serves at various times. And  
6 being unable to find them, we have to do what they call  
7 an affidavit of due diligence. By doing that affidavit  
8 of due diligence, we looked into various things, like  
9 the post office, the phone book, the Clark County  
10 Assessor, the Clark County Recorder, the Clark County  
11 Clerk, the Nevada Secretary of State, business licensing  
12 for all four cities.

13 Q. Hold on. I'd like you to look at these two  
14 documents. And I will mark these for admission. And  
15 what is the first document? Could you identify that?

16 A. This is a memorandum from Riana -- well, it's a  
17 memorandum from Department Four of the District Court.

18 Q. Department Six.

19 A. I'm sorry. Department Six.

20 MR. MENICUCCI: Could I interrupt?

21 MR. THOMAS: It's from a Riana --

22 MR. MENICUCCI: Could I interrupt,  
23 Mr. Yampolsky? Could we just -- we're getting -- we've  
24 had two exhibits with Mr. Prince. Could we just  
25 identify this as number 3 so that we don't get confused?

1 MR. YAMPOLSKY: Okay. This will be  
2 defendant's 3.

3 MR. THOMAS: Okay. This is from Riana Durrett,  
4 who's a law clerk from Department Six. It's addressed  
5 to Amy Gamage, Esquire.

6 As background, I had done a process serve  
7 before Amy Gamage. It was somebody we couldn't find. I  
8 had done the locate work on the subject, still couldn't  
9 find them, and I submitted an affidavit of due  
10 diligence. The court denied my affidavit of due  
11 diligence. And they sent this form. And it reads: The  
12 court does not find that the process server exercised  
13 due diligence in locating the defendants. The process  
14 server must use all available avenues, including phone  
15 book, utility records, postal service, DMV, voter  
16 registration polls, property ownership records,  
17 et cetera, to locate the defendant.

18 BY MR. YAMPOLSKY:

19 Q. And is this document, this memo, specific to  
20 your case?

21 A. To this case today?

22 Q. No. To the case --

23 A. This was specific to a process serve that I  
24 attempted to do for the attorney, Amy Gamage.

25 Q. But the actual information that you provided to

1 the Board, that's typed there, is part of the form?

2 A. This is a form that the district court has.  
3 And they check the appropriate box. And in this case,  
4 they checked the first box, and they sent it back to  
5 Ms. Gamage, and she sent it back to me to do more work.

6 Q. Now, for the proposed defense Exhibit 4, it's a  
7 memorandum from District Court, Department 25, the  
8 Honorable Kathleen Delaney, to Paul Gaudet, G-A-U-D-E-T,  
9 Esquire, from Rachel Bickle, B-I-C-K-L-E, hyphen, Stone,  
10 Department 25 Law Clerk. It's regarding a case, which I  
11 don't think we need to identify publicly, but it is in  
12 the document. And, Mr. Thomas, could you identify this?

13 A. I can. This is different in physical makeup  
14 but, basically, the same thing. I had done a process  
15 service for Mr. Gaudet. The person wasn't where he was  
16 supposed to be. I did background work or locate work on  
17 the subject and did not find a current address. I did  
18 an affidavit of due diligence, outlining everything I  
19 did. And this form is kicking back my affidavit of  
20 service because I did not check with DMV.

21 In other words, as a private investigator and  
22 as a process server, the district court is demanding  
23 that we check DMV for these purposes.

24 Q. And does this say that the process server, in  
25 exercising due diligence in locating the defendant, the

1 process server must use all available avenues, including  
2 phone book, utility records, postal service, DMV, and  
3 voter registration rolls, property ownership records,  
4 et cetera, to locate the defendant?

5 A. It does.

6 Q. And, in fact, is that language the same as the  
7 language provided in the previous memo, defense  
8 Exhibit 3?

9 A. It is.

10 Q. Is there anything else you'd like to inform the  
11 Board of?

12 A. I would like to say that I was a police officer  
13 with the Las Vegas Metropolitan Police Department for 20  
14 years. During that 20 years, I was an undercover  
15 narcotics agent for two and a half to three years. I  
16 conducted an investigation regarding possible narcotics  
17 involvement, the way the Las Vegas Metropolitan Police  
18 Department taught me to do so. I did this investigation  
19 with the intent of turning those results over to the  
20 Las Vegas Metropolitan Police Department, and that was  
21 done.

22 I have in my career been lucky enough to be  
23 involved in some very large cases. I have walked two  
24 people off of death row and completely out of prison for  
25 murders that they did not commit and I can prove that

1 they did not commit. I recently did an investigation  
2 for a man who did 10 years in prison for a murder that I  
3 proved he did not commit. He's with his family in Miami  
4 today, and I'm very provided of that fact.

5 I've been an investigator, first with David  
6 Groover for seven years, prior to getting my own  
7 license, and on my own for 13 years. And other than  
8 this incident, the Board has never had a complaint on  
9 me, once. I would ask them to take that into  
10 consideration.

11 MR. YAMPOLSKY: Thank you. I have nothing  
12 further.

13 MR. MENICUCCI: Okay. Mr. Thomas, don't go  
14 away quite yet.

15 MR. THOMAS: Yes, sir.

16

17 CROSS-EXAMINATION

18 BY MR. MENICUCCI:

19 Q. Can I ask you, on Exhibit 3, the first of those  
20 documents, the proposed Exhibit 3, what was the date of  
21 the memorandum to you that turned down your affidavit of  
22 due diligence?

23 A. This particular one was April 23rd, 2009.

24 Q. And --

25 MR. YAMPOLSKY: Would you like to know the date

1 of the second memorandum?

2 MR. MENICUCCI: Yes, please.

3 MR. YAMPOLSKY: And that would be June 24,  
4 2009.

5 MR. THOMAS: And I would also like to state  
6 that these aren't the only two that I have. They just  
7 happen to be the two that I found first, that I could  
8 turn over to my attorney.

9 MR. MENICUCCI: Okay.

10 MR. THOMAS: This has been a standard practice  
11 for as long as I've been licensed.

12 MR. MENICUCCI: All right. With respect to  
13 those, we'll have Mr. Murphy send copies up here so the  
14 Board can have them. I don't anticipate objecting to  
15 them, but I do want to see them first.

16 MR. THOMAS: Yes, sir.

17 BY MR. MENICUCCI:

18 Q. Could I ask you a little bit more about your  
19 DMV account? Am I correct that in the Guinn vs. Quinn  
20 case, you accessed DMV records through law enforcement  
21 individuals, rather than through your own account,  
22 because they could get it faster?

23 A. To a degree. I believe, there were some in the  
24 beginning that I tried going through my DMV account, and  
25 it was taking like two weeks to get the information

1 back. And that's when I turned to people in law  
2 enforcement for assistance.

3 Q. Were you aware of the statute NRS 648.157 that  
4 states, and I'll just read a part of it, "A private  
5 investigator license pursuant to this chapter shall not  
6 obtain or seek access to information from the Department  
7 of Motor Vehicles pursuant to subsection 3 of NRS  
8 481.063 for any purpose other than a purpose that is  
9 directly related to the investigation of an insurance  
10 claim"; were you aware of that?

11 A. Until this -- until this action was filed  
12 against me, I was not aware of that.

13 Q. Okay.

14 A. I will state that I was aware of the federal  
15 law that said that as a licensed private investigator, I  
16 can have DMV information.

17 Q. Your -- you say you now have an agreement, a  
18 user's agreement with Las Vegas Metro Police Department;  
19 is that correct?

20 A. I do. And my attorney has a copy of that.

21 MR. MENICUCCI: Okay.

22 MR. YAMPOLSKY: All right.

23 MR. MENICUCCI: Could we have that submitted as  
24 an exhibit?

25 MR. THOMAS: Yes, sir.

1 MR. YAMPOLSKY: Yes.

2 MR. MENICUCCI: Number 5.

3 BY MR. MENICUCCI:

4 Q. And when, when did that agreement go into  
5 effect?

6 A. That went into effect recently. Because,  
7 basically, I didn't know about it before, and neither  
8 did any other P.I. I applied November 3rd 2009, and it  
9 was granted December 4th, 2009.

10 Q. Okay. So this was not in effect at the time of  
11 the Guinn vs. Quinn matter?

12 A. The program was, but nobody was aware of it.

13 Q. Yeah, but you didn't have -- you didn't have an  
14 agreement?

15 A. I did not have it.

16 Q. So you accessed SCOPE criminal information  
17 through contacts you had at different law enforcement  
18 agencies, correct?

19 A. Various contacts accessed SCOPE information and  
20 provided it to me.

21 Q. And you declined to provide the names of those  
22 people to Mr. Prince when he took your deposition,  
23 correct?

24 A. I most certainly did.

25 Q. And that's because you knew they'd get in

1 trouble, because they shouldn't have done it, right?

2 A. I was a police officer for 20 years, and I was  
3 well aware of the policies that says that they cannot  
4 release information to outside parties.

5 Q. So that's in --

6 A. And I was --

7 Q. So --

8 A. I --

9 Q. Go ahead. I'm sorry. I don't mean to  
10 interrupt.

11 A. I'm sorry. I'm also aware that this is  
12 practice that is utilized by most people in this  
13 profession. I'm not pointing a finger at anybody, but I  
14 did seven years with somebody else before I got my own  
15 license, and this was something that was going on then,  
16 and it's still going on, by everybody except me. It --  
17 it's something Metro doesn't like, but Metro's attorneys  
18 have acknowledged that I did nothing wrong. And this is  
19 in the federal lawsuit. It's on their employees not to  
20 give the information out.

21 I would like to state, too -- well, I did  
22 already, about the financial stuff. This business about  
23 going to a bank. I didn't do it. That was given to me  
24 by my client.

25 Q. Okay. Let me interrupt you there, sir. Did

1 you, in fact, get a credit report on Mr. Quinn or his  
2 business from --

3 A. I did --

4 Q. And where did you obtain that credit report?

5 A. From my client.

6 Q. Okay. So you didn't actually do it yourself?

7 A. No.

8 Q. Okay. Did you -- is it your testimony that  
9 your only access to credit information on Mr. Quinn or  
10 his business was either from your client or through  
11 access to a publicly available data base?

12 A. I'm -- not a publicly available data base. A  
13 data base that is allowed only for licensed private  
14 investigators. When you sign up for these various data  
15 bases, you have to send them a copy of your license.  
16 With LexisNexis, and that was something else we didn't  
17 go into before --

18 Q. Okay. Was LexisNexis the one you used, then?

19 A. It was a predecessor to LexisNexis. LexisNexis  
20 has bought them out.

21 Q. Okay.

22 A. And as that, I was grandfathered into  
23 LexisNexis.

24 Q. Okay. Let me go back to the accessing  
25 information through your contacts at law enforcement

1 agencies. Do you know of anyone that gave you  
2 information in connection -- criminal history  
3 information -- let me rephrase that. Do you know of any  
4 individual who gave you criminal history information in  
5 connection with your investigation in the Quinn vs.  
6 Guinn litigation, did any of those individuals receive  
7 any adverse personnel action as a result of it?

8 A. Yes.

9 Q. Do you know how many?

10 A. Two.

11 MR. MENICUCCI: I have no further questions.

12 Does the Board have any questions of Mr. Thomas?

13 BOARD MEMBER PUTNAM: Yes, sir, I do.

14 Mr. Thomas, good morning.

15 MR. THOMAS: Good morning, sir.

16 BOARD MEMBER PUTNAM: You made reference to  
17 your service with Metro. I would assume that as a sworn  
18 officer, you'd follow all the rules when you are so  
19 employed. I mean am I correct in that assumption?

20 MR. THOMAS: You're correct, sir.

21 BOARD MEMBER PUTNAM: Well, then, I refer to,  
22 let's see, page 70 of your deposition on -- boy -- just  
23 a second -- a lot of paper here -- 25th of August, 2008,  
24 page 70, lines 14 through 22, where you were asked "Is  
25 there something within the department that's against the

1 rules to give information out like this?" And your  
2 response was, "Yes." And then comes the question "Why  
3 are you asking people to violate the rules?" And your  
4 response was "Because I need the information. That's my  
5 job." So.

6 MR. THOMAS: I would qualify that by stating  
7 that the two people that were giving me information,  
8 while they were asked specifically for certain license  
9 plates or certain names, they came to me a long time  
10 before, along with others, offering to help, "If you  
11 ever need anything, give me a call."

12 Again, this goes on and on and on. It's a  
13 constant thing in this profession. Being a private  
14 investigator means that you find information. That's  
15 what you do for a living. That's why people hire you.  
16 Attorneys hire you to look into cases, because they know  
17 that you have various means to find information.

18 You have to understand that Mr. Prince said  
19 that I was belligerent, I think he said was the word.

20 MR. YAMPOLSKY: Arrogant.

21 MR. THOMAS: Arrogant. It worked both ways.  
22 You need to see the video that was taken of the  
23 deposition to understand the way he was speaking to me.  
24 And as such, I wasn't cooperating with him.

25 BOARD MEMBER PUTNAM: Okay, sir. Well, the

1 thing is, even though these people came to you and said,  
2 you know, "If you ever need anything, come talk to me,"  
3 or, "see me," or whatever, but you knew that if they, in  
4 fact, provided such information, that it would be  
5 against the rules. Is that not true?

6 MR. THOMAS: I knew it would be against the  
7 rules of the Las Vegas Metropolitan Police Department  
8 concerning them. I also knew that the Las Vegas  
9 Metropolitan Police Department does not oversee me,  
10 because I retired being a cop in October of 1990. I'm  
11 also aware that it is not against the law for people to  
12 have SCOPE information. I've broken no laws.

13 BOARD MEMBER PUTNAM: Well, sir, what I'm  
14 asking you is simply this, that when you went to these  
15 people, because they said you could, you knew that  
16 providing the information you requested would be a  
17 violation of rules; is that true?

18 MR. THOMAS: I knew it was, I knew it was a  
19 violation of the Las Vegas Metropolitan policy manual.

20 BOARD MEMBER PUTNAM: All right, sir. Well,  
21 you say it's -- you need the information, it's your job.  
22 But I would suggest that part of the authority you have  
23 under NRS 648, based on your license, is not to  
24 encourage others to violate the rules. And, in my mind,  
25 the fact that you did this does not reflect credibly,

1 favorably upon your techniques. I'm sorry.

2 MR. THOMAS: Thank you, sir.

3 BOARD MEMBER PUTNAM: Oh, another question,  
4 sir.

5 MR. THOMAS: Yes, sir.

6 BOARD MEMBER PUTNAM: You mentioned a Kathleen  
7 Harris that you hired?

8 MR. THOMAS: Yes, sir.

9 BOARD MEMBER PUTNAM: Was she licensed?

10 MR. THOMAS: I at first was told that she was.  
11 It turned out she wasn't. I will say that I've been  
12 honored by the State of Nevada concerning Ms. Harris,  
13 and I had to pay back taxes on her. And she was let go.

14 BOARD MEMBER PUTNAM: Okay. Fine. But the  
15 thing is, at the time, you thought she was licensed?

16 MR. THOMAS: Yes, sir, at first.

17 BOARD MEMBER PUTNAM: Okay.

18 MR. THOMAS: It became obvious to me that she  
19 didn't know what she was doing.

20 BOARD MEMBER PUTNAM: Well, was she fired as  
21 soon as you found out she didn't have a license, or did  
22 you attempt to register her as an unlicensed employee?

23 MR. THOMAS: No, I didn't attempt to register  
24 her as an unlicensed and keeping her. I let her go.

25 BOARD MEMBER PUTNAM: Okay. But you did this

1 when you found out she was no longer licensed, or you  
2 found out she was not licensed? Pardon me.

3 MR. THOMAS: To the best of my ability, yes,  
4 sir.

5 BOARD MEMBER PUTNAM: How about others? You  
6 mentioned there were others.

7 MR. THOMAS: Pardon me?

8 BOARD MEMBER PUTNAM: You mentioned there were  
9 others that you involved in this investigation?

10 MR. THOMAS: Everybody else who has ever worked  
11 for me has been registered with the Board, including  
12 secretaries.

13 BOARD MEMBER PUTNAM: Okay. Well, that's the  
14 end of my questions, sir. Thank you.

15 MR. THOMAS: Thank you, sir.

16 BOARD CHAIRMAN SPENCER: Are there any other  
17 Board questions?

18 BOARD MEMBER ZANE: Yes. I have a couple.

19 BOARD CHAIRMAN SPENCER: All right.

20 BOARD MEMBER ZANE: You had already submitted  
21 the issue with regard to the evidence; is that correct?

22 MR. YAMPOLSKY: Yes, that's correct.

23 BOARD MEMBER ZANE: Mr. Thomas, was there, at  
24 any time when you were dealing with the employees at the  
25 Las Vegas Metropolitan Police Department or other local

1 agencies that gave you this information, was there ever  
2 any remuneration in return for their giving you this  
3 information?

4 MR. THOMAS: I'm sorry. I don't understand.

5 MR. YAMPOLSKY: Remuneration.

6 BOARD MEMBER ZANE: Were you paid for it?

7 MR. THOMAS: No, sir.

8 (A question was asked, after which the Reporter  
9 requested it to be repeated.)

10 BOARD MEMBER ZANE: I'm sorry. The question  
11 was, is whether or not there was any remuneration to any  
12 of the people that you received the information from,  
13 whether or not you paid for the information and whether  
14 or not you paid anybody who was related to them or  
15 anybody that had some association with them?

16 MR. THOMAS: The answer was no.

17 BOARD MEMBER ZANE: And can you hear okay now?

18 THE REPORTER: Yes, thank you very much.

19 BOARD MEMBER ZANE: I take it from your  
20 testimony that your position is that the Las Vegas  
21 Metropolitan Police Department is responsible for their  
22 employees and their conduct. Your position in your  
23 business is you require that information on behalf of  
24 your client. How you get it and where you get it, as  
25 long as you are breaking no laws, is of no consequence

1 to you, and you're acting within the scope of your  
2 license and obligations?

3 MR. THOMAS: I would answer yes to that, with  
4 the following qualification, that I feel terrible about  
5 what happened to two men who helped me.

6 BOARD MEMBER ZANE: That being the case, you  
7 have no control over what happened to those two men  
8 based upon their employment and background history and  
9 the policies that they may have violated?

10 MR. THOMAS: No. And, again, I'd point out  
11 that they weren't, weren't caught as a result of me.  
12 I -- I'm not a snitch.

13 BOARD MEMBER ZANE: Now, is it -- am I correct  
14 in believing that the information that you received,  
15 that had derived from the Department of Motor Vehicles,  
16 came through the Las Vegas Metropolitan Police  
17 Department and did not come through the account  
18 established by you as a private investigator under NRS  
19 481?

20 MR. THOMAS: And my testimony was that some of  
21 it came through DMV, and some of it came, most of it  
22 came through the Metropolitan Police Department.

23 BOARD MEMBER ZANE: Would it be your position  
24 that anything that you accessed by virtue of your  
25 account with the Department of Motor Vehicles was done

1 so in accordance with agreement that you had on file  
2 with the Department of Motor Vehicles?

3 MR. THOMAS: It was. And I would point out  
4 that the agreement with the Las Vegas Metropolitan  
5 Police Department says nothing about insurance purposes  
6 only.

7 BOARD MEMBER ZANE: I think, maybe -- I'm  
8 speaking specifically to your agreement with the  
9 Department of Motor Vehicles.

10 MR. THOMAS: Okay.

11 BOARD MEMBER ZANE: And the information that  
12 you derived from the direct use of that account. I  
13 don't think that you had an agreement to derive DMV  
14 information through the department, or through the  
15 Las Vegas Metro.

16 MR. THOMAS: No, they have the agreement with  
17 the DMV.

18 BOARD MEMBER ZANE: Correct. So your position  
19 would be that anything that you did while accessing the  
20 Department of Motor Vehicles records through your own  
21 user account was done in accordance with statutory  
22 authority or ability?

23 MR. THOMAS: Yes.

24 BOARD MEMBER ZANE: And do you know,  
25 specifically in regard to this case only, how many or

1 how many -- how many attempts to access the information  
2 or how much access was given?

3 MR. THOMAS: I believe, Mr. Prince said 248.  
4 How many of those were through DMV and how many were  
5 through Metro, I have no idea.

6 BOARD MEMBER ZANE: But if I was to take the  
7 position that there is no consequence to your flow of  
8 information through the Las Vegas Metropolitan Police  
9 Department and which you received back through them, but  
10 they may have some culpability through your account, if  
11 I'm trying to set those aside and clarify in my own mind  
12 how many -- what percentage did you give them, might  
13 be I got this from my account, I got this from that?

14 MR. THOMAS: I couldn't give you a percentage  
15 at this time. But I will state that, in my mind, there  
16 is no culpability about my agreement with DMV, because  
17 DMV says nothing about it being used for insurance  
18 purposes only.

19 BOARD MEMBER ZANE: That's only if -- well, in  
20 your establishment of your account with the Department  
21 of Motor Vehicles, you complied with the user agreement  
22 multiple times, as provided for in NRS 481, with all --

23 (The Reporter could not hear and requested the  
24 question to be repeated.)

25 BOARD MEMBER ZANE: Okay. The question was, is

1 in -- in Mr. Thomas's account with the Department of  
2 Motor Vehicles, there's a set of criteria that you  
3 agreed to when you established the account with the  
4 Department of Motor Vehicles, under statute, in 481, I  
5 believe, and then there are the restrictions as  
6 contained in 648 about how a private investigator might  
7 access that information. And I was eliciting a response  
8 from him as to his knowledge about that. And the answer  
9 was that he wasn't clear on that.

10 MR. THOMAS: I'm not clear on the NRS. I know  
11 that they sent me a form when I signed up for it. I  
12 still have a copy of that form at home. And I've done  
13 nothing that they say I can't do.

14 BOARD MEMBER ZANE: Now, in prior testimony, it  
15 was stated that -- that this complaint came as a result  
16 of more participation and events that led to the  
17 perception that someone's civil rights of privacy were  
18 violated. Is there anything in your knowledge about  
19 this case that you can point to that your direct  
20 involvement resulted in someone's civil rights being  
21 violated and rights, their right to privacy?

22 MR. THOMAS: No, because I gave nothing public.  
23 I did a confidential report to a client. And that  
24 confidential report was turned over to the Las Vegas  
25 Metropolitan Police Department. Everything I did for

1 this surveillance went to the Las Vegas Metropolitan  
2 Police Department. So the information came from them,  
3 filtered through me, and went back to them.

4 This didn't become public until Mr. Prince  
5 released it to the press, until such time that  
6 Mr. Prince took it upon himself to go on the John  
7 Ralston Show and Face to Face, and they did a half-hour  
8 segment on me. What's weird about this segment is that  
9 they didn't show it just one time. They've showed it in  
10 excess of 12 times.

11 Mr. Prince doesn't talk about the fact that his  
12 client's wife is best friends with the producer for John  
13 Ralston. And that before this deposition was ever even  
14 released, before I even knew that it had been typed,  
15 this woman was calling me, asking me for comment on my  
16 deposition.

17 You know, I've been to a number of these  
18 meetings, and the only time I've ever seen a TV camera  
19 up here was when Mrs. Quinn led one in from Channel 8.  
20 And, again, you know, her best girlfriend is a producer  
21 at TV 8.

22 They've systematically done everything they can  
23 to destroy me and destroy my business. And this is just  
24 another step in it. I'm not being paranoid. I mean you  
25 can order up the tape of John Ralston and see what

1 Mr. Prince has to say about me. And yet this man is  
2 supposed to be an attorney who's handling a federal  
3 case. Why doesn't he try his case in court instead of  
4 on TV and in the press?

5 BOARD MEMBER ZANE: I have nothing further,  
6 Mr. Chairman.

7 BOARD CHAIRMAN SPENCER: All right. Any  
8 further questions here?

9 Is this an issue we should decide today?

10 MR. MENICUCCI: Mr. Chairman, the procedure  
11 normally would be there would be a short closing  
12 statement from each of us, and then the Board would  
13 consider it. There -- one of the Board's options would  
14 be to have written closings or summaries, if the Board  
15 so chooses.

16 MR. YAMPOLSKY: And in view of the complicated  
17 information and all of the testimony, which, frankly,  
18 some is contradictory, I think it would behoove the  
19 Board, and I think it would allow everyone to make a  
20 more reasoned decision if we were allowed to do written  
21 closings.

22 BOARD CHAIRMAN SPENCER: Yes. In view of a  
23 recent case that we did have where we -- where we were  
24 provided with that benefit, I would move, minus any kind  
25 of --

1 BOARD MEMBER NADEAU: If you want a motion,  
2 I'll make a motion.

3 BOARD CHAIRMAN SPENCER: Okay.

4 BOARD MEMBER NADEAU: Mr. Chairman, I would  
5 submit the request that counsel on both sides submit  
6 closing arguments in written form, to be considered at  
7 our next Board meeting.

8 BOARD CHAIRMAN SPENCER: Second?

9 BOARD MEMBER PUTNAM: Second.

10 BOARD CHAIRMAN SPENCER: All in favor, signify  
11 by saying "aye."

12 (The Board members said "aye.")

13 BOARD CHAIRMAN SPENCER: Opposed?

14 MS. MUNRO: Do you want to have a deadline, a  
15 cut-off?

16 BOARD CHAIRMAN SPENCER: Next meeting.

17 MS. MUNRO: Well, when are they due? 30 days?

18 BOARD CHAIRMAN SPENCER: What's reasonable?

19 BOARD MEMBER NADEAU: Yeah, what does counsel  
20 feel they need? The next meeting will be in, what,  
21 September?

22 BOARD CHAIRMAN SPENCER: September.

23 BOARD MEMBER NADEAU: So would somewhere around  
24 the first of August be sufficient time, so that we'd  
25 have time to digest them?

1 MR. MENICUCCI: Well, I think so.

2 Mr. Yampolsky, would that meet your schedule?

3 MR. YAMPOLSKY: Based on my trial schedule, I  
4 would request that we do this in the middle of August,  
5 like August 15th. But I have a question. Is the  
6 Board's procedure that each side does a brief due at the  
7 same time, or since you're the prosecution, that  
8 Mr. Menicucci -- same time. Thank you.

9 MR. MENICUCCI: Simultaneous.

10 BOARD MEMBER PUTNAM: And I'll amend my motion  
11 to -- for it to be August 15th that both briefs be  
12 submitted, so that we have time to go ahead and review  
13 them before the next meeting.

14 BOARD CHAIRMAN SPENCER: Okay.

15 MR. YAMPOLSKY: And I have one more question.  
16 How long is it going to take madam court reporter to  
17 prepare a transcript?

18 (The Reporter indicated a transcript would be  
19 prepared in about three weeks.)

20 MR. YAMPOLSKY: Okay. Great. Thank you.

21 MR. MENICUCCI: Since August 15th is a Sunday,  
22 I construe the motion to be the following business day.

23 BOARD MEMBER NADEAU: The closest business day.  
24 Let's make it the 16th. That's fine.

25 MR. YAMPOLSKY: Thank you.

1 BOARD MEMBER NADEAU: Do you accept, David?

2 BOARD MEMBER PUTNAM: Yeah, that's fine. Yeah.

3 BOARD CHAIRMAN SPENCER: All right. Counsels,  
4 thank you very much.

5 MR. YAMPOLSKY: Thank you.

6 MR. MENICUCCI: Could we have those exhibits  
7 marked and then faxed or e-mailed up to the Board in  
8 Reno?

9 MR. YAMPOLSKY: I believe, they have been  
10 copied.

11 MS. GRESNICK-SMITH: They've been faxed  
12 already.

13 MR. MENICUCCI: Okay. Thank you.

14 MR. YAMPOLSKY: And, Mr. Menicucci, we have  
15 referenced the 18 U.S.C. 271, 2725 Driver's Privacy  
16 Protection Act. And I will get the actual statute. And  
17 I will also fax that to you if we could include that as  
18 a supplemental exhibit, pending no objection.

19 MR. MENICUCCI: No objection.

20 MR. YAMPOLSKY: Thank you.

21 MR. THOMAS: Thank you to the Board.

22 BOARD CHAIRMAN SPENCER: Thank you.

23 BOARD MEMBER NADEAU: Did we vote?

24 BOARD CHAIRMAN SPENCER: Yeah.

25 BOARD MEMBER NADEAU: We did vote.

1 BOARD CHAIRMAN SPENCER: Yeah.

2 BOARD MEMBER NADEAU: Mr. Chairman, I need to  
3 be excused.

4 BOARD MEMBER PUTNAM: Let's take a break.

5 BOARD CHAIRMAN SPENCER: Please. We'll take a  
6 break, and then we'll get the next ones and get them  
7 done quickly.

8 \* \* \* \* \*

9 (A break was taken, 12:10 to 12:20 p.m.)

10 \* \* \* \* \*

11 BOARD CHAIRMAN SPENCER: All right. We're  
12 going to get started here.

13

14 AGENDA ITEM 11

15 RICHARD ANTUZZI

16

17 BOARD CHAIRMAN SPENCER: Because of travel  
18 distance, we're going to go out of order on the  
19 registration appeal hearings. We're going to take  
20 number 11, Mr. Antuzzi, first.

21 Mark, you're there?

22 BOARD MEMBER ZANE: Yes, sir.

23 BOARD CHAIRMAN SPENCER: Okay. I haven't been  
24 able to see your pretty face for two days now.

25 BOARD MEMBER ZANE: It hasn't changed much.

1 BOARD CHAIRMAN SPENCER: Okay. What's that  
2 giggling going on there?

3 MS. RAY: Okay. Closed, right? Closed.

4 BOARD CHAIRMAN SPENCER: Closed?

5 MS. RAY: The appeals are closed, yes.

6 BOARD CHAIRMAN SPENCER: Oh, yes. All of the  
7 appeal hearings are closed. We'll have to vacate the --

8 MS. RAY: Registration appeal hearings.

9 BOARD CHAIRMAN SPENCER: I mean registration,  
10 are closed. So we will have to clear the room of anyone  
11 who is not a Board -- on the Board.

12 MS. RAY: Make a motion to go to a closed  
13 session.

14 BOARD CHAIRMAN SPENCER: Move that -- yes, move  
15 that the motion -- that the appeal hearing be closed.

16 BOARD MEMBER PUTNAM: Second.

17 BOARD MEMBER NADEAU: Second.

18 BOARD CHAIRMAN SPENCER: All in favor, signify  
19 by saying "aye."

20 (The Board members said "aye.")

21 BOARD CHAIRMAN SPENCER: Remember we do these  
22 fast.

23 \* \* \* \* \*

24 (A closed session of the meeting was held, after which  
25 the meeting was then opened back up to the public and

1 resumed as follows.)

2 \* \* \* \* \*

3 BOARD CHAIRMAN SPENCER: Okay. Hit it.

4 BOARD MEMBER PUTNAM: Mr. Chairman, I move that  
5 the denial of registration to Richard Antuzzi be upheld.

6 BOARD CHAIRMAN SPENCER: Do I have a second?

7 BOARD MEMBER UITHOVEN: Second.

8 BOARD CHAIRMAN SPENCER: I have a motion and a  
9 second. All in favor, signify by saying "aye."

10 (The Board members said "aye.")

11 BOARD CHAIRMAN SPENCER: Opposed?

12 BOARD CHAIRMAN SPENCER: I'm sorry.

13 BOARD MEMBER PUTNAM: The problem is we have to  
14 apply the same rules to everybody.

15 BOARD CHAIRMAN SPENCER: Yes, and we have --  
16 there's dozens of people coming in. Next time, and I've  
17 told everybody this, list, list the things you've  
18 been -- that you've done that you had trouble with in  
19 the past. It doesn't mean that people are going to say  
20 that you can't work, now or in the future.

21 MR. ANTUZZI: M-hm (affirmative).

22 BOARD CHAIRMAN SPENCER: That, of course, is  
23 going to depend a lot on what you've done. But, you  
24 know, you're going to get a license. I'm sorry.

25 MR. ANTUZZI: Thank you.

1 BOARD MEMBER PUTNAM: I'm sorry, too.

2

3 AGENDA ITEM 7

4 JONATHAN WAIALAE, SR.

5

6 BOARD CHAIRMAN SPENCER: All right. Jonathan  
7 Waialae, Sr.?

8 MR. MURPHY: He is not present.

9 BOARD CHAIRMAN SPENCER: Okay. Anthony  
10 Williams?

11 MS. MUNRO: Do you want to vote on this, or do  
12 you want to continue them like we've done?

13 BOARD CHAIRMAN SPENCER: Is this -- yeah, do  
14 you need a motion to continue?

15 MS. MUNRO: Whatever the Board says.

16 BOARD MEMBER PUTNAM: Continue.

17 BOARD CHAIRMAN SPENCER: Continue?

18 MS. RAY: One time.

19 BOARD CHAIRMAN SPENCER: Motion to continue.  
20 Second?

21 BOARD MEMBER PUTNAM: So moved. Second.

22 BOARD CHAIRMAN SPENCER: Second.

23 BOARD CHAIRMAN SPENCER: All in favor, signify  
24 by saying "aye."

25 (The Board members said "aye.")

1 BOARD CHAIRMAN SPENCER: Opposed?  
2 Hearing none, Jonathan's is continued.

3

4 AGENDA ITEM 8

5 EBONY WILLIAMS

6

7 BOARD CHAIRMAN SPENCER: Ebony Williams?

8 MS. GRESNICK-SMITH: Not present.

9 BOARD CHAIRMAN SPENCER: Is he first time?

10 MS. RAY: M-hm (affirmative).

11 BOARD CHAIRMAN SPENCER: Do I have a motion to  
12 continue?

13 BOARD MEMBER PUTNAM: Motion to continue, so  
14 moved.

15 BOARD CHAIRMAN SPENCER: Second. All in favor,  
16 signify by saying "aye."

17 (The Board members said "aye.")

18 BOARD CHAIRMAN SPENCER: Continued.

19

20 AGENDA ITEM 9

21 NICHOLAS TROVATO

22

23 BOARD CHAIRMAN SPENCER: Nicholas Trovato?

24 MR. TROVATO: Yes, I'm here.

25 BOARD CHAIRMAN SPENCER: Good morning. Or good

1 afternoon.

2 MR. TROVATO: Good afternoon.

3 MS. MUNRO: Do you want a closed session?

4 BOARD CHAIRMAN SPENCER: Yes. Move that the  
5 session close.

6 BOARD MEMBER PUTNAM: So moved.

7 MS. GRESNICK-SMITH: We have a closed hearing.

8 BOARD CHAIRMAN SPENCER: You're closed. Okay.

9 MS. MUNRO: Vote?

10 BOARD CHAIRMAN SPENCER: Vote. All in favor,  
11 say "aye."

12 (The Board members said "aye.")

13 BOARD CHAIRMAN SPENCER: Okay. Case closed.

14 \* \* \* \* \*

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

18 \* \* \* \* \*

19 BOARD CHAIRMAN SPENCER: Okay. All in favor of  
20 the motion to go back in open meeting, say "aye."

21 (The Board members said "aye.")

22 BOARD CHAIRMAN SPENCER: Opposed?

23 All right. I'll entertain a motion.

24 BOARD MEMBER PUTNAM: Mr. Chairman, I move that  
25 the denial of Mr. Trovato for a registration be upheld.

1 BOARD CHAIRMAN SPENCER: Okay. We have a  
2 motion. Do we have a second?

3 BOARD MEMBER UITHOVEN: Second.

4 BOARD CHAIRMAN SPENCER: We have a motion and a  
5 second. All in favor, signify by saying "aye."

6 (The Board members said "aye.")

7 BOARD CHAIRMAN SPENCER: Opposed?

8 I'm sorry, sir. At this time, we cannot give  
9 you a pass.

10 MR. TROVATO: Okay. What do I do from here,  
11 sir?

12 BOARD CHAIRMAN SPENCER: You have one year in  
13 which you can reapply.

14 MR. TROVATO: Okay. Sir, I didn't get a letter  
15 that says about this meeting. I would have missed it if  
16 I hadn't called on Monday. I mean I don't know if it's  
17 a big issue or not. But if it had been something else  
18 somebody had to answer for, probably would have missed  
19 this date. Things like this just happen to me.

20 I would just like -- you know, like I said,  
21 this --

22 BOARD CHAIRMAN SPENCER: You're fine. You  
23 appeared.

24 MR. TROVATO: I can't hear you, sir.

25 BOARD CHAIRMAN SPENCER: There is not a

1 problem. You appeared. You're fine.

2 MR. TROVATO: I understand, but I would like a  
3 copy for my records, if it's not a problem.

4 MS. RAY: Okay.

5 BOARD CHAIRMAN SPENCER: Okay. We'll get one  
6 to you.

7 MR. TROVATO: Thank you, sir.

8

9

AGENDA ITEM 10

10

CORTEZ NORSWORTHY

11

12

BOARD CHAIRMAN SPENCER: All right. Cortez  
13 Norsworthy.

14

MR. NORSWORTHY: Yes, sir.

15

BOARD CHAIRMAN SPENCER: Good afternoon, sir.

16

MR. NORSWORTHY: Good afternoon.

17

BOARD CHAIRMAN SPENCER: Have a chair. Were  
18 you sworn in earlier?

19

MR. NORSWORTHY: No.

20

BOARD CHAIRMAN SPENCER: Okay.

21

MS. MUNRO: Could you stand and raise your  
22 right hand? Do you swear to tell the truth, the whole  
23 truth, and nothing but the truth, so help you?

24

MR. NORSWORTHY: I do.

25

MS. MUNRO: Thank you.

1 MS. RAY: Okay. Mr. Chairman.

2 MS. MUNRO: You mentioned something about a  
3 closed session.

4 BOARD CHAIRMAN SPENCER: Make a motion to go  
5 into closed session.

6 BOARD MEMBER PUTNAM: Move to go to closed  
7 session.

8 BOARD CHAIRMAN SPENCER: Second.

9 All in favor, signify by saying "aye."

10 (The Board members said "aye.")

11 \* \* \* \* \*

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

15 \* \* \* \* \*

16 BOARD MEMBER PUTNAM: Sir, I have a motion. I  
17 move that the denial of registration for Cortez  
18 Norsworthy be upheld.

19 BOARD CHAIRMAN SPENCER: I'm sorry,  
20 Mr. Norsworthy, but this time we can't give you the work  
21 card. Or --

22 MS. RAY: Second.

23 BOARD MEMBER UITHOVEN: Second.

24 MS. RAY: Vote.

25 BOARD CHAIRMAN SPENCER: All in favor, signify

1 by saying "aye."

2 (The Board members said "aye.")

3 BOARD CHAIRMAN SPENCER: Opposed?

4 We cannot give you a work card at this time.

5 You have the right to reapply in one year. And at such  
6 time, what I would do, if I were you, I would go down to  
7 Metropolitan Police Department and ask them for a  
8 printout of all of your violations and, also, the  
9 ones -- what am I trying to say?

10 MS. MUNRO: Arrests.

11 BOARD CHAIRMAN SPENCER: The disposition, the  
12 disposition on those cases, so you know which ones  
13 you've been convicted of and which ones you weren't.  
14 And then list them all. And you'll have no trouble  
15 getting what you need.

16 MR. NORSWORTHY: Okay. Could I ask for an  
17 appeal again, or whatever?

18 BOARD CHAIRMAN SPENCER: What?

19 MR. NORSWORTHY: No, I'm just saying like, what  
20 you call it, another hearing, or not?

21 BOARD CHAIRMAN SPENCER: Oh, when, when can you  
22 do it again?

23 MR. NORSWORTHY: Yes.

24 BOARD CHAIRMAN SPENCER: One year.

25 MR. NORSWORTHY: Okay. Thank you.

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AGENDA ITEM 12  
JOSEPH MARSHALL

BOARD CHAIRMAN SPENCER: Joseph Marshall?  
Good afternoon, Mr. Marshall. How are you?

MS. MUNRO: Has he been sworn?

BOARD CHAIRMAN SPENCER: Pardon me?

MS. MUNRO: Has he been sworn?

BOARD CHAIRMAN SPENCER: Have you been sworn  
in?

MR. MARSHALL: No, I haven't actually.

BOARD CHAIRMAN SPENCER: Okay. She'll swear  
you in.

MS. MUNRO: Would you stand up, raise your  
right hand.

Do you swear to tell the truth, the whole  
truth, and nothing but the truth?

MR. MARSHALL: I do.

MS. MUNRO: Thank you.

MS. RAY: Okay. Did you want to go into closed  
session?

BOARD CHAIRMAN SPENCER: Yes. Move that we go  
into closed session.

BOARD MEMBER UITHOVEN: Second.

BOARD MEMBER PUTNAM: Move so.

1 BOARD CHAIRMAN SPENCER: All in favor, signify  
2 by saying "aye."

3 (The Board members said "aye.")

4 BOARD CHAIRMAN SPENCER: We're there.

5 \* \* \* \* \*

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

9 \* \* \* \* \*

10 BOARD CHAIRMAN SPENCER: We're back in open  
11 session.

12 MS. RAY: Now you can.

13 BOARD CHAIRMAN SPENCER: So we're going to  
14 continue this until September, when we meet next.  
15 Right?

16 BOARD MEMBER ZANE: That would be my motion.

17 BOARD CHAIRMAN SPENCER: What's that?

18 BOARD MEMBER ZANE: That would be my motion.

19 BOARD CHAIRMAN SPENCER: Okay. Second it. All  
20 in favor, signify by saying "aye."

21 (The Board members said "aye.")

22 BOARD CHAIRMAN SPENCER: Okay. You're  
23 continued till next meeting.

24 MR. MARSHALL: Okay. This is September?

25 BOARD CHAIRMAN SPENCER: Go -- right. Go to --

1 MS. MUNRO: You might try to go to your public  
2 defender or to the Clark County Legal Services and see  
3 if someone there can help you get this expunged. And  
4 just explain why you want it, so that you can come back  
5 here and get your work card.

6 MR. MARSHALL: Okay.

7 MS. MUNRO: Okay?

8 MR. MARSHALL: All right. Thank you. Is that  
9 the same thing as getting it sealed, getting your  
10 records sealed?

11 BOARD CHAIRMAN SPENCER: Yeah.

12 MR. MARSHALL: Okay.

13 MS. MUNRO: Yeah.

14 MR. MARSHALL: Thank you.

15 BOARD CHAIRMAN SPENCER: But --

16 MR. MARSHALL: Thank you.

17 BOARD CHAIRMAN SPENCER: But make sure you  
18 point out that it's an Alford plea.

19 MS. MUNRO: Yeah.

20 BOARD CHAIRMAN SPENCER: Do you have a copy of  
21 your --

22 MS. WHATLEY: He provided that to us.

23 BOARD CHAIRMAN SPENCER: Oh, he did.

24 MS. WHATLEY: Yes.

25 BOARD CHAIRMAN SPENCER: You have a copy of

1 that. Be sure you take what with you.

2 MR. MARSHALL: Okay. I will.

3 BOARD CHAIRMAN SPENCER: Do you understand what  
4 I mean by the Alford plea, right?

5 MR. MARSHALL: I saw it in the paperwork. I  
6 don't understand what it means, though.

7 BOARD CHAIRMAN SPENCER: Just take it to the  
8 attorneys, and they'll know what it means.

9 MR. MARSHALL: Okay. Thank you.

10 BOARD CHAIRMAN SPENCER: Uh-huh (affirmative).  
11 Thank you.

12

13 AGENDA ITEM 13

14 YOHANNES FARAH

15

16 BOARD CHAIRMAN SPENCER: All right. Yohannes  
17 Farah.

18 MR. MURPHY: Not present.

19 BOARD CHAIRMAN SPENCER: Okay.

20 MS. RAY: Mr. Chairman, I believe, he was  
21 probably there after we called for him this morning.  
22 There was a gentleman in the front row. I don't know if  
23 that was him for sure. We did continue him on the May  
24 11th meeting for one more meeting. But. So I'm not  
25 sure how you want to proceed with it.

1 BOARD CHAIRMAN SPENCER: I move that we  
2 continue this till the next meeting for the last time.

3 BOARD MEMBER UITHOVEN: Second.

4 BOARD CHAIRMAN SPENCER: All in favor, signify  
5 by saying "aye."

6 (The Board members said "aye.")

7 BOARD CHAIRMAN SPENCER: Opposed?

8 Okay. There was a chance he was there.

9 MS. RAY: I couldn't say for sure, but I -- you  
10 know, and I don't know if anyone in Las Vegas knows,  
11 but.

12

13 AGENDA ITEM 14

14 BOARD COMMENT

15

16 BOARD CHAIRMAN SPENCER: Well, okay. Board  
17 comment?

18 BOARD MEMBER ZANE: Does anybody know the --

19 BOARD CHAIRMAN SPENCER: Let's see what he  
20 looks like.

21 MS. RAY: Can you move the camera to Mark,  
22 please?

23 BOARD CHAIRMAN SPENCER: So we can see your  
24 smiling faces.

25 (There was a brief period off the record.)

1 BOARD CHAIRMAN SPENCER: All right.

2 BOARD MEMBER ZANE: What's the deadline for the  
3 office or for a bill draft request for any changes in  
4 the statute for the upcoming session? Is it like  
5 August, September?

6 MS. RAY: You know, we don't really have one.  
7 I mean we just -- the way it works now is if there's a  
8 change, then we approach a legislator. And I don't know  
9 what their deadline is. We don't submit our bills  
10 through the Attorney General's Office. So.

11 BOARD MEMBER ZANE: Okay. So anything that  
12 we're submitting or considered to be submitted is to be  
13 just independently like any other bills brought forward  
14 by a legislator?

15 MS. RAY: Yes.

16 BOARD MEMBER ZANE: Okay.

17 MS. RAY: If we find someone to support it,  
18 yes.

19 BOARD MEMBER ZANE: Okay. That's all I had.

20

21 AGENDA ITEM 15

22 FUTURE AGENDA ITEMS

23

24 BOARD CHAIRMAN SPENCER: Future agenda items?

25 MS. RAY: Sounds like Mark has one.

1 BOARD MEMBER ZANE: No, I was just wondering if  
2 there was some deadline that -- because there's a couple  
3 of things that people have asked me about. I'm still  
4 doing some research. But, my luck, I'd be saying, "Hey,  
5 we need to make a change," and you'd say, "That was two  
6 weeks ago."

7 BOARD MEMBER UITHOVEN: The legislators have  
8 deadlines. But we're a ways off from that. There'll be  
9 several, something like 20 freshmen coming in after  
10 November. So I know that there's plenty of time.

11 BOARD MEMBER ZANE: Okay.

12

13 AGENDA ITEM 16

14 PUBLIC COMMENT AND DISCUSSION ONLY

15

16 BOARD CHAIRMAN SPENCER: Public comment? We  
17 don't have any, because have no public.

18 Motion?

19 BOARD MEMBER PUTNAM: Could we adjourn?

20 BOARD CHAIRMAN SPENCER: Second. All in favor,  
21 signify by saying "aye."

22 (The Board members said "aye.")

23 BOARD CHAIRMAN SPENCER: Opposed?

24 Don't even think about it.

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(The meeting adjourned at 1:15 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, June 17, 2010, and commencing at 9:07 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 within transcript, consisting of pages 1 through 143, 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 23rd day of July, 2010.

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SHANNON L. TAYLOR  
Nevada CCR #322, RMR