

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Thursday, September 23, 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
Nevada CCR #322, California CSR #8753, Idaho CSR #485
1381 Valley View Drive, Carson City, Nevada 89701
(775) 887-0472

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

Board Members Present in Carson City:

Jim Nadeau, Acting Chairman
Robert Uithoven

Also: Mechele Ray
Executive Director

Tammy Whatley
Investigator

Jeffrey D. Menicucci
Deputy Attorney General

Thoran Towler
Deputy Attorney General

Sarah Bradley
Deputy Attorney General

Other Participants in Carson City:

(None)

Board Members Present in Las Vegas via
Videoconferencing:

Mark Zane

Also: Colin Murphy
Investigator

Stephen Jupp
Investigator

Kimberly Christensen

(continued...)

1 Other Participants in Las Vegas:

2 Scott Steinhoff, Esq.
3 Jim Thomas
4 M. Zahrai
5 Ebonie Kennedy
6 Joseph Marshall
7 Tony Herbert
8 Jeremy Hopkins
9 Ivy Hopkins
10 Juan Creque
11 William Sneed
12 Kenneth Wyman
13 Jeff Kasurow

14
15
16
17
18
19
20
21
22
23
24
25

	I N D E X	
	ITEM	PAGE
1	1. Roll call of Board members	6
2	2. All applicants and witnesses to be sworn in	6
3	3. Public comment	7
4	(Items 34-37 continued from 09-22-10 agenda)	
5	8	
6	4. James Thomas, dba Jim Thomas & Associates	12
7	5. OmniPlex	53
8	5a. Inil Swann, dba Inil Swann Investigations	61
9	6. Josh Bales	64
10	7. Sean Kissel	67
11	8. M. Zahrai	68
12	9. Ebonie Kennedy	75
13	10. Jack Futrell	86
14		148
15	11. Joseph Marshall	86
16	12. Tony Herbert	90
17	13. Morris Mollato	97
18	14. Jeremy Hopkins	98
19	15. Christopher West	100
20		149
21	16. Juan Creque	100
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(continued...)

1	ITEM	PAGE
2	17. Lloyd Hannah	103
3		151
4	18. William Sneed	103
5	19. Frank Gates	110
6		152
7	20. Kenneth Wyman	110
8	21. Preddy Manuel	119
9		152
10	22. Ninos Binyamin	119
11	23. TW Garrard	124
12		156
13	24. Jonathan Waiialae	124
14		157
15	25. Jeff Kasurow	125
16	26. Board comment and discussion only	146
17	27. Future agenda items	158
18	28. Public comment and discussion only	165
19		
20		
21		
22		
23		
24		
25		

1 CARSON CITY, NEVADA, SEPTEMBER 23, 2010, 9:00 A.M.

2 -oOo-

3 ACTING CHAIRMAN NADEAU: Call this meeting to
4 order, the meeting of the Private Investigators
5 Licensing Board.

6

7 AGENDA ITEM 1

8 ROLL CALL

9

10 ACTING CHAIRMAN NADEAU: Let's do the first
11 thing on the agenda, roll call of Board members.

12 MS. RAY: Board Member Uithoven?

13 BOARD MEMBER UITHOVEN: Here.

14 MS. RAY: Board Member Zane?

15 BOARD MEMBER ZANE: Here.

16 MS. RAY: Board Member Nadeau --

17 ACTING CHAIRMAN NADEAU: Here.

18 MS. RAY: -- who is our Acting Chairman today.
19 Chairman Spencer and Board Member Putnam are absent.

20

21 AGENDA ITEM 2

22 ALL APPLICANTS AND WITNESSES TO BE SWORN IN

23

24 ACTING CHAIRMAN NADEAU: All right. May we
25 have all those who intend to testify today please rise

1 and be sworn in, all applicants and witnesses, both in
2 the north and the south.

3 MR. TOWLER: Do you swear the testimony you
4 give today is the truth, the whole truth and nothing but
5 the truth?

6 (Applicants and potential witnesses present
7 were sworn.)

8

9

AGENDA ITEM 3

10

PUBLIC COMMENT

11

12

13

14

15

16

17

18

ACTING CHAIRMAN NADEAU: Okay. We have public
comment for anyone that would wish. This, again, as we
mentioned yesterday, this is a new item on the agenda.
We're opening up for public comment at the beginning of
the meeting in case anyone would like to make a comment
at that point. We will then have a public comment at
the end this meeting, also.

19

20

Is there anyone in the north that would like to
make public comment, comments?

21

No. Anyone in the south?

22

BOARD MEMBER ZANE: No, sir.

23

ACTING CHAIRMAN NADEAU: Thank you very much.

24

///

25

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEMS 34-37

(Continued from yesterday's agenda, 9-22-10)

ACTING CHAIRMAN NADEAU: Okay. We continued several items from yesterday's agenda. We will go ahead and start with item number 34 on yesterday's agenda.

MS. RAY: Thank you, Mr. Chairman. This item was put on this agenda simply to update the Board on the status of the workshop. I did not have an opportunity to put together a workshop on these topics that were discussed at the June meeting. However, there is one now scheduled for November 22nd from 9:00 to 12:00.

We will do the appropriate notifications and contact all the active licensees via e-mail, with a copy of the workshop agenda. And those qualifying agents that reside out of state, we will mail them a hard copy of the workshop agenda as well, because this is something that would interest them.

And it's simply put on here to be an update.

As far as the enforcement action page on the website, we still have some things that I need to get with Board counsel to determine, you know, what can be put on that page, but we're also going to include that on the workshop agenda.

And if there were any other topics that we

1 wanted to include for that workshop, we can certainly
2 discuss those now. One in particular is the private
3 prison. We've talked about this previously. Don't know
4 if we want to discuss this further as to whether or not
5 that requires licensing by this Board. There's also the
6 possibility that federal preemption could apply, so
7 licensing may not be an option.

8 We have noticed that we have had some
9 registered applicants who have applied through the
10 registration process. Which anyone can apply through
11 the registration process without having a sponsor of a
12 licensee. But we've gotten quite a few of them
13 recently.

14 So, anyway, that's a topic. I don't know how
15 the Board feels about it. I don't know if we want to
16 discuss it. But that's just something that we might
17 want to consider also. What will happen is we'll have
18 the workshop on November 22nd. And then at the December
19 Board meeting, I'll provide the Board with a synopsis of
20 the public comments from the workshop. And then the
21 Board can decide where we want to go from there.

22 ACTING CHAIRMAN NADEAU: Okay. Any Board
23 comments or recommendations for items to be discussed at
24 the workshop?

25 Mr. Zane?

1 BOARD MEMBER ZANE: Not at this time.

2 BOARD MEMBER UITHOVEN: No.

3 ACTING CHAIRMAN NADEAU: Thank you.

4 MS. RAY: There's staff next, if that's okay.

5 I didn't know if you saw that.

6 ACTING CHAIRMAN NADEAU: Oh, okay.

7 MS. RAY: Okay. And I just wanted to make a
8 point. Elaine Trent, who was our fabulous
9 administrative assistant, has moved on. She's taken a
10 position with the Attorney General's Office. And we
11 will have Kimberly Christensen starting with our office
12 on October 4th.

13 I don't know if she's in the office in
14 Las Vegas. But if she is, we just want to welcome her,
15 and we're looking forward to her starting.

16 ACTING CHAIRMAN NADEAU: Is Christensen there?
17 I mean, pardon me, is Kimberly there?

18 MR. JUPP: She is not. She indicated that she
19 would be coming in later this morning.

20 ACTING CHAIRMAN NADEAU: Okay. Very good.
21 We'll take an opportunity to introduce her to the
22 public.

23 Okay. Are there -- is there any public comment
24 on this particular item as far as the public's desire
25 for issues to be brought to the workshop?

1 BOARD MEMBER ZANE: None in the south, sir.

2 ACTING CHAIRMAN NADEAU: None in the south?

3 BOARD MEMBER ZANE: No.

4 ACTING CHAIRMAN NADEAU: There doesn't appear
5 to be any in the north.

6 All right. Then, let's move to item number 35.

7 MS. RAY: Thank you, Mr. Chairman.

8 If at all possible, 35, 36 and 37, if we could
9 continue that to the next agenda. I need to have the
10 rest of the staff review the information, and then we'll
11 have a good working draft for the Board at the next
12 meeting.

13 ACTING CHAIRMAN NADEAU: Okay. Any comments
14 from the public on those three items? Is there any --
15 any concern on -- as far as the Board members, on
16 continuing these items?

17 BOARD MEMBER ZANE: I have none.

18 ACTING CHAIRMAN NADEAU: Could I get a motion
19 to go ahead and just continue these until the next
20 meeting?

21 BOARD MEMBER ZANE: I so move, Mr. Chair.

22 BOARD MEMBER UITHOVEN: Second.

23 ACTING CHAIRMAN NADEAU: Motion and a second.
24 Any discussion?

25 All in favor, say "aye."

1 (Board Members said "aye.")

2 ACTING CHAIRMAN NADEAU: Opposed?

3 No. Okay. We'll do that.

4 Okay. Then, let's go ahead and move on to our
5 agenda for today.

6

7 AGENDA ITEM 4

8 JAMES THOMAS, DBA JIM THOMAS & ASSOCIATES

9

10 ACTING CHAIRMAN NADEAU: Item number four,
11 disciplinary hearing, disciplinary hearing in the matter
12 of James Thomas, dba James Thomas & Associates, license
13 845 and 845a, alleging conduct that may be -- that may
14 constitute violations of NRS 484 -- excuse me --
15 648.150, section (2) and section (4), NRS 648.157,
16 section (1), NRS 648.140 and NAC 648.334 through .30 --
17 or 340.

18 All right. I guess, Mr. Menicucci, are you
19 the --

20 MR. MENICUCCI: I am.

21 ACTING CHAIRMAN NADEAU: You're the one?

22 MR. MENICUCCI: I'm present on behalf of the
23 complaint.

24 ACTING CHAIRMAN NADEAU: All right. Is
25 Mr. Thomas or Mr. Yampolsky here?

1 MR. STEINHOFF: I'm Mr. Yampolsky's associate,
2 Scott Steinhoff, sir.

3 MR. THOMAS: And Jim Thomas is present.

4 ACTING CHAIRMAN NADEAU: All right. I'm sorry.
5 Could you mention -- Mr. Yampolsky's associate, can you
6 tell -- restate your name, please.

7 MR. STEINHOFF: Of course, sir. Scott
8 Steinhoff, S-T-E-I-N-H-O-F-F, on behalf of
9 Mr. Yampolsky, well, for Mr. Yampolsky, on behalf of
10 Mr. Thomas.

11 ACTING CHAIRMAN NADEAU: Yampolsky, yes. Thank
12 you. Thank you, Mr. Steinhoff.

13 MR. STEINHOFF: You're welcome.

14 ACTING CHAIRMAN NADEAU: And you're aware that
15 this -- these proceedings are being -- we have a
16 stenographer for these proceedings; is that correct?

17 MR. STEINHOFF: I am, sir.

18 ACTING CHAIRMAN NADEAU: Thank you. Okay.

19 BOARD MEMBER ZANE: Mr. Chairman?

20 ACTING CHAIRMAN NADEAU: Mr. --

21 BOARD MEMBER ZANE: Mr. Chairman?

22 ACTING CHAIRMAN NADEAU: Yes?

23 BOARD MEMBER ZANE: We weren't able to hear
24 Mr. Menicucci very well, so it might be a good time to
25 adjust the mic.

1 ACTING CHAIRMAN NADEAU: Very good. Could
2 the --

3 MR. MENICUCCI: I'll get closer to the
4 microphone. Can you hear me better now?

5 BOARD MEMBER ZANE: That's great.

6 ACTING CHAIRMAN NADEAU: All right. Thank you.
7 Then, I guess, Mr. Menicucci, we'll let you
8 proceed.

9 MR. MENICUCCI: Thank you. As the Board will
10 recall, in the meeting on June 17th, testimony was taken
11 with regard to this matter, and the Board allowed
12 counsel to make written closing arguments. And those
13 have both been submitted by myself and by
14 Mr. Yampolsky's office.

15 I don't know that I need to go through the
16 entire argument, but just to refresh the Board's
17 recollection, Mr. Thomas was charged, basically, with
18 two things. One is the improper use of an unlicensed
19 person as an investigator, and that person was not
20 registered as an employee. But that part has been
21 admitted by Mr. Thomas.

22 The more serious matter is that he's charged
23 with improper access to criminal history information and
24 improper access to DMV information. That would be a
25 violation of NRS 648.150, subparagraph (4), being

1 unprofessional conduct. Also involved in that matter is
2 NRS 648.157, which precludes access to the DMV records
3 by a private investigator unless he's working on an
4 insurance case.

5 It appears -- the facts are really not greatly
6 in dispute. It's only a question of whether what
7 Mr. Thomas did amounts to a violation of the statutes
8 and regulations governing the practice of private
9 investigation.

10 Our position is that the procuring of this
11 information, either through law enforcement officers or
12 through the DMV directly or in a roundabout way through
13 law enforcement officers would constitute a violation of
14 the prohibition on unprofessional conduct of an
15 investigator, primarily because Mr. Thomas knew that
16 what he was asking the law enforcement officers to do
17 was not only against statute but against department
18 policy.

19 Mr. Thomas has made certain arguments on his
20 behalf that I'll address briefly here. One is he
21 subsequently entered into agreements with Las Vegas
22 Metro to have access to what they call SCOPE
23 information. That really shouldn't be relevant here, I
24 contend, for two reasons. First, the agreements cannot
25 give access beyond that which the statute grants. And

1 the statute is 179A.100. And there's really no
2 authority to grant the kind of access that Mr. Thomas
3 procured. Second, those agreements just weren't in
4 place when this conduct happened, so they're really not
5 relevant.

6 Another argument is made that the laws in
7 question are directed either to the law enforcement
8 officers, the law enforcement agencies, or to the DMV
9 directly and not to the person who receives the
10 information. With regards to the SCOPE or criminal
11 history information, that's correct in as far as it
12 goes. But Mr. Thomas knew that he was asking people to
13 do things that were against policy and against the
14 statute. So he procured for his own benefit access, in
15 violation of the statute.

16 In my argument, I made an analysis or a
17 comparison to the law of principles in the criminal law
18 where someone who secures someone else to do an act for
19 him is guilty as a principal. The actual wording is a
20 person who directly or indirectly counsels or
21 encourages, hires, commands, induces or otherwise
22 procures another to commit a felony, gross misdemeanor
23 or misdemeanor as a principal and shall be proceeded
24 against and punished as such.

25 And I'm not arguing that the Board either can

1 or should purport to find a criminal violation in this
2 case. But the analogy is that if it's good enough for
3 the criminal law, it's certainly a basis on which this
4 Board could find unprofessional conduct on the part of
5 an investigator by acting as a principal to do something
6 that the person is not authorized to do.

7 The same, similar -- or similar argument was
8 made with regard to the DMV records in that Mr. Thomas
9 says that he did not access the DMV directly, so our
10 statute, 648.157, would not apply to him, because he
11 didn't go straight to the DMV to get the information.
12 And there is evidence in the record that the information
13 in this case was accessed through Mr. Thomas' friends in
14 the law enforcement community rather than directly from
15 the DMV.

16 Again, I would say that that's, that that's not
17 an excuse or an exemption, because it was Mr. Thomas who
18 procured the act to be done and encouraged it to be
19 done. If, however, the Board should find that that does
20 not fall within 648.157, I would refer the Board to the
21 general disciplinary statute, which talks about the
22 unprofessional conduct. And the analysis would be the
23 same as getting a criminal history information through
24 his law enforcement contacts.

25 So that's, that's the position that we have on

1 the complaint. I'm sure Mr. Thomas and his counsel
2 would like an opportunity to present their side of it as
3 well.

4 MR. STEINHOFF: Thank you.

5 BOARD MEMBER ZANE: Mr. Chairman, I don't know
6 that the parties were sworn.

7 ACTING CHAIRMAN NADEAU: I -- I'm sorry?

8 BOARD MEMBER ZANE: I don't think Mr. Thomas
9 was sworn.

10 ACTING CHAIRMAN NADEAU: Oh. Mr. Thomas, were
11 you here when we swore witnesses?

12 MR. THOMAS: I was, but I didn't believe I
13 would be giving testimony today, so I didn't stand up.

14 MR. MENICUCCI: I think, we've had testimony
15 and evidence presented, and that part of the hearing has
16 been closed. The Board could reopen for testimony if it
17 chooses to do so, but it's not necessary.

18 ACTING CHAIRMAN NADEAU: Okay. So,
19 Mr. Steinhoff, do you have some remarks you would like
20 to make?

21 MR. STEINHOFF: Can I have a moment,
22 Mr. Chairman, to confer with my client?

23 ACTING CHAIRMAN NADEAU: Yes.

24 MR. STEINHOFF: Just one moment. Thank you.

25 (There was a brief period off the record.)

1 MS. RAY: Do you guys want to mute the --

2 MR. STEINHOFF: Mr. Chairman?

3 ACTING CHAIRMAN NADEAU: Yes.

4 MR. STEINHOFF: Does the Board -- has the Board
5 read Mr. Yampolsky's letter of support, in particular
6 his -- his argument on behalf of Mr. Thomas as it
7 relates to federal statutes preempting the NRS as
8 outlined in his argument?

9 ACTING CHAIRMAN NADEAU: I know we received the
10 information. I would, I would expect the members have
11 read it.

12 MR. THOMAS: I would also ask if the Board
13 received and reviewed the federal judge's order, which
14 exonerated me of any wrongdoing. This is in the federal
15 court, the lawsuit that was made against me.

16 ACTING CHAIRMAN NADEAU: Mr. Menicucci?

17 MR. MENICUCCI: I have not, I have not seen
18 that order come down. Was that recently?

19 MR. THOMAS: It was forwarded. It was
20 forwarded to the Board by my attorney, Mace Yampolsky.

21 MS. RAY: I'll see.

22 ACTING CHAIRMAN NADEAU: Okay. At this
23 juncture, I don't believe we've received that, that
24 order.

25 BOARD MEMBER ZANE: Mr. Chairman, I have a

1 question for Board counsel.

2 ACTING CHAIRMAN NADEAU: Mr. Zane, can we go
3 ahead and allow Mr. Steinhoff to provide any remarks
4 before we start the question, if that's okay.

5 MR. STEINHOFF: I'd like to hear the question
6 first, if it's okay, Mr. Chairman.

7 BOARD MEMBER ZANE: Well, it was in response to
8 Mr. Thomas' last statement.

9 ACTING CHAIRMAN NADEAU: Yes, go ahead. Go
10 ahead, Mark.

11 BOARD MEMBER ZANE: When we had the last
12 hearing, and the evidence was presented, and then we
13 went to the written closing arguments, is it
14 appropriate, even though the document is public, is it
15 appropriate to consider those things in the public
16 domain, such as this order on summary judgment, partial
17 summary judgment, that came out about a month after our
18 meeting concluded?

19 MR. MENICUCCI: Well, I would like to have the
20 opportunity to review that as well. The copy that I
21 have of Mr. Yampolsky's submission is his closing
22 argument. And so I have not seen the order. My opinion
23 would be the Board can consider an order of the court,
24 which is a public record, and that they probably should
25 if it's properly brought to the Board's attention.

1 MS. BRADLEY: Well, the issue would be that --
2 I mean you would want to, obviously, review it maybe, I
3 mean.

4 MR. MENICUCCI: Yes.

5 MS. BRADLEY: But the standard is probably
6 different. So the Board certainly could review it, and
7 it's up to the Board to give it the weight the Board
8 thinks it deserves.

9 ACTING CHAIRMAN NADEAU: Well, I guess, my
10 question of counsel is, unless there's something
11 specific in that order that addresses the Board's
12 actions, then it may be information, but it's not -- it
13 doesn't hold us to any --

14 MS. BRADLEY: No, I mean, you know, again, it's
15 up to your individual reading, and it's up to you to
16 make a call on what's said in the order and how you
17 believe it applies to the case at hand. But, most
18 likely, the standards are different for liability in a
19 civil action versus liability in an administrative
20 proceeding for unprofessional conduct or something like
21 that.

22 So I mean it certainly might be helpful
23 information. It might be interesting information. And
24 it's up to the individual Board members to determine how
25 that would apply.

1 ACTING CHAIRMAN NADEAU: I guess, my question
2 to Mr. Steinhoff or to Mr. Thomas would be is there
3 anything in the -- in that order -- and, again, we
4 haven't seen that order -- that directs any action in
5 regard to this, to Mr. Thomas' privileged license?

6 MR. THOMAS: No, it does not. It strictly has
7 to do with the civil lawsuit, but it is all of the same
8 allegations that were made against me with this Board.
9 And I was absolved of all of them.

10 I also would ask about the copy of the driver's
11 protection act that we submitted to the Board at the
12 last meeting, which has the -- a subsection that says
13 that private investigators were exempt from the laws
14 concerning the driver's protection act.

15 ACTING CHAIRMAN NADEAU: Mr. Thomas, I know you
16 didn't anticipate testifying, but you're certainly
17 testifying. At this juncture, I think, it would be
18 appropriate for you to be sworn in.

19 MR. THOMAS: Okay.

20 MR. TOWLER: Do you swear that the testimony
21 you give today is the truth, the whole truth, and
22 nothing but the truth, so help you?

23 MR. THOMAS: I do.

24 ACTING CHAIRMAN NADEAU: Thank you, Mr. Thomas.

25 Mr. Steinhoff, are you waiving any additional

1 remarks, or are you prepared at this point to add any
2 additional information?

3 MR. STEINHOFF: I'll submit on Mr. Yampolsky's
4 closing argument and only proceed further as to any
5 additional remarks that Mr. Thomas might wish to make or
6 any questions that the Board might have for Mr. Thomas.

7 ACTING CHAIRMAN NADEAU: Okay. Mr. Zane, do
8 you have any additional questions of counsel or?

9 BOARD MEMBER ZANE: I was -- I have read the
10 order, and I -- I was just trying to figure out if I
11 should use it in my deliberations or not.

12 ACTING CHAIRMAN NADEAU: Okay. Right. Is it
13 possible somebody could fax a copy of that up to us? We
14 have not received it. No one up here has received it.

15 MR. THOMAS: I have a copy at home, but not --
16 it's no good here.

17 ACTING CHAIRMAN NADEAU: Mark, do you have a --
18 do you have a copy that you could have somebody fax to
19 us?

20 BOARD MEMBER ZANE: I don't. I read it on
21 line.

22 MS. BRADLEY: I could pull it off PACR.

23 ACTING CHAIRMAN NADEAU: Thank you. Okay.

24 BOARD MEMBER ZANE: That would be okay.

25 ACTING CHAIRMAN NADEAU: Okay. Mr. --

1 MR. MENICUCCI: We'll go get a copy.

2 ACTING CHAIRMAN NADEAU: Okay. Robert, do you
3 have anything, any questions that you would like to ask?

4 BOARD MEMBER UITHOVEN: Not at this time. I
5 would like to see the document as well.

6 ACTING CHAIRMAN NADEAU: Mr. Menicucci, I have
7 a couple questions. Does that surprise you?

8 All right. So under NRS 648.157, that deals
9 with -- that deals with suspension of license for access
10 to DMV information other than for an insurance purpose.
11 But Mr. Yampolsky has argued that, number one, that
12 doesn't really hold here, because under 481.063, I think
13 it is, there's a -- there's -- the Department of Motor
14 Vehicles or the director of Department of Motor Vehicles
15 has the ability to go ahead and release that information
16 to anyone. And that statute's pretty comprehensive as
17 to -- on who it can be released to.

18 But as I -- as I read that statute, as Mr. --
19 as Mr. Thomas' counsel had provided, there's a key word
20 in there that says the director may release that
21 information based on -- based on an affidavit being
22 sworn to as far as release of the -- releasing this
23 information. It's clear that Mr. Thomas didn't, didn't
24 do that. So if -- if he had, we probably wouldn't even
25 be here.

1 But inasmuch as he did not do that, then that
2 statute doesn't -- I guess, does that statute still
3 weigh in on this? Because, obviously, there's a
4 conflict between 648 and 481. But if that -- if
5 Mr. Thomas did not comply with the requirements of that,
6 then don't we have to fall back to 648? I guess --

7 MR. MENICUCCI: The short answer is yes. I
8 don't see that the discretion of the director to release
9 the information would come into play unless the
10 director's given the information necessary on which to
11 make that decision. And the way it happened in this
12 case, he would not have had that information. So he
13 would not have been able to make a decision to release
14 the information to Mr. Thomas.

15 ACTING CHAIRMAN NADEAU: But it might have been
16 different if Mr. Thomas had complied with that, with the
17 requirements of that statute; then it would have, it
18 would have been a totally different circumstance.

19 MR. MENICUCCI: In that case, we would not be
20 proceeding on the basis of getting information from the
21 DMV. But there still would be the criminal history
22 information that he got from law enforcement contacts.

23 ACTING CHAIRMAN NADEAU: Okay.

24 MR. THOMAS: Can I comment?

25 ACTING CHAIRMAN NADEAU: Sure, Mr. Thomas,

1 you're welcome to.

2 MR. THOMAS: Okay. The fact of the matter is,
3 then and now, I have a contract with DMV to obtain DMV
4 information. There's nothing said about insurance
5 investigations. I can go to my office or I can sit here
6 right now and call DMV and ask for what they call a D-1,
7 which is a -- the front of the driver's license; and
8 they will give me all of the information on the front of
9 the driver's license over the phone with no mention of
10 insurance investigations. They know full well what
11 that's used for, locating people. I do it almost daily
12 in my process serving business. You know, somebody
13 moves; and part of the affidavit that I have to give the
14 court, an affidavit of due diligence, reads that I
15 contacted DMV and I attempted to gain the information in
16 order to locate this person. How does that have to do
17 with insurance?

18 ACTING CHAIRMAN NADEAU: Okay. But did you do
19 that in this case?

20 MR. THOMAS: At times, I did, yes.

21 ACTING CHAIRMAN NADEAU: On this particular
22 complaint?

23 MR. THOMAS: Not -- not -- not on each and
24 every occasion, but, yes, I was obtaining the
25 information from DMV as well as police officers.

1 So I mean, you know, you've got your law
2 written in the NRS. But the policy of the DMV seems to
3 go against that NRS itself. And how am I, as an
4 investigator, to, you know, sort out what I can do and
5 what I can't do? Especially when the driver's
6 protection act, the federal driver's protection act has
7 a subsection that says, as a private investigator, I am
8 exempt from the law, and I can obtain any of that
9 information I want.

10 MR. MENICUCCI: If the Board please, I do not
11 see the federal law as exempting private investigators
12 but granting --

13 MR. THOMAS: It says exempt.

14 MR. MENICUCCI: -- certain authority under the
15 federal law itself. In other words, the question is --
16 there was some discussion about whether Mr. Thomas would
17 be charged with a violation of federal law. And in a
18 footnote of my argument, I explained why we did not
19 charge him with a violation of that law, because there
20 are grounds or exemptions under the federal law by which
21 he could get the information. So there's no charge
22 being pursued here that he violated the federal law.

23 He's trying to argue, however, that the federal
24 law preempts state law, which may be different and is,
25 in fact, different in the state of Nevada. And then I

1 went through the grounds on which it preempts state law.
2 It, basically, preempts if it expressly says it does.
3 And I found nothing in the federal law that said that.
4 Or if it's impossible to comply with both. And that's
5 not the case, either.

6 ACTING CHAIRMAN NADEAU: I guess, does any of
7 the Board members have any other, any other question?

8 BOARD MEMBER ZANE: Are we getting a copy of
9 that judgment?

10 MS. RAY: I don't know how to get it.

11 ACTING CHAIRMAN NADEAU: I don't know how to
12 get it.

13 MR. MENICUCCI: We can get it.

14 ACTING CHAIRMAN NADEAU: I mean, I guess, I
15 would expect -- I don't -- I would be un -- it would be
16 unsettling to me to just pull it off the Internet. I
17 would have thought that Mr. Thomas or his counsel would
18 have gotten it to us. And we haven't received it. So.
19 And I don't -- off the Internet, I'm reluctant to take
20 that at face value.

21 BOARD MEMBER ZANE: Well, it's the official
22 record of the court that's contained in the PACR
23 website.

24 ACTING CHAIRMAN NADEAU: Can you tell me where
25 to get it, then, Mark?

1 BOARD MEMBER ZANE: Yes. I don't have the
2 Internet. Do we have a --

3 MR. MENICUCCI: We can take a short recess and
4 get it.

5 ACTING CHAIRMAN NADEAU: All right. Why don't
6 we take a short recess. Say, until 9:45 maybe? That's
7 15 minutes.

8 MR. MENICUCCI: Hopefully, yes.

9 ACTING CHAIRMAN NADEAU: Okay. Tentative until
10 9:45, and see if we can get a copy of the federal
11 judgment.

12 * * * * *

13 (A break was taken, 9:31 to 9:55 a.m.)

14 * * * * *

15 ACTING CHAIRMAN NADEAU: Okay. We're back.
16 We're back in session, I guess.

17 And, Mark, you got a copy of this court --
18 court order, also?

19 BOARD MEMBER ZANE: I don't have it physically
20 with me, but I did read it.

21 ACTING CHAIRMAN NADEAU: Okay. All right. We
22 have, we have copies of it. I've perused it.

23 At this -- at this juncture, Mr. Steinhoff and
24 Mr. Thomas, I'll get you to go ahead and do a summation.
25 We have the brief that was submitted by Mr. Yampolsky,

1 and we have -- it's your opportunity. I'll give you an
2 opportunity for summation. And then I'll give
3 Mr. Menicucci the final word.

4 MR. STEINHOFF: Thank you, Mr. Chairman. I'll
5 submit it as to Mr. Yampolsky's brief.

6 I want to quickly add that with respect to the
7 argument made by the Board with respect to the Federal
8 Drivers Privacy Protection Act, I'll refer the Board to
9 all of Section 8 and the language "for use by any
10 licensed private investigative agency or licensed
11 security service," and I'll emphasize this, "for any
12 purpose permitted under this subsection."

13 The Board referenced that while it wasn't
14 specifically permitted by Nevada statute. However,
15 under the supremacy laws of the U.S., the United States
16 Constitution, Mr. Thomas would argue that this section
17 therefore preempts any concern you might have regarding
18 the NRS with respect to any investigator purposes
19 indicated in the act.

20 Other than that, I'll submit on Mr. Yampolsky's
21 closing argument.

22 ACTING CHAIRMAN NADEAU: Okay. Thank you.
23 Mr. Menicucci.

24 MR. MENICUCCI: All right. First, with regards
25 to the federal statute, the subsection cited allows

1 state motor vehicle departments to release information.
2 It does not mandate it, in my view. It does not preempt
3 state law, either with regards to the DMV or with
4 regards to regulation of the private investigators.

5 As I mentioned in my argument, we are not
6 contending that the federal statute was violated,
7 because there is an exemption in there that would cover
8 Mr. Thomas in this case. So the basis for the complaint
9 against him would arise out of state law rather than
10 federal. And we deny that the federal law has the
11 effect of preempting or avoiding state statutes and
12 state regulations in this case.

13 With regards to the judge's order, and I have
14 provided the Board a copy of an order in the -- from the
15 United States District Court, District of Nevada, dated
16 the 28th of July, 2010, that order granted summary
17 judgment to Mr. Thomas and Jim Thomas & Associates. But
18 the basis for the order was that the court found that
19 the plaintiff had failed to prove various claims of tort
20 against Mr. Thomas. It did not purport to rule upon
21 regulation of private investigators.

22 And, in fact, the court stated, on page eight
23 of the order, although defendant improperly obtained
24 plaintiff's criminal history and other confidential
25 information, this conduct was not extreme and

1 outrageous, and on that basis, because it was not
2 extreme and outrageous, ruled in favor of Mr. Thomas in
3 that case and said he was not liable in damages to the
4 claim of Mr. Quinn.

5 So our position is that the order just is not
6 relevant to the proceedings in this case. The court
7 thought that something improper had occurred, but it did
8 not give rise to the tort claim against Mr. Thomas.

9 So in this case, the Board is left with the
10 decision as to whether there was a violation of the
11 regulations and statutes governing the conduct of
12 private investigation. Mr. Thomas has ably pointed out
13 that what he's done is probably not unique in the
14 industry, and he used his law enforcement contacts to
15 obtain information that under our statutes could
16 reasonably be found to be engaging in unprofessional
17 conduct under circumstances where he knew that it was
18 something that should not have been released, and he was
19 asking his friends to do things that were contrary to
20 department policy; in fact, got them in trouble for it.
21 Not because of him. Because he didn't tell anybody. He
22 didn't disclose who helped him.

23 ACTING CHAIRMAN NADEAU: Okay. Then, we'll
24 bring it back to the Board for --

25 BOARD MEMBER ZANE: Mr. Chairman?

1 ACTING CHAIRMAN NADEAU: Mr. Zane?

2 BOARD MEMBER ZANE: Mr. Quinn, the plaintiff in
3 the federal civil action and the complainant in this
4 matter, has asked to be heard, although I don't know
5 that it's appropriate.

6 ACTING CHAIRMAN NADEAU: I think -- I talked to
7 counsel. The only way we would be able to do that is if
8 we opened up the full, the full hearing again. I think,
9 after our last meeting, we had settled on that the
10 hearing was closed, all witnesses had been called and
11 testified, and that at this point we were just going
12 into the deliberative stage. And, I think, that's where
13 we're at. So, therefore, I don't think it would be
14 appropriate at this time to have additional testimony
15 from anyone outside. Outside.

16 So I can appreciate Mr. Quinn would like to
17 testify. But at this juncture, I think, all -- we've
18 completed that phase of this hearing.

19 MR. STEINHOFF: And I acknowledge his presence
20 to --

21 MS. BRADLEY: I think, that's correct. And if
22 he would like to stick around and make a public comment
23 at the end of the meeting, he could do that.

24 ACTING CHAIRMAN NADEAU: Okay. Did you hear
25 that, Mark?

1 BOARD MEMBER ZANE: Yes.

2 ACTING CHAIRMAN NADEAU: On advice of counsel,
3 she agreed with our position, but indicated if Mr. Quinn
4 would like to stay around for public comment, then he's
5 welcome to make a comment at that point.

6 So let's -- we'll move forward. Mr. Zane, do
7 you have any comments or discussion at this point? I
8 guess, at this point, we're probably ready for a motion.
9 Or is there some --

10 MS. BRADLEY: However the Board would like to
11 do it. If you would like to just do some general
12 comments, you could do that. If you'd like to just
13 proceed to making a motion and discussing a motion, you
14 could do that. It's really what position the Board
15 feels that they want to do.

16 ACTING CHAIRMAN NADEAU: What's the pleasure of
17 the Board?

18 BOARD MEMBER ZANE: Mr. Chairman, I have a
19 procedural question. That is, would we have -- in the
20 flow here, if we were to hold that violations occurred,
21 would we assess the penalty at the same time, or we
22 would go to a separate issue?

23 MS. BRADLEY: Usually what we recommend is that
24 you go ahead and determine guilt or not first. And then
25 you can discuss penalty second. So that's usually like

1 a second motion. And then, if costs have been asked
2 for, for investigative costs or attorney costs, then
3 that's maybe the last thing you would consider. So you
4 kind of do it in order. You determine what guilt there
5 may be, and then each, what penalty may be appropriate.

6 ACTING CHAIRMAN NADEAU: Okay. Did you hear
7 that, Mark?

8 BOARD MEMBER ZANE: Yes, sir.

9 ACTING CHAIRMAN NADEAU: Okay. So I'd ask for
10 any comments from the Board at this particular time.

11 Mr. Zane?

12 BOARD MEMBER ZANE: A general comment without
13 noticing my intent on how to vote.

14 ACTING CHAIRMAN NADEAU: Would you be more
15 comfortable if we had discussion on a motion rather than
16 precede the motion with discussion?

17 BOARD MEMBER ZANE: I would.

18 ACTING CHAIRMAN NADEAU: Okay. Do we have a
19 motion?

20 BOARD MEMBER ZANE: On the first issue, with
21 regard to the unregistered employee, that still needs to
22 be decided; is that correct?

23 ACTING CHAIRMAN NADEAU: Yes.

24 BOARD MEMBER ZANE: Okay. I move that we
25 uphold the citation issued with regard to the failure of

1 Mr. Thomas to register the employee pursuant to the
2 required statute. And, I think, it's -- I don't know
3 that we had separation of counts, but it was the first
4 issue raised in the two issues in the complaint. So I
5 would move that that citation be upheld.

6 ACTING CHAIRMAN NADEAU: Okay. Do we have a
7 second?

8 BOARD MEMBER UITHOVEN: Second.

9 ACTING CHAIRMAN NADEAU: We have a motion and a
10 second to uphold the citation.

11 All right. And if that's okay, can we go ahead
12 and have discussion, then, on that motion?

13 BOARD MEMBER ZANE: I have no comment,
14 Mr. Chairman.

15 ACTING CHAIRMAN NADEAU: All right.
16 Mr. Uithoven?

17 BOARD MEMBER UITHOVEN: No comment.

18 ACTING CHAIRMAN NADEAU: All right. Seeing
19 none, seeing no comment, all in favor, say "aye."

20 (Board members said "aye.")

21 ACTING CHAIRMAN NADEAU: Opposed?

22 Okay. It's unanimous on that.

23 Okay. On the second, the second complaint
24 of -- is there any -- is there a motion on that?

25 BOARD MEMBER UITHOVEN: Mr. Chair, is this a --

1 would this be a motion on whether or not the Board
2 believes the records were obtained properly?

3 ACTING CHAIRMAN NADEAU: Yes. I think, it
4 would be a violation of 648.157.

5 For purposes of discussion, I will make a
6 motion to -- to find violation of NRS 648.157. And
7 proceed with that.

8 MR. MENICUCCI: Clarification?

9 ACTING CHAIRMAN NADEAU: Yes?

10 MR. MENICUCCI: You are also charging violation
11 of 648.150, subparagraph (4). That's the unprofessional
12 conduct.

13 ACTING CHAIRMAN NADEAU: Unprofessional
14 conduct.

15 MS. BRADLEY: I think, I mean if the Board
16 wants to handle them separately, you can. You can vote
17 on it. It's up to the Board, I think. Would that be
18 all right?

19 MR. MENICUCCI: Yeah.

20 ACTING CHAIRMAN NADEAU: Okay.

21 MS. BRADLEY: So if you want to vote on NRS
22 648.157, sub (1), first, you can do that. And, then, if
23 you want to vote on 648.150, sub (2) and sub (4). It
24 looks like they were all charged.

25 ACTING CHAIRMAN NADEAU: Is there a second to

1 that motion?

2 BOARD MEMBER ZANE: The motion is with regard
3 to 648.157?

4 ACTING CHAIRMAN NADEAU: Yes, sustain the
5 violation of the -- violation of NRS 648.157.

6 BOARD MEMBER ZANE: I second.

7 ACTING CHAIRMAN NADEAU: Okay. Discussion on
8 the motion. Would you like me to go first, since I made
9 the motion, or would you like to discuss it?

10 BOARD MEMBER ZANE: Are you talking to me,
11 Mr. Chairman?

12 ACTING CHAIRMAN NADEAU: Okay. I -- for
13 purposes of the motion, I'm -- throughout
14 Mr. Yampolsky's brief, he talked about there, basically,
15 was no harm, no foul, that Mr. Thomas had access to all
16 of the -- all of this information regardless of whether
17 he got it through law enforcement or he got it through
18 whomever, that just because he had the ability to get
19 it, basically, there was no violation of statute, no
20 violation of any type of, you know, conduct.

21 And, I guess, that's all well and good. But
22 it -- to me, there's concern in regards to the
23 requirement of this Board and ensuring that statutes are
24 abided by, and that there's a professional -- because
25 this is a privileged license. This isn't just a

1 give-me. It's not a freebie. It's not just I've signed
2 up, so I get it. But we're asking that there be a
3 professionalism and that the -- those people who are
4 licensed, those folks who are licensed under this, this
5 Board, then follow rules.

6 Now, am I naive to think that people don't
7 follow the rules? Yes, that may well happen. But I
8 don't see where this Board can condone those kinds of
9 actions. We have, we have statutes that are in place.
10 We have regulations that are in place. And if someone
11 chooses to circumvent those regulations and statutes,
12 they can probably do it all day long, but it's not
13 necessarily right.

14 And I understand Mr. -- Mr. Thomas's counsel,
15 that federal law says he has access to it, DMV says he
16 has access to it. But the federal law says that to get
17 it, DMV describes on how he can get it. And nowhere in
18 the DMV does it say you can just arbitrarily go out and
19 ask any law enforcement officer or any friend of yours,
20 and you can get the information that way. They have a
21 prescribed manner in which -- and even Mr. Thomas
22 admitted, he has an account with DMV; he could have
23 accessed it that way. But he didn't. In this case, he
24 chose to take a different route. And that's at his
25 peril.

1 And so my concern is that if he didn't follow
2 DMV's process, then, then it reverts back to the
3 statutes that apply to the conduct of our licensees.
4 And, so, therefore, he is subject to -- to provisions of
5 this particular NRS.

6 So that's my position on that.

7 Any additional discussion from anyone else?

8 BOARD MEMBER ZANE: Mr. Chairman, I would
9 probably agree but speak in opposition based upon the
10 fact of the discrepancies that are involved. And I
11 understand 648.157 says what it says and means what it
12 means as far as the action of receiving the records from
13 the Department of Motor Vehicles. I don't think that
14 the statute applies as broadly as a meaning that it also
15 encapsulates getting the information from some other
16 source other than DMV. I think that 648.157 applies
17 only to DMV.

18 I don't know that during the process of
19 hearings in this matter, that it was admitted or
20 submitted that the Department of Motor Vehicles was
21 accessed for this information. I think, if I recall the
22 testimony correctly, it was that they were just too
23 slow, and Mr. Thomas chose to go in an alternate
24 direction to attempt to get the information.

25 So I don't know that there is evidence in the

1 record that the Department of Motor Vehicle's records,
2 under 481.063, as it applies to 648.157, I don't know
3 that we have a clear violation with regard to that as it
4 narrowly applies to the Department of Motor Vehicles.

5 And my quandary is, is we've got -- clearly,
6 the director of the Department of Motor Vehicles has
7 not, throughout this entire process, chosen to revoke
8 Mr. Thomas' privileges to have records from that
9 department.

10 So that gives me some pause about the strict
11 enforcement of this particular statute. As well as
12 there's been Board comment historically about the arcane
13 nature of this particular statute and how it's
14 fundamentally sidestepped on a regular basis. But I do
15 value your position in it says what it says, and it
16 means what it means.

17 I probably could support the motion with the
18 vote and probably address my concerns more appropriately
19 in whatever penalty is issued.

20 That's all I have.

21 BOARD MEMBER UITHOVEN: Mr. Chair, I have a
22 question for counsel.

23 NRS 648.157 expressly prohibits a private
24 investigator from obtaining from the DMV the kind of
25 personal information Mr. Thomas received, sought and

1 received. Is that correct?

2 MS. BRADLEY: I would say that's what it's
3 reading, if you're reading subsection (1).

4 BOARD MEMBER UITHOVEN: Would that -- go ahead.
5 I'm sorry.

6 MS. BRADLEY: Yeah, a private investigator
7 license shall not obtain or receive access to
8 information from the DMV pursuant to subsection (3), NRS
9 481.063, for any purpose other than investigation of
10 insurance claim. That's what it says.

11 BOARD MEMBER UITHOVEN: Would that not, then,
12 be in conflict with 648.157 applying only to the DMV, or
13 to the DMV?

14 MS. BRADLEY: I'm sorry?

15 BOARD MEMBER UITHOVEN: 648.157, in other
16 words, taken just in its literal context here, it
17 seems -- and maybe I misheard Board Member Zane.
18 648.157 applies to the private investigator.

19 MR. MENICUCCI: Yes.

20 BOARD MEMBER UITHOVEN: It's not on the DMV.

21 MS. BRADLEY: No.

22 MR. MENICUCCI: Correct.

23 BOARD MEMBER UITHOVEN: And how that
24 information is procured is on how the private
25 investigator himself went about accessing it.

1 ACTING CHAIRMAN NADEAU: Yeah, I --

2 MS. BRADLEY: I mean the plain language is what
3 you're saying, what you're reading, and it's --

4 BOARD MEMBER UITHOVEN: Right.

5 MS. BRADLEY: You know, I don't want to tell
6 you how to apply it.

7 BOARD MEMBER UITHOVEN: Right.

8 MR. MENICUCCI: Perhaps I should address Board
9 Member Zane's comment about what sanction the Board
10 might impose, just to point out that under 648.157,
11 there is a mandatory suspension of some period of time
12 if a violation is found under that statute. And that's
13 not the case with the general disciplinary statute. In
14 other words, suspension is not a mandatory sanction of
15 the general disciplinary statute, but it is under
16 648.157.

17 BOARD MEMBER ZANE: Thank you.

18 BOARD MEMBER UITHOVEN: Mark, did you get that?

19 BOARD MEMBER ZANE: Yes, sir. Thank you.

20 ACTING CHAIRMAN NADEAU: Any further discussion
21 or comments?

22 All right. Seeing none, the motion is to
23 sustain the violation of NRS 648.157. All in favor, say
24 "aye."

25 (Board members said "aye.")

1 ACTING CHAIRMAN NADEAU: All right. So that
2 passes unanimously.

3 All right. Any other motions in regards to
4 648.160? I'm sorry. 150?

5 MR. MENICUCCI: 150.

6 ACTING CHAIRMAN NADEAU: Any other motions by
7 any of the members?

8 MS. BRADLEY: So 150, sub (2), is the violation
9 of any provision of the chapter, and then subsection (4)
10 would be any unprofessional conduct or unfitness of the
11 licensee or any person in his or her employ.

12 ACTING CHAIRMAN NADEAU: Any additional
13 motions?

14 Okay. So I'd ask counsel, does the motion on
15 157 stand on its own, on its own merits?

16 MS. BRADLEY: Yes.

17 ACTING CHAIRMAN NADEAU: Okay.

18 MS. BRADLEY: So. I mean they're separate.
19 You could, in theory, find all, you know, every statute
20 that's listed. Or you could say, no, I'm going to find
21 this one and this one, and we're not going to find this
22 one. It's really up to you. So, currently, you just
23 found 648.157 and -- I believe, it's 648.140, which is
24 the license, the registering of a employee.

25 ACTING CHAIRMAN NADEAU: Correct. So seeing no

1 additional action, then let's move on to the penalty
2 portion.

3 As I understand, under 648.140 -- which one,
4 140; is that what it was?

5 MS. BRADLEY: 648.140 is the unlicensed or the
6 unregistered person.

7 ACTING CHAIRMAN NADEAU: Right.

8 MS. BRADLEY: But for the motor vehicle
9 statute, 648.157, sub (2), says if the Board finds a
10 violation, the Board shall, in addition to any other
11 disciplinary action is appropriate, suspend the license
12 of the private investigator.

13 And normally suspensions are done for a
14 specified time period.

15 ACTING CHAIRMAN NADEAU: Okay. So as far as
16 the unlicensed person or that type of thing, is there
17 any recommendation for penalty on that? Because is
18 that -- that was a citation, if I'm correct? So,
19 therefore, is it a mandatory \$2,500 first offense?

20 MR. MENICUCCI: No, I believe, with regards to
21 the licensee, it's a disciplinary matter.

22 MS. RAY: Right.

23 MR. MENICUCCI: It would fall under the general
24 statute, which is extremely broad.

25 ACTING CHAIRMAN NADEAU: Up to \$5,000?

1 MR. MENICUCCI: Yes.

2 ACTING CHAIRMAN NADEAU: That's the one that
3 says up to \$5,000?

4 MR. MENICUCCI: Yes.

5 ACTING CHAIRMAN NADEAU: All right. Is there
6 any recommendation as far as that goes?

7 BOARD MEMBER ZANE: Mr. Chairman, do you want a
8 motion?

9 ACTING CHAIRMAN NADEAU: Yes, please.

10 BOARD MEMBER ZANE: I'd move, for the violation
11 that's been found, that we assess a penalty of \$1,000.

12 ACTING CHAIRMAN NADEAU: Is there a second to
13 that motion?

14 I'll second that motion. Discussion on the
15 motion?

16 Hearing none, all in favor, say "aye."

17 (Board members said "aye.")

18 ACTING CHAIRMAN NADEAU: Opposed?

19 Okay. Regarding violation of 648.157, that's
20 mandatory suspension. Is there any recommendation from
21 anyone on that, any of the Board members on that?

22 BOARD MEMBER ZANE: Mr. Chairman, I'd move
23 that -- we're only -- we're not talking about the
24 process server license. We're talking about the private
25 investigator license. Correct?

1 ACTING CHAIRMAN NADEAU: That's correct.

2 BOARD MEMBER ZANE: I'd move that the license
3 for Jim Thomas & Associates be suspended for a period of
4 one day.

5 ACTING CHAIRMAN NADEAU: Okay. Is there a
6 second to that motion?

7 Hearing no second, is there another motion?

8 Mr. Zane?

9 BOARD MEMBER ZANE: Yes, sir?

10 ACTING CHAIRMAN NADEAU: I'm going to --
11 actually, I'm going to second your motion for
12 discussion.

13 BOARD MEMBER ZANE: Thank you, sir.

14 ACTING CHAIRMAN NADEAU: So. If I may, I
15 agreed with the one-day suspension, but I -- actually, I
16 would like to see maybe a three-month, three-month
17 suspension or a six-month suspension. I don't --
18 whatever the pleasure of the Board, suspended with the
19 imposition of a one-day -- in other words, suspension,
20 with that suspended, and then one day. And the reason
21 for that is for -- I guess, to just monitor and make
22 sure Mr. Thomas is abiding by the regulations and
23 statutes for a period of time, but that the -- he would
24 only have to serve one day of that suspension.

25 BOARD MEMBER UITHOVEN: So probation-type?

1 MS. BRADLEY: It sounds like you're wanting to
2 do a probationary period, then.

3 ACTING CHAIRMAN NADEAU: Okay.

4 MS. BRADLEY: And so you're wanting to say,
5 what I'm hearing you say is either three months or six
6 months of a suspension, with that part suspended if he
7 would just serve one day of his time. And he will be on
8 probation for a specified period, which is up to you.
9 And if he's found to have done something in that time
10 period, then that other three months or six months would
11 be in effect.

12 ACTING CHAIRMAN NADEAU: I guess, that's what
13 I'm saying.

14 BOARD MEMBER UITHOVEN: Mr. Chairman, I have a
15 motion.

16 ACTING CHAIRMAN NADEAU: That's actually where
17 I'm -- we have a motion right now.

18 BOARD MEMBER UITHOVEN: Okay.

19 MS. BRADLEY: And so one thing you would
20 probably want to specify in your motion is how long the
21 probationary period would be.

22 ACTING CHAIRMAN NADEAU: Okay.

23 MS. BRADLEY: We've got one year or two years.

24 ACTING CHAIRMAN NADEAU: Okay. Mr. Zane.

25 BOARD MEMBER ZANE: Mr. Chairman, I'd like to

1 withdraw my motion and defer to Member Uithoven.

2 ACTING CHAIRMAN NADEAU: Okay. Then, I'll
3 withdraw my second.

4 Mr. Uithoven?

5 BOARD MEMBER UITHOVEN: Mr. Chairman, I'll make
6 a motion that -- that we suspend or -- suspend the
7 license for Jim Thomas for one day and implement the
8 six-month probationary period, in which case he would
9 serve one day of suspension, and any violation within a
10 six-month period would lead to a suspension of that
11 period of time? Or how would we --

12 MS. BRADLEY: Yeah, you can set up an
13 additional requirement if you want to. The reality is,
14 if he violates the probation, then you're going to
15 institute additional probation. So it's going to come
16 back to you anyway to decide --

17 BOARD MEMBER UITHOVEN: Okay.

18 MS. BRADLEY: -- what to do about the new
19 violation anyway. So it's up to you.

20 BOARD MEMBER UITHOVEN: I'll leave my motion
21 that a one-day suspension and a six-month probationary
22 period for Mr. Thomas.

23 MS. BRADLEY: And then, if there was an
24 additional violation, you would determine what to do,
25 and maybe in that case you would do a three-month

1 suspension, if you wanted, if you're so inclined.

2 ACTING CHAIRMAN NADEAU: Okay. Did you hear
3 the motion, Mark?

4 BOARD MEMBER ZANE: Yes, I did.

5 ACTING CHAIRMAN NADEAU: All right. Is there a
6 second to that motion?

7 BOARD MEMBER ZANE: I'd second it.

8 ACTING CHAIRMAN NADEAU: Okay. So the penalty
9 for the violation of 157 would be the one-day suspension
10 and the three-month -- or six-month probation. Is that
11 what I heard, Robert?

12 BOARD MEMBER UITHOVEN: Yes.

13 ACTING CHAIRMAN NADEAU: Six-month probation.
14 All right. Any discussion on the motion?

15 All in favor, say "aye."

16 (Board members said "aye.")

17 ACTING CHAIRMAN NADEAU: Opposed?

18 MS. BRADLEY: Are there any requirements that
19 you're instituting in the probationary period; is he to
20 report to the Board at all, anything like that, or it's
21 just he's on probation?

22 ACTING CHAIRMAN NADEAU: I'm assuming he's just
23 on probation. Is that what you -- does he have to
24 report to the Board? I think, it's just a matter of
25 monitoring activity.

1 BOARD MEMBER UITHOVEN: Right, monitoring it,
2 yeah.

3 ACTING CHAIRMAN NADEAU: Mark, did you hear the
4 conversation on that?

5 BOARD MEMBER ZANE: Yes, sir.

6 ACTING CHAIRMAN NADEAU: Okay. All right. Is
7 there any, any further action by the Board in regards to
8 this, this hearing?

9 MS. BRADLEY: Were costs asked for?

10 MR. MENICUCCI: No.

11 MS. BRADLEY: No. Okay. Then there isn't
12 anything further to decide.

13 ACTING CHAIRMAN NADEAU: Okay. That --

14 MR. THOMAS: May I ask a question, sir?

15 ACTING CHAIRMAN NADEAU: I'm sorry. Who's
16 asking? Is it Mr. Thomas?

17 MR. STEINHOFF: He spoke, but he's not going to
18 ask.

19 ACTING CHAIRMAN NADEAU: How do we implement
20 the one-day suspension?

21 MS. BRADLEY: Well, he'll get a final order in
22 the mail. And --

23 ACTING CHAIRMAN NADEAU: Was that your
24 question, Mr. Thomas, how the suspension would be
25 implemented?

1 MR. THOMAS: Yes.

2 MS. BRADLEY: You'll get a final order in the
3 mail. And normally there's like a 30-day waiting
4 period, because you could appeal in that time frame. So
5 usually that one day is going to be 30 days from the
6 date of the order, I'm guessing, would be how you would
7 handle that. That way, if you chose to appeal it, you'd
8 have sufficient time to do that.

9 ACTING CHAIRMAN NADEAU: Okay.

10 MR. STEINHOFF: Thank you.

11 MR. THOMAS: I thank the Board.

12 ACTING CHAIRMAN NADEAU: All right. Thank you.
13 Well, then, let's motive on. Or do you want me
14 to take a break?

15 BOARD MEMBER UITHOVEN: Let's move on.

16 MS. RAY: Let's move on.

17 ACTING CHAIRMAN NADEAU: Let's move on. All
18 right. Are you ready to move on, Mark?

19 BOARD MEMBER ZANE: Yes, sir.

20 ACTING CHAIRMAN NADEAU: All right. I guess, I
21 should refer to you as Mr. Zane. Thank you, Board
22 Member Zane.

23 ///

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 5

OMNIPLEX

ACTING CHAIRMAN NADEAU: All right. Request for dismissal. We have number five, OmniPlex was issued unlicensed activity citation number C-080-10 pursuant to Nevada Revised Statutes 648.165, section (1), (2), (3) and (4).

Katherine S. Nucci -- I guess, that's Nucci ("NOOCH-EE") -- counsel to OmniPlex, has requested the Board to dismiss the citation due to federal exemption. Is she present?

MR. TOWLER: She is not. If I could start.

ACTING CHAIRMAN NADEAU: Okay.

MR. TOWLER: Thoran Towler, for the record, from the Attorney General's Office. I'll just give you a little background on this and explain why Ms. Nucci is not going to be present today.

OmniPlex is a federal contractor and provides background investigation services solely for the federal government, to the Department of Homeland Security and ICE, which is the Immigration and Customs Enforcement. What happened here is that OmniPlex contracts has subcontractors through the federal government, and Inil Swann was one of those.

1 They were doing a background investigation. I
2 believe, it was a five-year background. They do a
3 five-year, ten-year background investigations. And they
4 were doing one for an individual. And the person who
5 was conducting the investigation is Inil Swann. She's
6 under 5a. And like I said, she's a subcontractor for
7 OmniPlex. She had credentials that she was working for,
8 through ICE. But she is not licensed in Nevada. So as
9 she was doing this investigation, she was checking into
10 somebody who at one time worked at a private
11 investigation firm in Vegas. They saw that she was not,
12 that Ms. Swann was not licensed, and so they reported
13 this violation. And this violation went one to
14 OmniPlex, which is the contracted employer, and then one
15 to Inil Swann, which would be the next item on the
16 agenda.

17 I talked with both the counsel for OmniPlex and
18 Ms. Swann. They have been doing these contracts for a
19 very long time. They sent a demand letter or a legal
20 letter that, I believe, has been in the file, from her
21 law firm, explaining why the federal preemption,
22 basically, is controlling in this case. And that means
23 that the federal government contracts and decide that
24 they have these private -- these background
25 investigators. And then the federal government can then

1 decide what those requirements are. And the state
2 doesn't necessarily have any say that these individuals
3 have to be licensed.

4 And one of the reasons is -- I'm sorry. I'm a
5 little under the weather today. So if you'll bear with
6 me. But one of the reasons for this federal preemption
7 is that, as the Board knows, our investigators need to
8 have five years experience, which is 10,000 hours. We
9 were given a copy of OmniPlex's contract, and they asked
10 us not to forward it. But I did read it. It was over a
11 hundred pages, I believe. And their requirements are
12 that their investigators have to have 10,000 hours, or
13 they have to have a bachelor's degree and then complete
14 the in-house training that OmniPlex provides. So we can
15 see there those people that have a bachelor's degree and
16 the in-house training wouldn't qualify to be licensed in
17 Nevada.

18 But the federal government, in accepting that
19 contract, is saying that we believe that for our needs,
20 we can license you to go out, and we'll give you
21 credentials, and we'll have you go out and do our five-
22 or ten-year-scope background investigations, even though
23 Nevada wouldn't allow these people to become licensed
24 here.

25 And that's federal preemption. There's a list

1 of cases. I checked all these cases. I'm aware of a
2 lot of them. They all are current cases and are all
3 honestly portrayed in the letter from Ms. Nucci. And I
4 do believe she's right. She asked what the best
5 procedure would be. And I talked with Mechele Ray, and
6 we decided that the best thing to do would be to present
7 to the Board today with the opportunity to dismiss. And
8 I told Ms. Nucci that she didn't need to be here today.
9 If -- I would present the case, and the Board would be
10 able to say they want to dismiss it or not. If they
11 chose not to dismiss the citation, then it would be put
12 on the next agenda, and I will prosecute that case at
13 that time, and she will appear at that time.

14 So she's not here today, and neither will be
15 Ms. Swann.

16 ACTING CHAIRMAN NADEAU: Any questions of the
17 Board?

18 I guess, I only have one question, and that is,
19 so does anybody that contracts with the federal
20 government, then, automatically get this exemption?

21 MR. TOWLER: Not always. In this case --
22 what's interesting is the trend is the federal
23 government is often asking these contractors to comply
24 with all state laws. And in this case, we asked for a
25 copy of the contract from OmniPlex with the federal

1 government, because we thought we'd see that. In this
2 case, we just don't see that. That could be because
3 these are only five- or ten-year-scope investigations.

4 You know, most contracts I've seen and dealt
5 with, with the -- even construction, federal
6 construction contracts, they do have provisions in the
7 contract that would say you need to comply with all the
8 permits and all the local licensures. But it -- that's
9 always up to the federal government.

10 There is one case that's interesting. One of
11 the first cases on federal preemption was there was a
12 mail delivery service person who didn't have a driver's
13 license in the state. He just never got one. But the
14 federal government hired him to deliver mail through the
15 U.S. Postal Service. He then, you know, was shut down
16 by the state. They said you have to get a driver's
17 license. And the federal government sued and won. So
18 even in that case, as long as they were driving that
19 federal vehicle, doing his federal job, he won, because
20 the government, the federal government, basically, has
21 that authority to say, states, you can't, you know, tell
22 us who we can and can't hire.

23 And this is -- really comes up here
24 specifically, as I was saying, because there are people
25 that the federal government might -- that are given

1 credentials, that might, you know -- according to the
2 federal government, are good enough to do these
3 investigations, but they're not going to have the 10,000
4 hours that we require.

5 ACTING CHAIRMAN NADEAU: But if they step
6 outside of the contract with the federal government,
7 then they have to be, then they have to be licensed?

8 MR. TOWLER: Exactly.

9 ACTING CHAIRMAN NADEAU: Okay.

10 MR. TOWLER: These are only --

11 ACTING CHAIRMAN NADEAU: So they only have the
12 umbrella of the federal government?

13 MR. TOWLER: Only if they -- in this case, Inil
14 Swann showed her credentials. And they have a whole
15 credential procedure that says that she is working
16 through the Department of Homeland Security. And she
17 has to be only within that scope of doing a specific
18 background check for potential employees of the
19 Department of Homeland Security, five- or 10-year
20 scopes. So these aren't lifetime investigations.

21 ACTING CHAIRMAN NADEAU: Thank you.

22 Mr. Zane, any other -- any questions or any
23 comments?

24 BOARD MEMBER ZANE: I was just wondering if
25 OmniPlex was licensed in any other state. Do we know?

1 ACTING CHAIRMAN NADEAU: I think, Mechele may
2 have an answer.

3 MS. RAY: Mr. Chairman, I don't believe they
4 are, although I couldn't answer that for sure. Because
5 their website does indicate that they provide other
6 services not specific to the federal government.

7 MR. TOWLER: Right.

8 MS. RAY: So they very well could be licensed
9 in other states.

10 MR. TOWLER: They seem to have two different
11 groups. One provides only service to the federal
12 government. And they like to have their employees --
13 like this employee, Inil Swann, was a former FBI special
14 agent. They like to have -- all their CEOs are all
15 former FBI or federal government employees. So that is,
16 this division that we're doing today I don't believe is
17 licensed, because they solely work with the federal
18 government. They do have another division, which is
19 with different employees, that would do state work. But
20 this is a different group.

21 ACTING CHAIRMAN NADEAU: Okay.

22 MR. TOWLER: So I don't believe they're
23 licensed anywhere.

24 ACTING CHAIRMAN NADEAU: Anything else,
25 Mrs. Zane?

1 BOARD MEMBER ZANE: No, thank you,
2 Mr. Chairman.

3 ACTING CHAIRMAN NADEAU: Mr. Uithoven?

4 BOARD MEMBER UITHOVEN: No, sir.

5 ACTING CHAIRMAN NADEAU: Then, I guess, with no
6 discussion -- do we take public comment on this?

7 MS. RAY: It's up to you.

8 ACTING CHAIRMAN NADEAU: Is that appropriate,
9 for public comment?

10 MS. BRADLEY: It's up to your call or your
11 pleasure.

12 ACTING CHAIRMAN NADEAU: Do we have any public
13 comment on item number five, OmniPlex?

14 We have none north. Seeing none south. All
15 right. Do we have a motion?

16 BOARD MEMBER ZANE: Mr. Chairman, I'd move,
17 based upon representation of the counsel, that we
18 dismiss the citation --

19 BOARD MEMBER UITHOVEN: Second.

20 BOARD MEMBER ZANE: -- issued to OmniPlex.

21 ACTING CHAIRMAN NADEAU: All right. It's been
22 moved and seconded for the -- that the citation for
23 OmniPlex be dismissed. Any discussion on the motion?

24 All in favor, say "aye."

25 (Board members said "aye.")

1 ACTING CHAIRMAN NADEAU: Opposed?

2 All right.

3

4 AGENDA ITEM 5a

5 INIL SWANN, DBA INIL SWANN INVESTIGATIONS

6

7 ACTING CHAIRMAN NADEAU: Then, we have 5a,
8 which is Inil Swann, dba Inil Swann Investigations. I'm
9 assuming it's the same testimony?

10 MR. TOWLER: It is. She -- I would just like
11 to put for the record, she's not an actual full-time
12 employee. What OmniPlex does is they have
13 subcontractors. And the federal government was aware of
14 this. In their contract, OmniPlex said, "We have over
15 2000 people available to do these background checks."
16 And then, somewhere else in the contract, they said, "We
17 have 47 full-time employees that do these background
18 checks."

19 So the government, federal government knew that
20 the majority of these people would be subcontractors.
21 And like I said before, Inil Swann was a former FBI
22 agent. She only does this work. I talked with her.
23 Mechele Ray talked with her.

24 I can understand if the Board is frustrated by
25 this situation. But it is, you know, the case law

1 currently is in the effect that -- from what I found,
2 that the federal government does have the ability. So
3 even though the federal government wasn't contracting
4 with Inil Swann in her -- with her personally, the
5 government knew or should have known, the federal
6 government new or should have known that she would be
7 used as a subcontractor.

8 And in the contract it listed seven available,
9 OmniPlex lists seven available individuals. I checked
10 all those seven individuals, and none of them are
11 currently licensed, and with seven in Nevada. So.

12 ACTING CHAIRMAN NADEAU: So the assumption is
13 that the exemption, the federal exemption under Omni
14 extends down to their sub -- their 1099 subcontracts?

15 MR. TOWLER: Right. Because it was clear, it
16 should have been clear to the federal government that
17 they would have subcontracts.

18 And did she ever produce the copies of her --

19 MS. RAY: She did not.

20 MR. TOWLER: Okay.

21 MS. RAY: So.

22 MR. TOWLER: But it was shown that she did have
23 credentials. Everybody saw her credentials that show
24 that she is with the Department of -- or she was an
25 investigator through the Department of Homeland

1 Security.

2 And they have a very strict policy of how they
3 give out these credentials. They belong to the federal
4 government. And then this OmniPlex contract, you -- you
5 know, there's a full -- just like a badge. Any other
6 credentials, you have to turn it back in to them. They
7 have to go through -- they have a -- an internal
8 disciplinary program, which, you know, is -- doesn't
9 give authority to the Board, but they do have things.

10 ACTING CHAIRMAN NADEAU: Any comments,
11 Mr. Zane?

12 BOARD MEMBER ZANE: No, sir. I'm prepared for
13 a motion.

14 ACTING CHAIRMAN NADEAU: Any comments,
15 Mr. Uithoven?

16 BOARD MEMBER UITHOVEN: No comment.

17 ACTING CHAIRMAN NADEAU: Okay. I'll accept a
18 motion.

19 BOARD MEMBER ZANE: Mr. Chairman, I'd move that
20 we dismiss the citation on Inil Swann for, I believe,
21 C0-080-10 based upon representations of counsel.

22 BOARD MEMBER UITHOVEN: Second.

23 ACTING CHAIRMAN NADEAU: All right. We have a
24 motion and a second. Any discussion on the motion?

25 Any all in favor, say "aye."

1 (Board members said "aye.")

2 ACTING CHAIRMAN NADEAU: Opposed, nay, anybody?

3 Okay. All right. Thank you.

4

5 AGENDA ITEM 6

6 JOSH BALES

7

8 ACTING CHAIRMAN NADEAU: Let's go ahead and
9 continue on with registration appeal hearings, starting
10 with Josh Bales. Is Josh Bales available?

11 MS. RAY: Mr. Chairman, if I might, there's
12 been some that have been removed.

13 ACTING CHAIRMAN NADEAU: Oh, okay.

14 MS. RAY: Do you want me to go through those
15 quickly?

16 ACTING CHAIRMAN NADEAU: Please.

17 MS. RAY: Item number six has been removed.
18 Item number 13. And, I believe, I think, that's all.

19 And then we kind of grouped them together for
20 each investigator.

21 ACTING CHAIRMAN NADEAU: Okay.

22 MS. RAY: So that they can present all of them
23 at once.

24 ACTING CHAIRMAN NADEAU: Are they numerically
25 grouped?

1 MS. RAY: All but one. Number seven is out of
2 order. So if we want to move him to be with Colin's, or
3 we could take him out of order.

4 ACTING CHAIRMAN NADEAU: Yes, since he's listed
5 first, let's go ahead and take Mr. Kissel, Sean Kissel.
6 Is he available?

7 BOARD MEMBER ZANE: Mr. Chairman?

8 ACTING CHAIRMAN NADEAU: Yes, Mark?

9 BOARD MEMBER ZANE: Do you have anybody up in
10 Carson?

11 ACTING CHAIRMAN NADEAU: No, we have no one
12 down here, or no one here.

13 BOARD MEMBER ZANE: We've got quite a few
14 people. So could I make a -- or could you make a
15 disclosure about the opening and closing of the meeting
16 based upon the receipt of personal information, so
17 that -- and like five minutes or -- if possible?

18 ACTING CHAIRMAN NADEAU: Okay.

19 BOARD MEMBER ZANE: Or I can make an
20 announcement on how the process goes, if you'd like.

21 ACTING CHAIRMAN NADEAU: Actually, I have it
22 right here.

23 BOARD MEMBER ZANE: Great.

24 ACTING CHAIRMAN NADEAU: At this meeting, the
25 Board will consider the above or the various names for

1 this particular section, which is the registration
2 appeal hearings for licensure. Under the authority of
3 NRS 241.030, the Board, upon motion, may close the
4 meeting to the public for the purpose of considering an
5 applicant's character, alleged misconduct, professional
6 competence or physical or mental health.

7 And the individual applicants will have to make
8 that request. Is that correct?

9 MS. RAY: (Nodded head affirmatively.)

10 ACTING CHAIRMAN NADEAU: Did I miss something?

11 MS. RAY: No.

12 MS. BRADLEY: And the Board can receive
13 information in a closed session, but the decision would
14 have to be talked about in the open.

15 ACTING CHAIRMAN NADEAU: Absolutely.

16 MS. BRADLEY: So it's a little bit confusing
17 sometimes, because you can't actually decide in the
18 closed.

19 ACTING CHAIRMAN NADEAU: Okay. So. All right.
20 Well, let's start with Mr. Sean Kissel.

21 BOARD MEMBER UITHOVEN: I think, Board Member
22 Zane requested a five-minute break.

23 ACTING CHAIRMAN NADEAU: Oh, do you want a
24 break?

25 BOARD MEMBER ZANE: Please, sir.

1 ACTING CHAIRMAN NADEAU: Oh, okay. Then, let's
2 take a break. All right.

3 BOARD MEMBER UITHOVEN: Five minutes. Thanks.

4 * * * * *

5 (A break was taken, 10:42 to 10:50.)

6 * * * * *

7 ACTING CHAIRMAN NADEAU: All right. Third
8 time's a charm. Mr. Kissel. So let's -- registration
9 appeal hearing, Sean Kissel.

10 MS. RAY: We just lost them.

11 (There was a brief period off the record to
12 reestablish videoconferencing with Las Vegas.)

13

14 AGENDA ITEM 7

15 SEAN KISSEL

16

17 ACTING CHAIRMAN NADEAU: All right. Is
18 Mr. Kissel still there?

19 BOARD MEMBER ZANE: Pardon?

20 ACTING CHAIRMAN NADEAU: Is Mr. Kissel still
21 there?

22 BOARD MEMBER ZANE: Oh, he's number seven?

23 ACTING CHAIRMAN NADEAU: We're on number --
24 yes, number seven, please, Sean Kissel.

25 BOARD MEMBER ZANE: He approached me during the

1 break and indicated that he wished to withdraw his
2 appeal, and he left.

3 ACTING CHAIRMAN NADEAU: Okay. So we have that
4 on the record.

5 Thank you, Mr. Zane.

6 BOARD MEMBER ZANE: Thank you, sir.

7

8 AGENDA ITEM 8

9 M. ZAHRAI

10

11 ACTING CHAIRMAN NADEAU: Then, we'll now go to
12 number eight. Mr. Zahrai? Is that -- Z -- number
13 eight, Z-A-H-R-A-I.

14 MR. ZAHRAI: A-I.

15 ACTING CHAIRMAN NADEAU: I apologize for --
16 could you pronounce your name for me, please?

17 MR. ZAHRAI: "ZAK-RYE."

18 ACTING CHAIRMAN NADEAU: Zahrai. Okay.
19 Investigator Whatley.

20 Oh. Mr. Zahrai, would you like this to be a
21 closed session, or is it open to the public?

22 MR. ZAHRAI: Open.

23 ACTING CHAIRMAN NADEAU: Okay. Thank you.
24 Were you sworn in at beginning of the meeting?

25 MR. ZAHRAI: Yes.

1 ACTING CHAIRMAN NADEAU: Okay. Thank you.

2 MS. WHATLEY: Mr. Chairman, Mr. Zahrai's
3 application for a work card was originally denied on
4 a -- he self-disclosed attempted theft but could not --
5 originally, he could not provide paperwork. So I did
6 not know if it was a misdemeanor, felony, anything about
7 it. Once I did send a denial letter, he was able to
8 provide a court document. But in that court document,
9 he self-disclosed attempted theft, but there's also
10 engaging in organized criminal activity. And it's up to
11 the Board's discretion on what they would like to do
12 with Mr. Zahrai and his work card.

13 ACTING CHAIRMAN NADEAU: And he was convicted
14 on both?

15 MS. WHATLEY: This -- and I would refer to
16 Thoran on this. It shows that -- this paper that was
17 provided shows the guilty -- it shows both allegations.
18 Offense is -- offense indicated is engaging in organized
19 criminal activity. But then the lesser included offense
20 is attempted theft. And it shows indictment, guilty.

21 MR. TOWLER: Yes, it shows that he pled guilty
22 in two thousand -- December 18th, 2003. That's what I
23 see there.

24 ACTING CHAIRMAN NADEAU: Mr. Zahrai, what --
25 can you -- would you mind explaining what, the

1 circumstances of this.

2 MR. ZAHRAI: The charge, they give it to me,
3 they -- because I went over to Texas to see the friend.
4 Somehow I got involved with something, which is -- I
5 don't know how to deny or prove it. But they granted
6 the time over there, and they drop it to misdemeanor.

7 MR. TOWLER: And, I think, that's probably
8 accurate. It looks like he pled guilty to the lesser
9 included, which is a Class A misdemeanor.

10 MS. WHATLEY: And then the fingerprint results
11 do show that there was entering the country illegally
12 and a deportation that was not disclosed. But I
13 don't -- I did not find that out until I got the
14 fingerprint results back.

15 ACTING CHAIRMAN NADEAU: And how long ago was
16 that?

17 MS. WHATLEY: 2005. It's in your --

18 ACTING CHAIRMAN NADEAU: Yes, I've got to --
19 I've got to find it.

20 MS. WHATLEY: I'm sorry.

21 ACTING CHAIRMAN NADEAU: That's okay. Do we
22 know, does he have appropriate --

23 MS. WHATLEY: He has appropriate documentation,
24 yes, that he provided for his ID.

25 ACTING CHAIRMAN NADEAU: Okay. All right.

1 Mr. Zane, do you have any questions?

2 BOARD MEMBER ZANE: In the documents that I'm
3 reviewing here, the judgment of plea of guilty, it says
4 that you served 403 days.

5 MR. ZAHRAI: Yes.

6 BOARD MEMBER ZANE: Is that how long you were
7 in jail for this misdemeanor violation?

8 MR. ZAHRAI: Yes.

9 MR. TOWLER: If I could -- again, for the
10 record, Thoran Towler. It says the terms of the plea
11 bargain was 364 days. That proves that he did do the
12 misdemeanor. The maximum you can do is 364 days for a
13 misdemeanor. And this is -- you're correct, it does
14 show that he served a total 403. But that extra beyond
15 364 would have applied only to the felony. So I think
16 it was correct, it was just a misdemeanor. He didn't
17 serve all of the time but only technically 364 days for
18 the misdemeanor.

19 BOARD MEMBER ZANE: Thank you.

20 Try to explain to us what the charge is.

21 MR. ZAHRAI: Well, they give me too many
22 charge. Because I couldn't say my name, because it was
23 Muhamed, and I went from California to Texas. So the
24 charge was for the security, they want to keep me there
25 to see who I am or a background check.

1 BOARD MEMBER ZANE: Okay. And you say they
2 said that you -- what do you understand that you did
3 wrong?

4 MR. ZAHRAI: Well, I was -- I was -- I was with
5 the wrong person. It was another person with me, which
6 is -- he had some stuff with the background, and I
7 didn't know that. And my lawyer was in California. It
8 was very difficult for me to prove it. So I went by the
9 law. They keep me there. They said they're going to
10 let me go. They offered me the misdemeanor. In the
11 beginning, I tried to defend myself. So I spend time
12 over there.

13 BOARD MEMBER ZANE: What was the -- the person
14 that you were with, what did they charge him with?

15 MR. ZAHRAI: They -- I believe, it was safety.
16 Because we were together, the same, "taft."

17 BOARD MEMBER ZANE: Theft.

18 MR. ZAHRAI: "Taft."

19 MS. WHATLEY: Theft.

20 BOARD MEMBER ZANE: Theft.

21 ACTING CHAIRMAN NADEAU: Anything additional,
22 further, Mr. Zane?

23 BOARD MEMBER ZANE: No, sir.

24 ACTING CHAIRMAN NADEAU: Mr. Uithoven?

25 BOARD MEMBER UITHOVEN: No.

1 ACTING CHAIRMAN NADEAU: So the reason for the
2 rejection was nondisclosed criminal history?

3 MS. WHATLEY: Well, originally, it was because
4 I couldn't determine what that theft was. There was
5 no -- I couldn't even determine if it was a felony or
6 not.

7 ACTING CHAIRMAN NADEAU: Okay.

8 MS. WHATLEY: He did not provide that until
9 after he was denied. It was after that that I received
10 the fingerprints and saw that there was additional, the
11 additional deportation, illegal entry and deportation.
12 So on his denial letter I did not state undisclosed
13 arrest history. It was denied on the theft charge.

14 ACTING CHAIRMAN NADEAU: When was he granted
15 resident --

16 MS. WHATLEY: I don't have that one handy.

17 ACTING CHAIRMAN NADEAU: Thank you.

18 Mr. Zahrai?

19 MR. ZAHRAI: Yes.

20 ACTING CHAIRMAN NADEAU: What -- when were you
21 granted that resident agent status?

22 MR. ZAHRAI: In 2005.

23 ACTING CHAIRMAN NADEAU: In 2005. Were you
24 deported and then re-admitted, or did you get --

25 MR. ZAHRAI: No, sir.

1 ACTING CHAIRMAN NADEAU: Explain that, the
2 circumstances.

3 MR. ZAHRAI: No. Because I went to the prison
4 or jail. They send me to the INS. And I spent time
5 over there. But it was two different case. And they
6 let me go. They gave me my paper back.

7 ACTING CHAIRMAN NADEAU: Did --

8 MR. ZAHRAI: That day. I had the paper. They
9 grant me to have a work permit, which is -- I have it,
10 and all the legal stuff.

11 ACTING CHAIRMAN NADEAU: Okay. All right. All
12 right. Is there any action, the Board, any motion on
13 the Board, on behalf of the Board?

14 BOARD MEMBER ZANE: Just so I -- I wanted to
15 make sure I'm clear. There was a felony arrest that was
16 plea-bargained to the misdemeanor, and that's the extent
17 of his criminal history?

18 ACTING CHAIRMAN NADEAU: That's what it
19 appears.

20 MR. TOWLER: Yes, that's what we see here.

21 BOARD MEMBER ZANE: Okay. And he self-admitted
22 the arrest and conviction?

23 MS. WHATLEY: He self-admitted the attempted
24 theft. There was no mention of organized crime. But
25 that was all in the same arrest. And then the

1 fingerprint results also showed the illegal entry and
2 deportation, which was not disclosed.

3 BOARD MEMBER ZANE: Mr. Chairman, I'm prepared
4 to make a motion.

5 ACTING CHAIRMAN NADEAU: Go ahead.

6 BOARD MEMBER ZANE: I move that the denial be
7 set aside and a registration card be issued to the
8 applicant.

9 ACTING CHAIRMAN NADEAU: Is there a second?

10 BOARD MEMBER UITHOVEN: Second.

11 ACTING CHAIRMAN NADEAU: All right. It's been
12 moved and seconded to issue a registration for
13 Mr. Zahrai. Any discussion on the motion?

14 Hearing none, all in favor, say "aye."

15 (Board members said "aye.")

16 ACTING CHAIRMAN NADEAU: Opposed?

17 Okay. Congratulations, Mr. Zahrai.

18 MR. ZAHRAI: Thank you.

19

20 AGENDA ITEM 9

21 EBONIE KENNEDY

22

23 ACTING CHAIRMAN NADEAU: The next one would be
24 Ebonie Kennedy.

25 BOARD MEMBER ZANE: Have you been sworn in?

1 MR. KENNEDY: Yes. Yes, sir.

2 ACTING CHAIRMAN NADEAU: Mr. Kennedy, would you
3 like this to be a closed hearing, or are you okay with
4 it being an open hearing?

5 MR. KENNEDY: It's okay being open.

6 ACTING CHAIRMAN NADEAU: All right. Thank you.
7 All right.

8 MS. WHATLEY: Okay. Mr. Chairman, Mr. Kennedy
9 was originally denied on self-disclosed arrest history.
10 You'll notice, on his arrest sheet, it shows in 1993
11 assault and battery, murder and robbery. And it says
12 not guilty, dismissed. But initially, there was no
13 paperwork provided to substantiate that. He was denied.

14 When he appealed, he did provide the court
15 documents to show that -- the court documents do
16 indicate that after serving some time in prison, that
17 this was dismissed. However, when the fingerprint
18 results came back, there is an undisclosed arrest
19 history as well.

20 ACTING CHAIRMAN NADEAU: And that being?

21 MS. WHATLEY: Let's see. Well, if you'll
22 notice on the arrest history sheet, it shows arrest in
23 1993. And it appears that that's all one arrest in
24 1993. However, there was an arrest in 2-16-92. There
25 are -- well, my pages are out of order. Here's the rest

1 of it.

2 There was an arrest in 4-30-92. There was an
3 arrest in 8-19-94.

4 ACTING CHAIRMAN NADEAU: And none of these were
5 disclosed?

6 MS. WHATLEY: Unless they're combined together
7 in the one arrest that he stated. But there are still
8 some charges. For example, you -- on the arrest sheet,
9 you do not see any weapons offenses. And there are two
10 or three weapons offenses, according to the fingerprint
11 results.

12 ACTING CHAIRMAN NADEAU: In my review there, it
13 doesn't look like there's dispositions on hardly any of
14 these.

15 MS. WHATLEY: And that's where the court
16 documents come in that he provided in his appeal. So
17 you'll find his appeal letter. And then, right after
18 that, you'll see court documents.

19 MR. TOWLER: I could discuss, if the Board
20 would like, to the 2010 -- I'm sorry -- the 1994. It
21 looks like, from what he submitted, those charges, he
22 pled guilty to at least a charge, did some time on that
23 charge, and then later had it expunged in California.
24 And under the California expungement code, which is the
25 Penal Code, Section 1203.4, what you can do after you've

1 paid your fines and served any time applicable to a
2 charge, or certain charges, you can go back in, and it's
3 kind of like sealing records. But in California, you
4 actually go back into court. And the D.A. is there.
5 They reopen your case. You change your guilty plea to a
6 plea of not guilty. And then the case will be dismissed
7 by the judge. And it looks like that's what he
8 submitted that he did in 1997.

9 MR. KENNEDY: No, that's not true.

10 ACTING CHAIRMAN NADEAU: Why don't you tell us
11 what happened.

12 MR. KENNEDY: What happened was I was arrested
13 on mistaken identity. And I was losing that part of the
14 case. I have pleaded to a misdemeanor, because my
15 contact passed on me, and they was trying to put the
16 whole case on me. So I pleaded to a misdemeanor. And I
17 did a year in the county jail.

18 After that, I got out. I did three years of
19 probation. After doing three years of probation, my
20 probation officer, he had looked under the case and
21 found out it wasn't me in the case. So he got my
22 records expunged for me. I never did nothing towards
23 that. My probation officer did it there for me. And he
24 got me off probation early because it was a mistaken
25 identity.

1 ACTING CHAIRMAN NADEAU: Mistaken identity
2 inasmuch as there's --

3 MR. KENNEDY: Yes, sir.

4 ACTING CHAIRMAN NADEAU: -- there's another
5 Ebonie Amico (phonetic spelling) Kennedy or --

6 MR. KENNEDY: That's me.

7 ACTING CHAIRMAN NADEAU: I know. But who's the
8 mistaken identity, then, with?

9 MR. KENNEDY: Of the case. It was a mistaken
10 identity on the case, the assault and battery. On both
11 cases, I was falsely arrested for, arrested. Because
12 both of them was -- was not me.

13 MR. TOWLER: Well, regardless of what the
14 circumstances of the expungement are, the case was
15 expunged. And so the case was dismissed.

16 ACTING CHAIRMAN NADEAU: Okay.

17 MR. TOWLER: After he served his time. And the
18 documents he gave us is -- cite Penal Code, California
19 Penal Code 1 -- 1203.4, which is dismissal of conviction
20 where the defendant has been granted probation. So.
21 But it doesn't really matter, I don't think, I must say.
22 I just want to give a background as to why those cases
23 have been expunged.

24 ACTING CHAIRMAN NADEAU: Help me out, then. If
25 the case has been expunged, then, is there -- do we have

1 a legal requirement for -- for an applicant to disclose
2 that information?

3 MR. TOWLER: No, California is different. It's
4 the same, I think, if you think about it as a sealing
5 records here, it's sealed.

6 ACTING CHAIRMAN NADEAU: Right.

7 MR. TOWLER: I'm not sure what the Board
8 usually does. I would think people -- you know, some
9 cases say "Have you ever been convicted of a crime?"
10 And some applications say "Have you ever been convicted
11 of a crime?" This, I think you would be able to say no.
12 If an application says "Have you ever been arrested for
13 a crime?" he would have to say yes. Because unlike the
14 sealing of a record, where it stops being available,
15 this is actually going back in time and changing his
16 plea. You see the plea is changed to not guilty. And
17 the case was dismissed. So there is no --

18 MS. BRADLEY: Well, the question is on the
19 arrest history: Have you ever been arrested, indicted,
20 received a citation, or been ordered to appear in court
21 for any criminal offense? And he checked Yes, and then
22 he put the information for that.

23 ACTING CHAIRMAN NADEAU: So he disclosed, he
24 disclosed the arrest. But. Okay.

25 MR. TOWLER: But these are only some of the

1 arrests, I believe.

2 MS. WHATLEY: Yes. He disclosed a single
3 arrest, according to his paper, and you have it there,
4 his arrest history, that he provided, on his
5 application. But there is an arrest of 2-16-92 for
6 battery on a person. There's an arrest 4-30-1992.
7 That's the robbery, concealed weapon in vehicle, and
8 weapon in public. There is an arrest April 2, '94,
9 assault with a deadly weapon, no firearm. Now, two of
10 those are combined into the one case here. But he still
11 did not --

12 ACTING CHAIRMAN NADEAU: There's still a couple
13 of arrests that were not disclosed?

14 MS. WHATLEY: That's correct. Or at least one.

15 ACTING CHAIRMAN NADEAU: Mr. Kennedy?

16 MR. KENNEDY: Yes, sir?

17 ACTING CHAIRMAN NADEAU: Were you arrested
18 other times than the single event that you put down?

19 MR. KENNEDY: Yes, for traffic tickets.
20 Misdemeanors, traffic tickets.

21 ACTING CHAIRMAN NADEAU: What about the arrest
22 in -- what was it, ninety --

23 MS. WHATLEY: Well, it's difficult to know
24 exactly. He was arrested in 1993. And I understand
25 that not everybody knows. They can be off a few months

1 or a year or so. But it says on the arrest history
2 sheet, this sheet here that you have, it shows an arrest
3 in 1993 for assault and battery, murder and robbery.

4 On the fingerprint returns that you have,
5 there's an arrest 2-16-92. There's an arrest 4-30-92.
6 And there's an arrest 8-19-94.

7 ACTING CHAIRMAN NADEAU: Do you recall those
8 arrests?

9 MR. KENNEDY: Yes. The '92 arrest was the
10 murder/robbery.

11 ACTING CHAIRMAN NADEAU: Okay.

12 MR. KENNEDY: And the '94 arrest was the
13 assault with a deadly weapon.

14 ACTING CHAIRMAN NADEAU: All right.

15 MR. KENNEDY: That was it. This shouldn't be
16 three. It was only two.

17 ACTING CHAIRMAN NADEAU: What's the arrest for
18 a concealed weapon in a vehicle?

19 MR. KENNEDY: That should be for the
20 murder/robbery.

21 ACTING CHAIRMAN NADEAU: Okay.

22 Mr. Zane, do you have any questions?

23 BOARD MEMBER ZANE: What have you been doing
24 with yourself since this happened?

25 MR. KENNEDY: Staying out of trouble, working

1 part-time jobs, trying to take care of my family.

2 BOARD MEMBER ZANE: Was there a particular
3 reason that you did not list all of your arrests?

4 MR. KENNEDY: No, because I didn't know how to
5 do it, I was -- but they said the felonies. That's the
6 two I put, the felony arrests.

7 BOARD MEMBER ZANE: Well, the registration
8 process asked for arrests, not just felony arrests.

9 MR. KENNEDY: Okay. It said felony arrest. So
10 that's why I put the felony down. I have it. See, this
11 is it. It's the same one they have. It's this right
12 here.

13 BOARD MEMBER ZANE: Okay. Were the other
14 arrests misdemeanor, traffic?

15 MR. KENNEDY: Yes, that's it. All the other
16 ones is traffic, misdemeanors.

17 BOARD MEMBER ZANE: When was the last time that
18 you went into the courtroom for any type of criminal
19 matter, any --

20 MR. KENNEDY: The last time was, oh, 2003, I
21 think.

22 BOARD MEMBER ZANE: 2003?

23 MR. KENNEDY: Yes, for a traffic ticket.

24 BOARD MEMBER ZANE: Traffic ticket?

25 MR. KENNEDY: Yes.

1 BOARD MEMBER ZANE: What state was that in?

2 MR. KENNEDY: California.

3 BOARD MEMBER ZANE: What were the charges?

4 MR. KENNEDY: They dropped it.

5 BOARD MEMBER ZANE: Was it speeding or what?

6 MR. KENNEDY: They dropped it down to
7 disturbing the peace. I haven't been arrested for no
8 DUIs, nothing since then. I don't drink. So DUIs
9 wouldn't be on my arrest record.

10 BOARD MEMBER ZANE: Are you married?

11 MR. KENNEDY: I'm engaged, yes.

12 BOARD MEMBER ZANE: Engaged. Any children?

13 MR. KENNEDY: Yes, one.

14 BOARD MEMBER ZANE: One. How old is he?

15 MR. KENNEDY: Five.

16 BOARD MEMBER ZANE: He?

17 MR. KENNEDY: He.

18 BOARD MEMBER ZANE: Does he live with you?

19 MR. KENNEDY: Yes, sir.

20 ACTING CHAIRMAN NADEAU: Any more questions,
21 Mr. Zane?

22 BOARD MEMBER ZANE: No, thank you, sir.

23 BOARD MEMBER UITHOVEN: No questions.

24 ACTING CHAIRMAN NADEAU: No questions here.

25 All right. I have no questions. I'm open for a motion.

1 Hearing none, then the citation, or excuse me,
2 the denial is -- hearing no motion to the contrary, the
3 denial is sustained.

4 Is that correct? If there's no motion, then
5 the denial is sustained?

6 MS. BRADLEY: I think, you'd probably want to
7 make a motion as to what you want to do, to make it
8 clear. So if you want to sustain that, the denial, I
9 mean I would just think it's clearer if you make a
10 motion to that effect, so that it can be on the record.

11 ACTING CHAIRMAN NADEAU: Okay. Then, is there
12 a motion in either direction?

13 BOARD MEMBER ZANE: Mr. Chairman, I would move
14 that the denial be sustained.

15 ACTING CHAIRMAN NADEAU: Okay. I'll second
16 that. Any discussion on the motion?

17 All in favor of the motion, signify by saying
18 "aye."

19 (Board members said "aye.")

20 ACTING CHAIRMAN NADEAU: Opposed?

21 Sorry, Mr. Kennedy, but your denial is
22 sustained. You're welcome to reapply in one year.

23 And, Mr. Kennedy?

24 MR. KENNEDY: Excuse me?

25 ACTING CHAIRMAN NADEAU: Mr. Kennedy, I would

1 suggest that if you choose to apply, reapply in one
2 year, I would suggest that you make sure that all
3 arrests, inclusive of misdemeanors and felonies, are
4 included in your application.

5 MR. KENNEDY: Okay.

6 ACTING CHAIRMAN NADEAU: Thank you,
7 Mr. Kennedy.

8

9

AGENDA ITEM 10

10

JACK FUTRELL

11

12

13

ACTING CHAIRMAN NADEAU: All right. Next is
Jack Futrell.

14

Is Mr. Futrell there?

15

16

BOARD MEMBER ZANE: There's nobody approaching,
Mr. Chairman.

17

18

AGENDA ITEM 11

19

JOSEPH MARSHALL

20

21

22

ACTING CHAIRMAN NADEAU: All right. Then,
we'll move on to Mr. Joseph Marshall.

23

MR. MARSHALL: I'm here.

24

BOARD MEMBER ZANE: He's here.

25

ACTING CHAIRMAN NADEAU: All right. Great.

1 BOARD MEMBER ZANE: Were you sworn before?

2 MR. MARSHALL: No.

3 BOARD MEMBER ZANE: He has not been sworn,
4 Mr. Chairman.

5 ACTING CHAIRMAN NADEAU: He has not been sworn.
6 Will you.

7 MR. TOWLER: Please raise your right hand. Do
8 you swear that the testimony you give today is the
9 truth, the whole truth, and nothing but the truth, so
10 help you?

11 MR. MARSHALL: I do.

12 Can I have a closed hearing?

13 BOARD MEMBER UITHOVEN: He's requesting closed,
14 Mr. Chairman.

15 ACTING CHAIRMAN NADEAU: Okay. Mr. Marshall,
16 were you asking this be closed?

17 MR. MARSHALL: Yes.

18 ACTING CHAIRMAN NADEAU: All right. Mr. Zane,
19 and I don't know who else is there, if you could please
20 clear the room.

21 * * * * *

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

25 * * * * *

1 ACTING CHAIRMAN NADEAU: Okay. We're now back
2 open to the public.

3 Is there any question or any comments that
4 you'd like to make now that we're back in a public
5 hearing, Mr. Marshall?

6 MR. MARSHALL: No, sir.

7 ACTING CHAIRMAN NADEAU: Okay. Then, I would
8 be -- I would be open for a motion.

9 BOARD MEMBER UITHOVEN: Mr. Chairman, I'd move
10 that we grant Mr. Marshall a provisional card, given the
11 fact that the district attorney's office has signed off
12 and we are waiting upon a judge's signature. And the
13 provisional card could become, I guess, a permanent card
14 once we, the Board has received the judge's sign-off as
15 well. And that's my motion.

16 ACTING CHAIRMAN NADEAU: We have a motion. Is
17 there a second?

18 BOARD MEMBER ZANE: Second.

19 ACTING CHAIRMAN NADEAU: Okay. We have a
20 motion and a second. Discussion on the motion?

21 BOARD MEMBER UITHOVEN: I would just add, just
22 for purposes of the record, in the document provided,
23 there was a letter sent yesterday from B.J. Kenny
24 (phonetic spelling). He mentioned that never, in at
25 least the last four years that they've documented here,

1 has a judge not signed or gone ahead with a district
2 attorney's sign-off. So that's what gives me the
3 confidence to make this motion and provide -- and move
4 to provide Mr. Marshall a provisional card.

5 ACTING CHAIRMAN NADEAU: Is there any time
6 limit on the provisional? What's our typical time limit
7 on the provisional, 90 days?

8 MS. WHATLEY: 90 days.

9 ACTING CHAIRMAN NADEAU: Does it have to be
10 completed within any period of time? I know that it
11 was --

12 BOARD MEMBER UITHOVEN: Could I just amend the
13 motion or just add to the motion that we stipulate that,
14 a 90-day time frame, or is that already --

15 ACTING CHAIRMAN NADEAU: Okay. Mr. Zane, are
16 you comfortable with that?

17 BOARD MEMBER ZANE: Oh. If we could just give
18 him a provisional, and if the document arrives, then
19 staff has the opportunity to make it a permanent. And
20 if it doesn't arrive, in 90 days, it will put us back
21 here at the next meeting where we can address it again.

22 ACTING CHAIRMAN NADEAU: I think -- okay. So
23 it's -- so, in other words, if the document has hasn't
24 arrived by our next meeting, then it would be
25 rescheduled. Is the maker of the motion okay with that

1 language?

2 BOARD MEMBER UITHOVEN: Yes, I am,
3 Mr. Chairman.

4 ACTING CHAIRMAN NADEAU: Okay. All right. We
5 have a motion. Any discussion on the motion?

6 All in favor, say "aye."

7 (Board members said "aye.")

8 ACTING CHAIRMAN NADEAU: Opposed?

9 All right. Mr. Marshall, congratulations. I
10 guess -- all right. Mr. Marshall, contact the Board for
11 the next step.

12 MR. MARSHALL: Okay. Thank you.

13 ACTING CHAIRMAN NADEAU: You're welcome.

14 MR. MARSHALL: All right.

15

16 AGENDA ITEM 12

17 TONY HERBERT

18

19 ACTING CHAIRMAN NADEAU: All right. Tony
20 Herbert?

21 MR. HERBERT: Yes, sir.

22 BOARD MEMBER ZANE: Were you sworn?

23 MR. HERBERT: Yes, sir.

24 ACTING CHAIRMAN NADEAU: Good morning.

25 MR. HERBERT: Good morning, sir.

1 ACTING CHAIRMAN NADEAU: Would you like this
2 open or closed?

3 MR. HERBERT: Open is fine, sir.

4 ACTING CHAIRMAN NADEAU: All right. Were you
5 sworn in?

6 MR. HERBERT: Yes, sir.

7 ACTING CHAIRMAN NADEAU: All right. Very good.
8 Investigator Whatley?

9 MS. WHATLEY: Mr. Chairman, this work card was
10 denied for undisclosed arrest history and character
11 based upon the number of arrests and the type of
12 arrests. And you do have documents in front of you.
13 And then, also, the fingerprint results actually show
14 one of the nondisclosed arrests is a felony burglary
15 charge that the disposition shows he pled guilty.

16 MR. HERBERT: No.

17 ACTING CHAIRMAN NADEAU: So is the burglary the
18 only undisclosed?

19 MS. WHATLEY: Oh, no.

20 MR. HERBERT: No.

21 ACTING CHAIRMAN NADEAU: Oh.

22 MS. WHATLEY: He disclosed six arrests. And
23 you can see the history there, how many arrests there
24 are.

25 ACTING CHAIRMAN NADEAU: Mr. Herbert, what's

1 your explanation here?

2 MR. HERBERT: Sir, I didn't intentionally leave
3 that out. When I went down, when I -- I've never had a
4 problem getting my work card. I've always renewed it.
5 I've had it for like 20 years. I just couldn't remember
6 the arrests. Usually, when I went down to Metro, they
7 would say, "Hey, here's your arrest sheet," and I would
8 copy that down at -- on Russell Road. And when I came
9 down here, I couldn't remember the arrests. And so I
10 just listed what I could.

11 There was -- it's kind of a long story. But
12 somebody else was paying for the card. The Salvation
13 Army was paying for the card for me. Because I've been
14 through their rehabilitation program for alcohol. And
15 they were paying for it. And they were in a hurry.
16 They're like, "Just fill out what you can remember, and
17 we'll deal with the rest later." And that's why I'm
18 sitting here now. I should have got a copy of my police
19 report.

20 And as far as the burglary goes, it was -- I
21 pled guilty to a petty larceny. They arrested me for
22 burglary for stealing a beer, a can of beer. And the
23 judge dropped it to petty larceny. It was just petty
24 theft. And that's what I pled guilty to. I did three
25 days in jail, and he dropped it, and it was time served.

1 It was just -- I just...

2 ACTING CHAIRMAN NADEAU: Mr. Zane, any
3 questions?

4 BOARD MEMBER ZANE: Were you -- is all of your
5 criminal history basically due to alcohol abuse?

6 MR. HERBERT: Yes, sir. That's why I've been
7 through the -- went through the rehabilitation program.
8 I have eight months clean, sober now. And I'm still in
9 vocational rehab, which I'm staying there. And, you
10 know, this is a -- where I'm going to be working for
11 probably when I get out, is doing security for them. So
12 I'm still in the program. But I need my work card to
13 work, to work for them.

14 MS. WHATLEY: Mr. Chairman, also, I would like
15 to -- the amount of domestic violence arrests, and one
16 was also a violation of a temporary restraining order.

17 MR. HERBERT: Yes. Can I respond to that or?

18 BOARD MEMBER ZANE: Sure.

19 MR. HERBERT: The domestic violence, it was
20 just -- a lot of them, I plead guilty. There was like
21 four or five. And there was a failure to appear and
22 stuff like that. It was a bad time. And me and my wife
23 were both alcohol and drugs addicts. She was a drug
24 addict. We're separated. Our son was killed. And it
25 was just a really bad time in our lives.

1 And what Metro would do with it before was they
2 would put a flag on my sheriff's card to where I can't
3 carry a weapon, but I can work as a security officer,
4 unarmed.

5 ACTING CHAIRMAN NADEAU: Mr. Herbert?

6 MR. HERBERT: Yes, sir.

7 ACTING CHAIRMAN NADEAU: I see this burglary
8 arrest was -- am I missing this? It was in November of
9 2008?

10 MR. HERBERT: Yes, sir.

11 ACTING CHAIRMAN NADEAU: Two years ago?

12 MR. HERBERT: Yes, sir.

13 ACTING CHAIRMAN NADEAU: I -- this reflects
14 that it was a -- that you pled guilty, but it doesn't
15 indicate that you plead guilty to anything besides NRS
16 205.060, which, I believe, is -- I believe, that's
17 burglary. And there's no such thing --

18 MR. HERBERT: No, sir.

19 ACTING CHAIRMAN NADEAU: -- as misdemeanor
20 burglary.

21 MR. HERBERT: Yeah. Well, no, what I pled
22 guilty to, he dropped it to a petty larceny, because it
23 was a 24-ounce beer.

24 ACTING CHAIRMAN NADEAU: Well --

25 MR. HERBERT: And the judge just said petty

1 larceny, petty theft and dismissed it. I did three days
2 in jail, and it was dropped.

3 ACTING CHAIRMAN NADEAU: That --

4 MR. HERBERT: The reason the officer charged me
5 with burglary is because I went in with the intent to
6 steal the beer.

7 ACTING CHAIRMAN NADEAU: That may well be the
8 case, but it certainly doesn't reflect that on your
9 criminal history, criminal history record.

10 MR. HERBERT: Yes, sir.

11 ACTING CHAIRMAN NADEAU: Am I missing that?

12 MR. HERBERT: I don't understand that.

13 MS. WHATLEY: Actually, let me look.

14 This one, I was trying to see if this one
15 showed any different.

16 ACTING CHAIRMAN NADEAU: Okay. Any --
17 Mr. Zane, any questions?

18 BOARD MEMBER ZANE: No, sir.

19 ACTING CHAIRMAN NADEAU: Mr. Uithoven?

20 BOARD MEMBER UITHOVEN: No, sir.

21 ACTING CHAIRMAN NADEAU: I would accept a
22 motion, then.

23 BOARD MEMBER ZANE: Mr. Chairman, I move to
24 uphold the denial.

25 ACTING CHAIRMAN NADEAU: Okay. We have a

1 motion to uphold the denial.

2 BOARD MEMBER UITHOVEN: Second.

3 ACTING CHAIRMAN NADEAU: And we have a second.

4 Any discussion on the motion?

5 Hearing no discussion, all in favor, say "aye."

6 (Board members said "aye.")

7 ACTING CHAIRMAN NADEAU: Opposed?

8 All right. Mr. Herbert, your denial has been
9 sustained. If, in fact, the court reduces -- reduced
10 that, that would probably be to your benefit to have
11 that, the criminal history, amended to so reflect that.

12 MR. HERBERT: Okay.

13 ACTING CHAIRMAN NADEAU: But, I think, given
14 your history at this point, you've been denied.

15 MR. HERBERT: Okay. So, now, if I -- if I go
16 get that changed, is that the only reason I'm being
17 denied, is because of the burglary charge?

18 ACTING CHAIRMAN NADEAU: I think, it's because
19 of your criminal history. Let's put it this way. The
20 denial was sustained.

21 MR. HERBERT: Okay. But I'm saying --

22 ACTING CHAIRMAN NADEAU: Because you've been
23 denied, you will not be able to reapply for one year.

24 MR. HERBERT: Okay.

25 ACTING CHAIRMAN NADEAU: And that's -- I think,

1 that's statutory. So, therefore, in one year --

2 MR. HERBERT: Fix it.

3 ACTING CHAIRMAN NADEAU: -- you need -- you
4 could come back and reapply. But at this point, it'll
5 be a year before you could.

6 MR. HERBERT: Thank you.

7 ACTING CHAIRMAN NADEAU: What you do with your
8 criminal history record between now and then is up to
9 you.

10 MR. HERBERT: Okay.

11 ACTING CHAIRMAN NADEAU: All right?

12 MR. HERBERT: Thank you.

13

14 AGENDA ITEM 13

15 MORRIS MOLLATO

16

17 ACTING CHAIRMAN NADEAU: Right. Okay. Now we
18 move on to Morris Mollato.

19 BOARD MEMBER UITHOVEN: Removed.

20 MS. RAY: We removed it.

21 ACTING CHAIRMAN NADEAU: Oh, we did. Right.

22 I'm sorry.

23 ///

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 14

JEREMY HOPKINS

ACTING CHAIRMAN NADEAU: Jeremy Hopkins.

BOARD MEMBER ZANE: Mr. Hopkins is here.

ACTING CHAIRMAN NADEAU: All right. Thank you.

Mr. Hopkins, were you sworn in?

MR. HOPKINS: Yes, I was.

ACTING CHAIRMAN NADEAU: You have been. Okay.

Do you wish for this to be open or closed?

MR. HOPKINS: Closed.

ACTING CHAIRMAN NADEAU: Closed? All right.

I'd ask the public to please step out of the room.

* * * * *

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

* * * * *

ACTING CHAIRMAN NADEAU: Open session. Okay.

I would entertain a motion.

BOARD MEMBER ZANE: Mr. Chairman, I'd move that -- that we set aside the denial for Jeremy Hopkins and issue him a card.

ACTING CHAIRMAN NADEAU: All right. We have a motion for issuance of the card. Do we have a second?

1 BOARD MEMBER UITHOVEN: Second.

2 ACTING CHAIRMAN NADEAU: We have a second. Any
3 discussion on the motion?

4 All in favor of the motion, signify by saying
5 "aye."

6 (Board members said "aye.")

7 ACTING CHAIRMAN NADEAU: Opposed?

8 MR. HOPKINS: Aye.

9 ACTING CHAIRMAN NADEAU: Mr. Hopkins, I don't
10 think you want to oppose this action, Mr. Hopkins. I
11 would suggest, though, on any future applications, that
12 you fully disclose the information.

13 MR. HOPKINS: Okay.

14 ACTING CHAIRMAN NADEAU: To -- that way, you
15 probably wouldn't be -- you may not be involved in these
16 kinds of hearings. So congratulations. Take care.

17 MR. HOPKINS: Thank you.

18 MR. IVY HOPKINS: So what do we do at this
19 point?

20 BOARD MEMBER ZANE: You contact the Board
21 tomorrow or the next day, give them an opportunity to
22 process almost two days worth of meetings, and then
23 we'll instruct you.

24 MR. IVY HOPKINS: Thank you.

25 MR. HOPKINS: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 15

CHRISTOPHER WEST

ACTING CHAIRMAN NADEAU: All right. We'll now go to Christopher West. (There was a loud noise from the sound system.) Oh, that hurt. Christopher West?

BOARD MEMBER ZANE: Nobody's responding, Mr. Chairman.

AGENDA ITEM 16

JUAN CREQUE

ACTING CHAIRMAN NADEAU: All right. Juan Creque ("Creek").

MR. CREQUE: Yes, sir.

ACTING CHAIRMAN NADEAU: Did I pronounce that correctly?

MR. CREQUE: Negative, sir.

ACTING CHAIRMAN NADEAU: All right. Can you tell me how to pronounce it?

MR. CREQUE: Creque ("Creek-ee").

ACTING CHAIRMAN NADEAU: Creque ("Creek-ee")?

MR. CREQUE: Yes, sir.

ACTING CHAIRMAN NADEAU: All right, Mr. Creque. Who is the investigator on this?

1 MR. JUPP: Investigator Jupp, sir.

2 ACTING CHAIRMAN NADEAU: Could you go ahead and
3 explain where we're at with this.

4 Oh, I'm sorry. Mr. Creque, question number
5 one, were you sworn in?

6 MR. CREQUE: Yes, sir.

7 ACTING CHAIRMAN NADEAU: You were. Okay. And,
8 number two, do you want this open or closed?

9 MR. CREQUE: Closed, sir.

10 ACTING CHAIRMAN NADEAU: Closed.

11 MR. CREQUE: Yes, sir.

12 ACTING CHAIRMAN NADEAU: All right. Those in
13 the back are certainly getting their exercise, aren't
14 you?

15 * * * * *

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

19 * * * * *

20 ACTING CHAIRMAN NADEAU: Mr. Creque, do you
21 have any other comments at this point?

22 MR. CREQUE: No, sir, just for the fact that I
23 was just, you know, underage, I was dealing with family
24 issues, and it seemed like the thing to do at the time.
25 But as of right now, I have a family, and I have another

1 son on the way within two weeks. You know, and this job
2 opportunity, I've been sitting on it on the whole time
3 waiting for this appeal. Hopefully, everything goes
4 well, sir.

5 ACTING CHAIRMAN NADEAU: Thank you.

6 All right. At this point, any additional
7 comments from the Board? If not, I'll accept a motion.

8 BOARD MEMBER UITHOVEN: Mr. Chairman, I make a
9 motion to approve a card for Mr. Juan Creque, a work
10 card.

11 ACTING CHAIRMAN NADEAU: All right. We have a
12 motion to issue the card. Do I have a second?

13 BOARD MEMBER ZANE: Second.

14 ACTING CHAIRMAN NADEAU: Okay. I have a motion
15 and a second. Any discussion on the motion?

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

17 (Board members said "aye.")

18 ACTING CHAIRMAN NADEAU: Opposed?

19 Congratulations, Mr. Creque.

20 MR. CREQUE: Thank you, sir.

21 ACTING CHAIRMAN NADEAU: I hope you learned
22 something from this event.

23 MR. CREQUE: I have.

24 ACTING CHAIRMAN NADEAU: Thank you.

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 17

LLOYD HANNAH

ACTING CHAIRMAN NADEAU: Move on to Mr. Lloyd Hannah. Lloyd Hannah? Lloyd Hannah, going once.

BOARD MEMBER ZANE: Anybody?

AGENDA ITEM 18

WILLIAM SNEED

ACTING CHAIRMAN NADEAU: Okay. William Sneed.

MR. SNEED: Here, sir.

ACTING CHAIRMAN NADEAU: Good morning, Mr. Sneed.

MR. SNEED: Good morning, sir.

ACTING CHAIRMAN NADEAU: And who's the investigator on this one, please?

MR. JUPP: Investigator Jupp again, sir.

ACTING CHAIRMAN NADEAU: Okay. Mr. Sneed, were you sworn in at the beginning of this meeting?

MR. SNEED: Yes, sir, I was.

ACTING CHAIRMAN NADEAU: All right. Do you want this to be open or closed?

MR. SNEED: Open is fine.

ACTING CHAIRMAN NADEAU: Thank you.

1 All right. Then, go ahead. Investigator, go
2 ahead and give us the background, please.

3 MR. JUPP: Okay. Mr. Sneed was denied the
4 first time for failing to disclose a citation for
5 battery domestic violence that was issued on May 7,
6 2005, as well as a citation of battery issued in October
7 of 2008. In the denial letter sent to the applicant,
8 the letter said that his application had been denied,
9 that he could appeal it, to me, the investigator, and to
10 include with the appeal letter a revised arrest history
11 that reflected those two arrests that he had not listed
12 previously.

13 He did submit a few requests to me with the
14 amended arrest history showing those two arrests. At
15 that point, I made him provisional on July 26, 2010.

16 About the 10th of August, 2010, I got the FBI
17 fingerprint response back. He was denied again because
18 he -- in the FBI fingerprint response there were several
19 arrests there that he failed to put either on his
20 initial application or his revised arrest history.
21 Those arrests included: 1976 unlawful taking of a
22 vehicle; 1978 false imprisonment, battery, assault; 1979
23 battery on a police officer, slash, firearm, as well as
24 obstructing, slash, resisting a public officer; 1980
25 possession of controlled substance; 1983 under the

1 influence of controlled substance.

2 I sent him a second denial letter on
3 August 26th, 2010.

4 ACTING CHAIRMAN NADEAU: Mr. Sneed?

5 MR. SNEED: Yes, sir.

6 ACTING CHAIRMAN NADEAU: What would you like to
7 say with regard to this?

8 MR. SNEED: Well, it's kind of a long, drawn
9 out story. However, the two arrests that -- here in
10 Las Vegas were both dismissed. The previous record --

11 ACTING CHAIRMAN NADEAU: Mr. Sneed?

12 MR. SNEED: Yes.

13 ACTING CHAIRMAN NADEAU: Help me out. Help me
14 out by identifying which, what the arrests were for, if
15 you would, please.

16 MR. SNEED: One was for battery, and one was
17 for domestic battery.

18 ACTING CHAIRMAN NADEAU: Okay.

19 MR. SNEED: I went back, and I had what I
20 thought would be all of my records expunged out of
21 California. That's where all these other cases are
22 from. I paid an attorney what I consider to be a pretty
23 good amount of money to have all these cases expunged.
24 As it turns out, the majority of them were expunged.
25 Therefore, it was my understanding that since they were

1 expunged, it was like having them sealed, so they would
2 not come up. And the fact that they were like 35 years
3 old, I did not think that they would come up.

4 I did not have the two cases in Las Vegas
5 expunged. The attorney said there was no need, because
6 they had been dismissed, so they weren't a problem.

7 I brought with me today proof of the
8 expungement of the cases that I've had. I also brought
9 a full copy of my arrest record. It was furnished to
10 me. I had to find this. I had no idea where it was at.
11 And these cases took place from '73 to '83. And if you
12 look at the entire record, you're going to see that
13 there's a few drug cases, under the influence, DUI
14 cases, things like that. And that's, basically, what
15 all this was about. It was about a 10-year period that
16 I was heavily into getting high and drinking a lot.

17 And I have one, one felony that has been
18 expunged. And I got drunk, stole a car on a dare. And
19 in the meantime, since '73, up until 2008, I've had a
20 clean record. I've even got a copy of my driver's
21 record with me here. I have no violations whatsoever.

22 And I've been working as an iron worker for the
23 last 10 years or more. And I'm a single father. I have
24 a 14-year-old daughter I've been raising since she was
25 eight.

1 ACTING CHAIRMAN NADEAU: Mr. Sneed, could you
2 give the record of expungement to the investigator,
3 please.

4 MR. SNEED: Yes, sir. Mr. Jupp or --

5 MR. JUPP: Yes, sir.

6 MR. SNEED: I'd also like to mention that I
7 haven't filled out a job application for about 12, 13
8 years. Being an iron worker, you just go from one job
9 to the next and fill out your W-2s. And previously to
10 that, on applications that I've filled out for things, I
11 never mentioned any of this, and never any of it came
12 up. So it was my impression it still wouldn't come up,
13 especially being that old.

14 And when Mr. Jupp sent me the first letter, he
15 asked about the two incidents, here in Las Vegas, the
16 two that were dismissed. And it was my impression that
17 that was the only two he was asking about and that the
18 others hadn't even come up. And I didn't realize that
19 there was a further check going on and that the others
20 would go back 35 years.

21 ACTING CHAIRMAN NADEAU: Okay. Mr. Zane, any
22 questions?

23 BOARD MEMBER ZANE: I'm just waiting for
24 Investigator Jupp to review the documents.

25 ACTING CHAIRMAN NADEAU: Okay. Thank you.

1 Mr. Uithoven?

2 BOARD MEMBER UITHOVEN: No.

3 ACTING CHAIRMAN NADEAU: All right. Then, I'll
4 entertain a motion.

5 BOARD MEMBER ZANE: I'd like to ask
6 Investigator Jupp if the record that he's been given has
7 added anything to his finding or report.

8 MR. JUPP: Looking at these documents, it looks
9 like he has requested that charges be cleared. He
10 requested that in the court, all except one. There's a
11 conflicting word here. It looks like they've all been
12 granted; in other words, that these charges are cleared
13 off of his record according to this document that I'm
14 looking at. The document was filed on January 4th this
15 year.

16 Had I had these documents when I got his
17 initial application, he probably would not have been
18 denied. Because I received his application on June 9th
19 of this year.

20 ACTING CHAIRMAN NADEAU: Okay. Any other
21 questions, Mark?

22 BOARD MEMBER ZANE: No, sir.

23 ACTING CHAIRMAN NADEAU: All right.

24 MR. SNEED: May I make a comment?

25 ACTING CHAIRMAN NADEAU: Absolutely.

1 MR. SNEED: My only reason for not putting
2 those in was it was my understanding that when you -- I
3 don't know about these things, but it was my
4 understanding that that was the purpose of doing the
5 expungement, so that you didn't have to expose, and you
6 could legally say, no, this didn't happen, because it
7 had been kind of like erased, or I don't know the legal
8 term.

9 ACTING CHAIRMAN NADEAU: We understand that,
10 Mr. Sneed. Thank you.

11 MR. SNEED: Yes, sir.

12 ACTING CHAIRMAN NADEAU: Okay. Then, I'd still
13 entertain a motion.

14 BOARD MEMBER ZANE: Mr. Chairman, I'd make a
15 motion to set aside the denial and issue a card.

16 ACTING CHAIRMAN NADEAU: I'll second that. Any
17 discussion on the motion?

18 Hearing none, all in favor, say "aye."

19 (Board members said "aye.")

20 ACTING CHAIRMAN NADEAU: Was that an "aye,"
21 Mr. Zane?

22 BOARD MEMBER ZANE: Oh, I'm sorry. Yes. Aye.

23 ACTING CHAIRMAN NADEAU: Okay. All right.
24 Congratulations, Mr. Sneed.

25 MR. SNEED: Thank you, sir. And I'll learn to

1 follow instructions from now on.

2 ACTING CHAIRMAN NADEAU: Well, I think, if they
3 were expunged, there may be some time elapse as far as
4 getting it into the system and that type of thing. But,
5 anyway.

6 MR. SNEED: Thank you, sir.

7 ACTING CHAIRMAN NADEAU: Good luck.

8

9 AGENDA ITEM 19

10 FRANK GATES

11

12 ACTING CHAIRMAN NADEAU: All right. Frank
13 Gates.

14 BOARD MEMBER ZANE: Nobody's responding.

15 ACTING CHAIRMAN NADEAU: All right. Frank
16 Gates, one last time.

17

18 AGENDA ITEM 20

19 KENNETH WYMAN

20

21 ACTING CHAIRMAN NADEAU: All right. Kenneth
22 Wyman.

23 MR. WYMAN: Yes, sir.

24 ACTING CHAIRMAN NADEAU: Good afternoon,
25 Mr. Wyman.

1 MR. WYMAN: Good afternoon to you, too.

2 ACTING CHAIRMAN NADEAU: First question is were
3 you sworn in this morning?

4 MR. WYMAN: Yes, I was, sir.

5 ACTING CHAIRMAN NADEAU: Second question is
6 would you like this open or closed?

7 MR. WYMAN: I'd like it open, please.

8 ACTING CHAIRMAN NADEAU: All right. And who is
9 the investigator on this?

10 MR. MURPHY: Investigator Murphy, sir.

11 ACTING CHAIRMAN NADEAU: All right.
12 Investigator Murphy, please tell us what you got.

13 MR. MURPHY: Yes. Mr. Wyman's application was
14 denied due to nondisclosure of three arrests. He listed
15 no arrests on his application. And his SCOPE and his
16 FBI fingerprint results came back with a November of '07
17 arrest for burglary and forgery, an October '08 arrest
18 for possession of drug paraphernalia, and an October '09
19 arrest for attempted theft. So he was, therefore,
20 denied for falsification.

21 ACTING CHAIRMAN NADEAU: Were any of these
22 convictions, or just arrests?

23 MR. MURPHY: Actually, the FBI returned for all
24 three says no disposition on file. So I was unable to
25 confirm. And I will say that the November 2007

1 burglary, burglary/forgery were both felony charges.
2 But, again, no -- no disposition indicated on the
3 record.

4 ACTING CHAIRMAN NADEAU: Thank you.

5 All right. Mr. Wyman, what's your story?

6 MR. WYMAN: My story is not really a story.
7 The '07 and '08 or '09 were together. I've got the
8 disposition I got from the district court just yesterday
9 that proves that these were lowered to a gross
10 misdemeanor. And there was no felony pleas or anything
11 to that fact, in fact, as you see here, sir, as the
12 disposition I got from district court yesterday.

13 The records department that I had spoke to
14 within that said what once I bring her up that, she will
15 upgrade or update my arrest record. So I was under the
16 impression, sir, that the -- since I never pleaded to a
17 felony of any type, that it was lowered to a gross
18 misdemeanor, that I just thought that I only had to list
19 felonies.

20 And a gross misdemeanor -- the gross
21 misdemeanor was I was arrested in '07, December of '07,
22 turned around and released after three days. The court
23 date was set for '08. And when I appeared there, that
24 is when it was, actually happened to go down to a gross
25 misdemeanor. I agreed to make restitution to the

1 casinos. Because what I was doing was I was working for
2 an individual, and he had given me some false checks,
3 which I was not under the impression that they were
4 false at the time, and I had cashed two of them. On the
5 third, at Great Valley Ranch, is whenever they arrested
6 me.

7 I gave them all information of the people that
8 were ahead of me that were giving me the checks. And
9 that's why it was dropped, basically, except for the
10 attempted theft, which I said, yes, I was guilty,
11 because I should have checked on the employer and his
12 reference. I know this now. And I know everything that
13 I should be doing. Because, currently, since I was
14 released for nine months served for this time. Okay.
15 Because I went ahead and said I don't want to do three
16 years probation. I was on it for a year, and then they
17 just -- you know, it was just like bouncing in between.
18 It was walking on glass. So in order to start a whole
19 new life, I went ahead and said I agree with revoking my
20 probation, I'll do the nine months. And no problem with
21 that. And I did.

22 Now, because, like I said, I am trying to start
23 a whole new life. I've got one degree for being a chef.
24 I've been doing that for 18 years. That's one of the
25 reasons I came out to Las Vegas. Currently, I'm holding

1 a 4.0 GPA at the CSM for criminal justice. I want to
2 get involved with the law enforcement or, you know,
3 security or anything, involved, because of my previous
4 arrest, like he said, with the drug paraphernalia,
5 which, technically, I was holding for another guy. And
6 he says, "Now, hold this." And then I got -- I stupidly
7 put it in my pocket. And North Las Vegas arrested me.
8 And that was closed, payment, all that, just
9 technically. And that was about the only thing involved
10 there.

11 So all I could say is I am guilty for the
12 attempted theft. And restitution was made to the -- to
13 the casinos of being -- I've got a printout also from
14 the internet. But I don't fully trust that. That's why
15 I got the disposition. It says that the -- oh, what was
16 it? Right here. Attempted theft was 190 -- no, that's
17 statute. But in here, it discusses, well, what my
18 charge is, all being attempted theft, gross misdemeanor
19 actions which constitute theft, gross misdemeanor, theft
20 and penalties, gross misdemeanor. And I had paid out,
21 yeah, restitution amount, \$1,755.14, and then turned
22 around, and the administration fee of \$25. And that's
23 when I was put on probation, which checked me once a
24 month, paying the \$60.

25 But like I said, it was like walking on glass.

1 Even being picked up for a simple misdemeanor would have
2 violated me. That is my understanding at that time. So
3 I just went ahead and revoked, said I don't want to deal
4 with probation, I'll just do my time, start a whole new
5 life.

6 ACTING CHAIRMAN NADEAU: Thank you.

7 Mr. Zane, do you have any questions?

8 BOARD MEMBER ZANE: Yes, if I could ask
9 Investigator Murphy. The appellant has given us the
10 documents, and he describes it, and I just want to get
11 it on the record what that is.

12 MR. MURPHY: The document, as he described,
13 that said that the charges of attempted theft, that the
14 probation has been revoked, and that his original
15 sentence of nine months at the detention center will be
16 imposed with 58 days credit for time served.

17 BOARD MEMBER ZANE: When was the violation on
18 it?

19 MR. MURPHY: It is November 4th, 2009.

20 BOARD MEMBER ZANE: Thank you.

21 What makes you make the comment that probation
22 was like walking on glass if you were changing your
23 life?

24 MR. WYMAN: I was changing my life. And, I
25 guess, I didn't have a really good idea of what

1 probation was. And at the time, my fiance', my fiance'
2 now, she had an ex-husband who, if you don't mind me
3 saying so, is a little crazy, and that's proof in the
4 court of law as well, had hit me. And they turned
5 around, and he said that I smacked him, and they tried
6 to get me on assault. But when I went in front of Judge
7 Goodman on that in '08, it was dismissed with no grounds
8 for such.

9 Then I went in front of Judge Hardcastle for
10 the district court case dealing with that right there.
11 And that's whenever it was just nine months, do as such.
12 And I also, I should say also that I had spent three
13 months on house arrest to be with my family. And that
14 was all, you know, check in every week, \$60, wearing the
15 thing. I finished out with good, very good, no
16 problems. And that can be checked out with the house
17 arrest area as well.

18 BOARD MEMBER ZANE: And what led you to believe
19 that you didn't need to disclose this arrest?

20 MR. WYMAN: This arrest, I was just under the
21 impression that it was a gross misdemeanor. And I
22 thought that I only had to disclose felony arrests. And
23 I thought it was upgraded to gross misdemeanor,
24 therefore not being a felony. But I understand now,
25 because of the Board, that it's actually considered a

1 wobbler, and I was convicted on the gross misdemeanor
2 side of that.

3 BOARD MEMBER ZANE: Where did you get the
4 understanding that all you needed to do was disclose
5 felonies?

6 MR. WYMAN: Just that's what I put as
7 stupidity. I was under the impression that it was just
8 dealing with police and wanting to be a security, that
9 they were basically looking at felonies.

10 BOARD MEMBER ZANE: Okay.

11 MR. WYMAN: I didn't read the application that
12 full. And for that, I apologize to the Board, for, you
13 know, having to go through this. But I also thank the
14 Board for bringing this to my attention and learning
15 from it.

16 BOARD MEMBER ZANE: That's all I have,
17 Mr. Chairman.

18 ACTING CHAIRMAN NADEAU: Thank you, Mr. Zane.
19 Mr. Uithoven, anything?

20 BOARD MEMBER UITHOVEN: Nothing further.

21 ACTING CHAIRMAN NADEAU: Okay. All right. I
22 have no questions. I think, Mr. Zane covered all the
23 questions that I thought of.

24 All right. Without any further discussion, I
25 would entertain a motion.

1 BOARD MEMBER ZANE: Mr. Chairman, I move that
2 we sustain the denial.

3 ACTING CHAIRMAN NADEAU: Okay. I'll second
4 that. Any discussion on the motion?

5 No discussion. All in favor of the motion for
6 denial, or sustaining the denial, signify by saying
7 "aye."

8 (Board members said "aye.")

9 ACTING CHAIRMAN NADEAU: Opposed?

10 All right. Mr. Wyman, your application has
11 been denied. It's been sustained. You are welcome to
12 reapply within a year, or excuse me, in a year. You
13 know now that you must disclose this on your
14 application. So. Thank you.

15 MR. WYMAN: May I ask Mr. Zane one question?
16 What was the reason for this sustainment or denial?

17 BOARD MEMBER ZANE: Is it appropriate to answer
18 it?

19 ACTING CHAIRMAN NADEAU: Actually, by
20 sustaining the denial, then we're sustaining, excuse me,
21 sustaining the reasons for denial that were contained in
22 the initial letter. So, I think, that goes to the
23 question.

24 MR. WYMAN: Which was the felony? Which is
25 the --

1 ACTING CHAIRMAN NADEAU: Which was the failure
2 to disclose.

3 MR. WYMAN: Okay. I -- okay. Thank you. So I
4 got one year and then I can reapply?

5 ACTING CHAIRMAN NADEAU: One year and you can
6 reapply.

7 MR. WYMAN: Thank you.

8 ACTING CHAIRMAN NADEAU: Okay. Very good. All
9 right. Thank you.

10

11

AGENDA ITEM 21

12

PREDDY MANUEL

13

14 ACTING CHAIRMAN NADEAU: Now, Mr. Preddy
15 Manuel?

16 MR. MURPHY: I don't believe he is here.

17 ACTING CHAIRMAN NADEAU: No Preddy Manuel.

18

19

AGENDA ITEM 22

20

NINOS BINYAMIN

21

22 ACTING CHAIRMAN NADEAU: How about Ninos
23 Binyamin?

24 MR. MURPHY: Mr. Chairman, this gentleman --

25 this is Investigator Murphy. He was one my denials. He

1 lives in Chicago, and he sent a letter to serve as his
2 appeal. And I'm not sure procedurally how you want to
3 handle it, but I do have the letter in front of me, and
4 I'm prepared to read it to you, if appropriate.

5 ACTING CHAIRMAN NADEAU: Yes, I think that's
6 appropriate. Can we consider it without, without him
7 being present?

8 MS. BRADLEY: Yes, that's fine.

9 ACTING CHAIRMAN NADEAU: Okay.

10 MR. MURPHY: Would you like me to give you the
11 background first before I read the letter?

12 ACTING CHAIRMAN NADEAU: Yes.

13 MR. MURPHY: Or should I --

14 ACTING CHAIRMAN NADEAU: Let me ask one
15 question, and that is, this is strictly a letter, it's
16 not an affidavit, there's no indication that it was
17 submitted under oath or anything of that nature?

18 MR. MURPHY: No, not at all, just a letter
19 addressed to Mechele Ray.

20 ACTING CHAIRMAN NADEAU: Okay. Thank you. Go
21 ahead and proceed, Mr. Murphy.

22 MR. MURPHY: Okay. By way of background,
23 Mr. Ninos, I denied him again for -- due to
24 falsification. He listed no arrests on his application.
25 And his FBI fingerprint return had a September 1990

1 arrest for theft, an October 1990 arrest for battery,
2 and an April 1995 arrest for battery, and then a May
3 1996 theft of property over 10,000 to 100,000. So there
4 were four arrests that came back on his fingerprint
5 return, and on his application he indicated no arrest.

6 ACTING CHAIRMAN NADEAU: Were any of those --
7 is there any disposition on any of those? And it sounds
8 to me like the May of '96 -- was that a felony? The one
9 that had to deal with the property, theft of property
10 over whatever?

11 MR. MURPHY: Unfortunately, all four of these
12 arrests were in Chicago, Illinois, and they only give a
13 charge, and they don't give a disposition or a level of
14 the charge.

15 ACTING CHAIRMAN NADEAU: Okay. Anything else
16 you'd like to add, Mr. Murphy?

17 MR. MURPHY: No, not at this time.

18 ACTING CHAIRMAN NADEAU: How about, then, you
19 can go ahead and read the letter.

20 MR. MURPHY: Okay. It's one page, luckily.
21 So.

22 (Reading) Dear Mrs. Mechele Ray: I received
23 your letter to appear for my appeal hearing on September
24 23rd at 9:00 a.m. Unfortunately, due to financial
25 reasons, I will not be able to attend. However, I do

1 hope you take into consideration my sincere apology for
2 misunderstanding the question on the application. As I
3 have stated in my first letter, I am currently having an
4 attorney working to expunge my record. Furthermore, I
5 wish again to explain my youthful indiscretions, all of
6 which were misdemeanor offenses, and all charges were
7 dropped. I never received any court date to appear. I
8 was under the belief that my arrest record would also be
9 dropped. I currently work for the United Security
10 Services for a corporation and had to go through a
11 background check, which I passed with no problems, and
12 am currently employed as a security officer for the past
13 year under the direction of Brian McNulty (phonetic
14 spelling).

15 And, might I add, it's a 312 area code. So I'm
16 assuming that he's referring to employment in Illinois.

17 (Continued reading) With an impeccable record.
18 That is the reason I believe my record was dropped,
19 because nothing was ever brought up to me with a
20 background check done at my current job. Again, I'm
21 truly sorry for misunderstanding, truly sorry for
22 misunderstanding the question on the application. I
23 have not had any problems with law enforcement, not even
24 a parking ticket, in over 15 years. Finally, my work
25 takes me to your great city once or twice a year to do

1 security for a couple of major events, such as the Texas
2 Hold 'Em Tournament and a diamond show, which I have to
3 be armed. This is the reason I need to secure my
4 private investigator's license. In closing, I truly
5 wish your board would reverse your decision and grant me
6 the license. I am a hardworking person with good moral
7 character and turpitude. If not for financial reasons,
8 I would be there in person. But, unfortunately, this
9 letter will have to do. If you or your panel have any
10 questions, please call me at any time at 773-968-1235.
11 Yours truly, Ninos Binyamin.

12 ACTING CHAIRMAN NADEAU: Thank you,
13 Investigator.

14 Mr. Zane, do you have any questions?

15 BOARD MEMBER ZANE: No, I don't.

16 BOARD MEMBER UITHOVEN: No.

17 ACTING CHAIRMAN NADEAU: Mr. Uithoven?

18 I believe, we can go ahead and act on this. So
19 I would accept a motion.

20 BOARD MEMBER UITHOVEN: Mr. Chairman, I move --

21 ACTING CHAIRMAN NADEAU: Okay.

22 BOARD MEMBER UITHOVEN: -- to sustain the
23 denial of Ninos Binyamin.

24 ACTING CHAIRMAN NADEAU: We have a motion to
25 sustain the denial. Do I have a second?

1 BOARD MEMBER ZANE: Second.

2 ACTING CHAIRMAN NADEAU: All right. We have a
3 motion and a second. Any discussion on the motion?

4 Hearing no discussion, all in favor, say "aye."

5 (Board members said "aye.")

6 ACTING CHAIRMAN NADEAU: Opposed?

7 All right. We'll notify him via e-mail. Or
8 excuse me. Via mail?

9 MS. RAY: Yes, uh-huh (affirmative).

10 ACTING CHAIRMAN NADEAU: Okay. Very good.

11

12

AGENDA ITEM 23

13

TW GARRARD

14

15 ACTING CHAIRMAN NADEAU: TW Garrard.

16 MS. RAY: I think, there's only one person
17 left.

18 BOARD MEMBER ZANE: Nobody here.

19 ACTING CHAIRMAN NADEAU: Nobody here. No
20 TW Garrard. Okay.

21

22

AGENDA ITEM 24

23

JONATHAN WAIALAE

24

25 ACTING CHAIRMAN NADEAU: How about a Jonathan;

1 is Jonathan -- Jonathan there?

2 MS. RAY: Mr. Chairman, if I may comment on
3 item number 24, this is the second time this individual
4 has appeared on the agenda. And he was sent a letter,
5 and he responded saying he would not appear.

6 So, I believe, the Board could make a final
7 decision on this item, if they wanted to.

8 ACTING CHAIRMAN NADEAU: Okay. Well, let's go
9 ahead and wait until after --

10 MS. RAY: Okay.

11 ACTING CHAIRMAN NADEAU: -- we've heard from
12 everyone else.

13

14 AGENDA ITEM 25

15 JEFF KASUROW

16

17 ACTING CHAIRMAN NADEAU: Jeff "KA-SA-RUE"?

18 MR. KASUROW: "KAS-A-ROW."

19 ACTING CHAIRMAN NADEAU: All right. I'm sorry.
20 It's "KAS-A-ROW"?

21 MR. KASUROW: Yes, sir.

22 ACTING CHAIRMAN NADEAU: All right.

23 Mr. Kasurow?

24 MR. KASUROW: Yes, sir?

25 ACTING CHAIRMAN NADEAU: All right. And you

1 were sworn in at the beginning?

2 MR. KASUROW: I have been.

3 ACTING CHAIRMAN NADEAU: All right. And do you
4 wish for this to be open or closed?

5 MR. KASUROW: Open.

6 ACTING CHAIRMAN NADEAU: All right. And
7 which -- well, go ahead and have a seat, relax, if you'd
8 like.

9 Who was the investigator on this?

10 MS. RAY: Mr. Chairman, this is for me to
11 comment on. And this is one we haven't encountered.

12 ACTING CHAIRMAN NADEAU: Okay.

13 MS. RAY: So Mr. Kasurow has an existing work
14 card that was issued by Metro. We received information
15 that he had stolen property from a site where he was
16 working for a licensed security company. The
17 information contained, I believe, an incident report, a
18 pawn slip where the items were attempted to be pawned at
19 a pawn shop.

20 So we haven't actually encountered anything
21 like this before. So I revoked his work card. And he's
22 here to appeal the revocation of his work card.

23 ACTING CHAIRMAN NADEAU: I guess --

24 MS. RAY: Yeah.

25 ACTING CHAIRMAN NADEAU: -- I'll ask counsel.

1 Is this the appropriate, I guess, venue or
2 appropriate --

3 MS. BRADLEY: Well, so what's a work card; is
4 that permanent?

5 ACTING CHAIRMAN NADEAU: It's permanent, right.

6 MS. RAY: M-hm (affirmative).

7 ACTING CHAIRMAN NADEAU: In other words, he has
8 to have a work card in order to be registered as a
9 security guard.

10 MS. BRADLEY: Uh-huh (affirmative). And what
11 qualification do they have to get a work card?

12 ACTING CHAIRMAN NADEAU: All what we've
13 discussed here. Work cards were originally issued by
14 local government.

15 MS. BRADLEY: Uh-huh (affirmative).

16 ACTING CHAIRMAN NADEAU: We've taken over that
17 effective the beginning of this year.

18 MS. BRADLEY: Okay.

19 ACTING CHAIRMAN NADEAU: So, therefore, local
20 government previously would have had the responsibility
21 of rejecting or revoking. Help me out.

22 MS. RAY: M-hm (affirmative).

23 ACTING CHAIRMAN NADEAU: But would have had the
24 authority to reject or revoke a work card. We've
25 subsequently taken over this responsibility. So now --

1 MS. BRADLEY: I mean, I think --

2 MS. WHATLEY: It's still 060.

3 MS. BRADLEY: 060. Okay. Because what I'm
4 thinking is -- well, as far as the requirements.

5 MS. RAY: Well, okay. Let's find out. Hold
6 on.

7 ACTING CHAIRMAN NADEAU: I guess, it's 648.177.

8 MS. BRADLEY: 648.177.

9 ACTING CHAIRMAN NADEAU: That's probably --

10 MS. BRADLEY: In the NRS?

11 ACTING CHAIRMAN NADEAU: Yeah.

12 MS. RAY: And you might want to hear what
13 Mr. Kasurow has to say.

14 ACTING CHAIRMAN NADEAU: And I want to say --

15 MS. RAY: I mean --

16 ACTING CHAIRMAN NADEAU: -- if this is the
17 appropriate venue? I guess, my question is, since the
18 work card was issued by Metro, then they have the
19 responsibility on the work card. But we have a
20 responsibility of his registration, which is based on --

21 MS. RAY: The work card now.

22 ACTING CHAIRMAN NADEAU: -- the issuance of the
23 work card.

24 MS. RAY: Right.

25 ACTING CHAIRMAN NADEAU: Do you understand what

1 I said?

2 MS. BRADLEY: I think -- okay. So the work
3 card wasn't issued by you?

4 MS. RAY: No.

5 MR. TOWLER: Have you ever revoked a work card?

6 MS. RAY: No. Well --

7 ACTING CHAIRMAN NADEAU: But we can revoke
8 registration. But work card, work card is a requirement
9 of the registration.

10 MS. BRADLEY: I mean it sounds to me like what
11 you want to do is just have a disciplinary matter
12 presented to you. But I could be wrong about that.

13 Because once someone's been given even the
14 registration, I mean they have to have notice and
15 opportunity to be heard before it can be taken away. It
16 sounds like he still has a registration but not the work
17 card. But the work card wasn't issued by you.

18 You know, the other thought I had is, you know,
19 you can do a summary suspension, if you think there's a
20 current danger, meaning if you believe the information
21 you have is credible, and then potentially waiting for a
22 hearing to be held would be a danger, you know, in those
23 cases you can actually take it before you have a
24 hearing. But you have to have the hearing within 45
25 days of the suspension.

1 So I'm sort of struggling a little bit here.
2 But I mean it feels to me like what you want to do is
3 maybe take some action against a license. Right? I
4 mean is that ultimately --

5 MS. RAY: Registration, yes. Right. He's
6 working in an industry where he's been hired to protect
7 property.

8 MS. BRADLEY: Yes, yes.

9 MS. RAY: And there's an incident report that
10 he has --

11 MS. BRADLEY: Yes.

12 MS. RAY: -- taken the property that he was
13 hired to protect.

14 MS. BRADLEY: Yes. So I -- I guess, what I'm
15 thinking is potentially this is something that the Board
16 maybe doesn't want to think about today, because we want
17 to actually have a hearing scheduled.

18 MS. RAY: Okay. In the interim.

19 MS. BRADLEY: Yes, well, that's a problem. NRS
20 233B requires that a hearing be held regarding a
21 suspension within 45 days. It might be that a special
22 meeting will have to be done. I don't know. I'm sorry
23 for that.

24 Do you have any thoughts on that?

25 MR. TOWLER: No, you are right, a summary

1 suspension is 45 days. That is clear to me.

2 MS. RAY: So would we not, not -- would we
3 change his status back to active and then properly
4 notice and then have a hearing?

5 MS. BRADLEY: It's really up to the prerogative
6 of, I would say, the Executive Director or the Board
7 chair. Because the Board chair, the Executive Director
8 should probably have the authority, I'm guessing, to
9 determine summary suspensions or things that we can't
10 necessarily wait for a meeting.

11 MS. RAY: Right.

12 MS. BRADLEY: And especially summary suspension
13 where you think the public is at risk. And so you can
14 do that. But like I said, there would still have to be
15 45 days. How many days has he been suspended for?

16 MS. RAY: I don't know. Let's see.

17 MS. BRADLEY: Doesn't it mention the work cards
18 in here?

19 MS. RAY: I don't know if you have a recent
20 printout.

21 MS. BRADLEY: I printed it on the 13th of July.

22 ACTING CHAIRMAN NADEAU: You probably want to
23 look at statute prior to the 2009 statutory requirement.

24 MS. BRADLEY: Okay.

25 ACTING CHAIRMAN NADEAU: Because that's where

1 it was changed where the Board took on the authority for
2 the issuance of registration.

3 MS. BRADLEY: Okay.

4 MS. RAY: Let's see. And I can meet with you
5 on this, because I'm going to have to meet with you, or
6 one of you on this stuff.

7 MS. BRADLEY: Yeah.

8 MS. RAY: He's tough to -- Mr. Kasurow, is it
9 K-A-S-O?

10 ACTING CHAIRMAN NADEAU: K-A-S-E.

11 MR. KASUROW: K-A-S-U-R-O-W. Just like the
12 food dish, casserole. Tuna casserole.

13 MS. RAY: There you are. August 9th was when I
14 changed his status.

15 ACTING CHAIRMAN NADEAU: So we're just barely
16 in 45 days.

17 MS. BRADLEY: And so he received notice today
18 that he was appealing that.

19 ACTING CHAIRMAN NADEAU: Revocation.

20 MS. RAY: Yes, as soon as I did that, I
21 contacted him. And then that's why we're here today.

22 MS. BRADLEY: And that was just the work card
23 that was revoked?

24 MS. RAY: Which is now the registration. It's
25 one and the same.

1 MS. BRADLEY: Registration. Okay. That's what
2 I was --

3 MS. RAY: See, the work cards that were issued
4 by Metro is now the registration work card. It's one
5 and the same now.

6 MS. BRADLEY: Okay.

7 MS. RAY: So in the status that he's currently
8 in, he is not eligible to work for one of our licensees.
9 Okay.

10 MS. BRADLEY: I think, if we can, it's better
11 for us to just solve this today. It sounds like
12 maybe -- can we have a recess for a minute?

13 MS. RAY: Sure.

14 ACTING CHAIRMAN NADEAU: We're going to recess
15 for just very short time, five, five to 10 minutes.
16 Thank you.

17 * * * * *

18 (A break was taken, 12:35 to 12:50 p.m.)

19 * * * * *

20 ACTING CHAIRMAN NADEAU: Okay. Are we ready?
21 Mr. Zane, are you down there?

22 BOARD MEMBER ZANE: Yes, sir.

23 ACTING CHAIRMAN NADEAU: We're back in session.
24 I guess, we will hear from our counsel as to how we
25 proceed.

1 MS. BRADLEY: We're going to go ahead and
2 present this as a disciplinary hearing. I know that
3 Mr. -- he's actually asked for an appeal. But we really
4 need to have a decision today on what's going to happen
5 going forward. So Mr. Towler's going to present.

6 MR. TOWLER: Again, for the record, Thoran
7 Towler, Attorney General's Office.

8 What I have here is a Las Vegas Metropolitan
9 police report.

10 MS. RAY: Yeah.

11 MR. TOWLER: It looks like it's an incident
12 report where a party went to the police department,
13 Metro Police Department, and filed this report. The
14 reporting party or the claimant is a James Butler. A
15 witness listed in the report is Annette Lexis
16 (phonetically spelled). And the alleged person involved
17 is Mr. Kasurow.

18 This lists several pieces of property in the
19 police report as being stolen. There was first --
20 property number one was a 100-foot 10-gauge extension
21 cord. Property number two is rotary hammers, with a
22 value of \$549.

23 MS. RAY: Oh.

24 (The videoconference connection was lost and
25 then reestablished.)

1 MR. TOWLER: I'm going to start with the
2 property lists again just briefly here. Property item
3 number one is a 100-foot extension cord, value \$80, and
4 a -- rotary hammers, value \$549. Property item number
5 three reports stolen were seven-and-a-quarter-inch
6 circular saw, Milwaukee brand, value \$150. Item number
7 four, heavy-duty Sawz-Alls from Milwaukee, value \$150.
8 Item five, 14-inch drop saw from DeWalt, \$200 value.
9 The ground fault interrupters, item number six, valued
10 at \$80. Item number seven stolen was a copy machine,
11 has a value of \$80. Item number eight was a used copy
12 machine with a value of \$50.

13 The police narrative was written by Officer
14 Gandula, it looks like. It says: James Butler of GCA
15 Environmental Construction reports of his equipment
16 being stolen from a job site at the Rain Walk
17 Apartments. Also present is Annette Lewis, who is the
18 owner of Security Unlimited, the security business
19 employed to watch the construction site equipment at the
20 Rain Walk Apartments. Butler and Lexis both stated that
21 they had a conference call with Jeff Kasurow, who was
22 employed with Security Unlimited at the time of the
23 theft of the said construction equipment. Butler and
24 Lexis state that Kasurow admitted to stealing one item
25 of the construction equipment but denied stealing any

1 other items. Butler states there was an entire room of
2 construction and office equipment that was stolen.
3 Lexis presents with a letter from an anonymous person
4 who sent her a receipt from Easy Pawn that reportedly
5 was dropped by Kasurow. The receipt states Kasurow's
6 name on it, the name of the construction equipment, and
7 it's currently in the possession of Lexis.

8 Also with this report is a voluntary statement
9 from Mr. Butler. It says: We are working on the Rain
10 Walk Apartments performing demolition and renovation
11 work. We have an office on site, and we're storing our
12 tools and equipment in the apartment located on site.
13 This apartment was secured and locked on or about
14 5-13-10. My tools and equipment came up missing from
15 our office. We have a security company maintaining
16 security on the site and were posted outside our office.
17 I informed the owner and had a meeting on site to
18 discuss the missing items.

19 Second is a brief statement from Annette Lexis:
20 Today Jim Butler came to my site and myself and called
21 Jeff Kasurow and asked him if he took the property. He
22 said he took the one saw that was on the pawn slip. I
23 asked him if there was any more. And he said no.

24 And then we have Lexis referred to an anonymous
25 letter. We have a copy of that and put it in the

1 report. It says: Sir, I'm sending you this letter to
2 inform you that one of your employees has been stealing
3 from you. I learned about it the other night at the bar
4 I visit. This gentleman was talking quite loudly about
5 it. He made a comment that he just got money from one
6 of the pawn shops. Anyway, this ticket was dropped by
7 the man. He also mentioned that he worked for a
8 security company and had mentioned that everyone that
9 works at Securities Unlimited were nothing but a bunch
10 of drug users and thieves. I'm sending the pawn ticket
11 to you. I hope he is the exception to the rule about
12 security guards. It's signed Anonymous.

13 Also included is a copy of the pawn ticket. It
14 says Mr. Kasurow submitted a pawn and received -- it's
15 difficult to read. The amount that was given, I
16 believe, was \$60, with a \$29 finance charge. This I can
17 pass around, if you'd like to see that, if you want to
18 decipher what that says.

19 Then we have a Security Unlimited -- their
20 daily for -- log for the day that the thefts took place.

21 ACTING CHAIRMAN NADEAU: Thoran, have you given
22 these to Mark?

23 MS. RAY: They probably were on your flash
24 drive.

25 ACTING CHAIRMAN NADEAU: Okay. I don't have my

1 flash drive. I gave it to you.

2 MR. TOWLER: The last item appears to be an
3 Abatix accounting. It looks like the individuals that
4 were stolen from have insurance. And this shows that
5 they are being reimbursed for insurance, if that's
6 helpful.

7 But those are the documents we've received.
8 Because of that information -- this is a police report.
9 The Executive Director decided to summarily suspend the
10 work card for this individual.

11 That is the totality, the end of my evidence of
12 this case.

13 ACTING CHAIRMAN NADEAU: Okay. Then -- or do
14 we have any questions of counsel, Robert?

15 BOARD MEMBER UITHOVEN: No.

16 ACTING CHAIRMAN NADEAU: Mr. Zane, do you have
17 any questions of Thoran?

18 BOARD MEMBER ZANE: No.

19 ACTING CHAIRMAN NADEAU: All right.

20 MS. BRADLEY: And does the respondent have any
21 questions?

22 ACTING CHAIRMAN NADEAU: Right. Oh, I'm sorry.

23 MS. BRADLEY: He can ask questions too, if he
24 has any.

25 ACTING CHAIRMAN NADEAU: Mr. Kasurow, do you

1 have any questions of Mr. -- of Thoran?

2 MR. KASUROW: I do not. Just suspended and
3 good luck. Ready to go to court.

4 ACTING CHAIRMAN NADEAU: All right. So, then,
5 do you have a case in point or that you would like to --
6 you have the opportunity to call witnesses. You have an
7 opportunity to make your own statement to -- in other
8 words, to ask questions or present a -- present your
9 case.

10 MR. KASUROW: None at this time. I'll do it in
11 court. I was suspended by the employer, from what I've
12 just heard myself. So.

13 ACTING CHAIRMAN NADEAU: So.

14 MR. KASUROW: I'll withhold my appeal. Let's
15 make it easy.

16 ACTING CHAIRMAN NADEAU: You'll withhold. I
17 guess, I'm confused. Because this is your opportunity
18 to make your case to us, to the Board, as far as whether
19 or not your permit should be suspended, continue to be
20 suspended or revoked. If you choose not to make the
21 case, then we have to make the -- our determination
22 based on information that we have.

23 MS. BRADLEY: And I can't advise you.
24 Obviously, I'm not your attorney, and I represent the
25 Board. But I would tell you that if you're going to

1 take it to the court, they're going to want to have
2 something in the record that they can look at. So if
3 you have anything you want to present, it's really in
4 your best interest to do so at this time, so this Board
5 can consider it. And then, should you wish to appeal
6 further, if you did have a negative decision, you would
7 actually have something that the court could look at and
8 review.

9 ACTING CHAIRMAN NADEAU: I trust you're -- the
10 choice is yours, Mr. Kasurow.

11 MR. KASUROW: Um, I would suspend my license at
12 this time until I go to court and find out exactly what
13 really did happen.

14 ACTING CHAIRMAN NADEAU: Okay. So let me --

15 MS. BRADLEY: Are you meaning -- is there a
16 criminal case pending; is that what you're referring to?

17 MR. KASUROW: Um, I don't -- yes. Yes.

18 MS. BRADLEY: Okay. So there's a criminal case
19 pending. So you're saying you're willing to suspend
20 your license until that case is resolved?

21 MR. KASUROW: Right. Because I have good
22 opportunity to get it knocked down to a misdemeanor.

23 MS. BRADLEY: Okay. I'm sorry. I
24 misunderstood. I thought you wanted to appeal this
25 Board's decision. But you're talking about a separate

1 matter?

2 MR. KASUROW: Exactly. Exactly.

3 ACTING CHAIRMAN NADEAU: So let's --

4 MS. BRADLEY: He can do that, then, if he'd
5 like to. Essentially, what you'd be doing is --

6 ACTING CHAIRMAN NADEAU: Suspended.

7 MS. BRADLEY: -- a voluntary surrender of his
8 license until that matter is resolved. And then, once
9 that matter is resolved, he would then come back to the
10 Board, and the Board would determine what to do with the
11 license. I think, what we'd want him to do, to make
12 sure that he understands, would be to do it on the
13 record.

14 ACTING CHAIRMAN NADEAU: I see you nodding,
15 Mr. Kasurow.

16 MR. KASUROW: I understand.

17 ACTING CHAIRMAN NADEAU: Is that what you're
18 asking to do?

19 MR. KASUROW: That is correct.

20 ACTING CHAIRMAN NADEAU: All right. So you
21 understand that your license will be suspended pending
22 adjudication in court. And then, at that point, you'll
23 come back and make your appeal on the suspension. Is
24 that correct?

25 MR. KASUROW: Correct.

1 MS. BRADLEY: Well, I think, what we're going
2 to call it is a voluntary surrender until that matter is
3 resolved. The only reason why, the suspension can't go
4 beyond one year. I don't know how quickly that case is
5 moving, but sometimes cases don't move as quickly as
6 we'd like.

7 MR. KASUROW: Correct.

8 MS. BRADLEY: So I'm thinking we should call it
9 a voluntary surrender. Are you okay with that, sir?

10 MR. KASUROW: Yes.

11 MS. BRADLEY: So you understand that by doing
12 the voluntary surrender, your license will remain
13 surrendered, and you won't be able to -- or your card,
14 you won't be able to work?

15 MR. KASUROW: Correct. I've already lost two,
16 two jobs in the last month because of that being
17 surrendered. I didn't know it. I worked a week and a
18 half for two different companies, and they called me up
19 and said, "No, you can't work anymore. It's a big fine
20 for us."

21 MS. BRADLEY: Okay. So you're aware of the
22 consequences of having it on this, on the voluntary
23 surrender status?

24 MR. KASUROW: Yes.

25 MS. BRADLEY: Basically, what it means is the

1 Board hasn't made any decision about the status of your
2 license or your registration card. It just means that
3 we're waiting for the determination in that matter.

4 MR. KASUROW: I understand.

5 MS. BRADLEY: And I would hope that you would
6 want to then submit the information to the Board once
7 that other case is resolved.

8 MR. KASUROW: Correct. I will.

9 ACTING CHAIRMAN NADEAU: Is there any action
10 that we need to take?

11 MS. BRADLEY: You would have to approve, or
12 not, his voluntary surrendered license until the
13 matter's resolved.

14 And I would also, ask, sir, do you have the
15 case number in the criminal case that you can provide to
16 the Board office?

17 MR. KASUROW: I haven't been given it yet.

18 MS. BRADLEY: Okay.

19 MR. KASUROW: I haven't even received a letter
20 in the mail for a court date or any information at all.

21 MS. BRADLEY: Okay. If you wouldn't mind, it
22 would be helpful if we new the case number, so we could
23 double-check on it, just so we know that it's
24 progressing. Because my worry is if, you know, a year
25 from now we haven't heard from you. We don't want this

1 to go forever. That's all.

2 MR. KASUROW: Okay.

3 ACTING CHAIRMAN NADEAU: When does his license
4 expire?

5 MS. RAY: 2012.

6 ACTING CHAIRMAN NADEAU: Okay. So --

7 MS. RAY: Registration.

8 ACTING CHAIRMAN NADEAU: I'm sorry. His
9 registration. Thank you for the clarification.

10 Mark, do you have any questions?

11 BOARD MEMBER ZANE: No, sir.

12 BOARD MEMBER UITHOVEN: None.

13 ACTING CHAIRMAN NADEAU: None?

14 BOARD MEMBER UITHOVEN: No.

15 ACTING CHAIRMAN NADEAU: Okay. So, I guess,
16 I'd accept a motion to accept Mr. Kasurow's -- what was
17 it?

18 MS. BRADLEY: Voluntary surrender.

19 ACTING CHAIRMAN NADEAU: Voluntary surrender,
20 voluntary surrender pending adjudication of the criminal
21 case.

22 BOARD MEMBER ZANE: So moved.

23 ACTING CHAIRMAN NADEAU: Do I have a second?

24 BOARD MEMBER UITHOVEN: Second.

25 ACTING CHAIRMAN NADEAU: All right. We have a

1 motion and a second. Any discussion on the motion?

2 All in favor, say "aye."

3 (Board members said "aye.")

4 ACTING CHAIRMAN NADEAU: Opposed?

5 Okay. So, Mr. Kasurow, you understand that as
6 soon as your -- that this other issue is resolved, then
7 you can come back and appeal the -- or ask for review by
8 the Board?

9 MR. KASUROW: I'll call Mechele after the
10 court, yep.

11 ACTING CHAIRMAN NADEAU: All right.

12 MS. BRADLEY: And what it means is, like I
13 said, you're not able to work currently. The card is
14 surrendered, which means like you've given it back to
15 the Board until this is resolved.

16 MR. KASUROW: Right.

17 MS. BRADLEY: The Board hasn't made any
18 negative finding about you. They haven't actually
19 decided the matter. So what would happen is, is once
20 you bring -- once it's resolved, you come in and say,
21 "Hey, it's resolved. You need to decide my case," and
22 in the alternative, whether or not we give you back your
23 registration or what will happen at that time.

24 MR. KASUROW: I understand.

25 MS. BRADLEY: Thank you.

1 ACTING CHAIRMAN NADEAU: All right. Thank you,
2 Mr. Caruso.

3 MS. RAY: Kasurow.

4 ACTING CHAIRMAN NADEAU: Or Kasurow.

5 MR. KASUROW: Close enough.

6 ACTING CHAIRMAN NADEAU: Thank you,
7 Mr. Kasurow.

8

9 AGENDA ITEM 26

10 BOARD COMMENT AND DISCUSSION ONLY

11

12 ACTING CHAIRMAN NADEAU: All right. We'll go
13 on to item 26, Board comment and discussion only.

14 Robert, anything?

15 BOARD MEMBER UITHOVEN: No, sir. Oh, wait.
16 Did we want to go back to 24?

17 ACTING CHAIRMAN NADEAU: Okay. Yep. Yep.
18 Mark?

19 BOARD MEMBER ZANE: Yes?

20 ACTING CHAIRMAN NADEAU: We have several
21 appeals that -- where the appellants did not show.

22 BOARD MEMBER ZANE: Yes.

23 ACTING CHAIRMAN NADEAU: Would you be
24 comfortable -- what my suggestion would be, that we
25 handle each one of them. Because, apparently, none of

1 them have showed late, have shown up late. Would you be
2 comfortable in moving forward on these and in some
3 fashion take some action on those that did not appear?

4 BOARD MEMBER ZANE: I would.

5 ACTING CHAIRMAN NADEAU: All right. We have
6 number 10, which is Jack Futrell. His registration was
7 denied. He did not show.

8 Actually, I don't know how much we --

9 MS. RAY: He may just --

10 MS. WHATLEY: Oh, okay.

11 ACTING CHAIRMAN NADEAU: Now, we can either
12 handle these individually, or we can handle them as a
13 block. That's up to you.

14 BOARD MEMBER ZANE: I'd feel comfortable if we
15 could just identify them and handle them as a block.

16 MS. BRADLEY: I think that what we want to
17 potentially do, just to make sure the record's clear, if
18 staff could maybe put something on the record regarding
19 the service made to each one, that a letter was sent,
20 saying that this was on for today, and that letter was
21 received or wasn't, or whatever, or whatever information
22 we have regarding service, I think that would help the
23 Board feel more comfortable disposing of the matters in
24 the individuals' absence.

25 ACTING CHAIRMAN NADEAU: That's why we have an

1 attorney representing our Board. Thank you.

2 Okay. So, I guess, Tammy, come on back.

3 MS. WHATLEY: Actually, Mechele sent the
4 letters.

5 ACTING CHAIRMAN NADEAU: Oh, Mechele did?
6 Okay. So, I guess, we'll take care of them
7 individually. Sorry. I'm just trying to expedite it.
8 But it doesn't look like we'll go there.

9

10 AGENDA ITEM 10 (revisited)

11 JACK FUTRELL

12

13 ACTING CHAIRMAN NADEAU: Okay. Number 10, Jack
14 Futrell. Michelle.

15 MS. RAY: Thank you, Mr. Chairman. A letter
16 was sent to Mr. Futrell, and it was signed for at the
17 address on record.

18 ACTING CHAIRMAN NADEAU: And he did submit a
19 request for appeal?

20 MS. RAY: He did.

21 ACTING CHAIRMAN NADEAU: Okay. Any -- do we
22 have a motion?

23 BOARD MEMBER UITHOVEN: Did he submit anything
24 back to the staff on his absence today?

25 MS. RAY: No. No, he did not.

1 ACTING CHAIRMAN NADEAU: Okay. Do we have a
2 motion?

3 BOARD MEMBER UITHOVEN: Mr. Chairman, I'll make
4 a motion to sustain the denial to Mr. Jack Futrell.

5 ACTING CHAIRMAN NADEAU: We have a motion to
6 sustain a denial. Do I have a second?

7 BOARD MEMBER ZANE: Second.

8 ACTING CHAIRMAN NADEAU: Any discussion?

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

10 (All Board members said "aye.")

11 ACTING CHAIRMAN NADEAU: Opposed?

12

13 AGENDA ITEM 15 (revisited)

14 CHRISTOPHER WEST

15

16 ACTING CHAIRMAN NADEAU: Okay. Item 15,
17 Christopher West.

18 MS. RAY: Okay. Thank you, Mr. Chairman. Yes,
19 I do have a return receipt for a certified letter that
20 was mailed to Mr. West regarding this matter after he
21 requested an appeal.

22 BOARD MEMBER UITHOVEN: And --

23 MS. RAY: He did, he did send a letter, you
24 know, outlining everything. But.

25 MS. BRADLEY: That was his initial appeal

1 letter that you're referring to?

2 MS. RAY: Yeah, he sent the request for appeal
3 and said why, you know, he was appealing it. I sent a
4 letter saying we were having a hearing. He signed for
5 the letter.

6 BOARD MEMBER UITHOVEN: And then --

7 MS. RAY: Or someone signed for the letter at
8 the address of record.

9 MS. BRADLEY: And you haven't heard anything
10 from him until today?

11 MS. RAY: No.

12 ACTING CHAIRMAN NADEAU: Okay.

13 BOARD MEMBER UITHOVEN: Mr. Chair, I have a
14 motion.

15 ACTING CHAIRMAN NADEAU: Okay.

16 BOARD MEMBER UITHOVEN: I move to sustain the
17 denial for Mr. Christopher West.

18 BOARD MEMBER ZANE: Second.

19 ACTING CHAIRMAN NADEAU: Any discussion on the
20 motion?

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

22 (All Board members said "aye.")

23 ACTING CHAIRMAN NADEAU: Opposed?

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 17 (revisited)

LLOYD HANNAH

ACTING CHAIRMAN NADEAU: Number 17, Lloyd Hannah. Mechele.

MS. RAY: Mr. Chairman, I did receive a letter from Mr. Hannah requesting an appeal. I did send him a letter, and it was returned attempted -- return to sender, attempted, not known, unable to forward.

MS. BRADLEY: And the address that you sent it to was the address you had on file for him?

MS. RAY: That's correct.

MS. BRADLEY: And he had not submitted any change of address?

MS. RAY: No. It's the address that was on his return, the return address on his request.

BOARD MEMBER UITHOVEN: Mr. Chair, I make a motion to sustain the denial for Mr. Lloyd Hannah.

ACTING CHAIRMAN NADEAU: Okay.

BOARD MEMBER ZANE: Second.

ACTING CHAIRMAN NADEAU: Any discussion on the motion?

All in favor, signify by saying "aye."

(All Board members said "aye.")

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 19 (revisited)

FRANK GATES

ACTING CHAIRMAN NADEAU: Okay. Number 19,
Frank Gates.

MS. RAY: Thank you, Mr. Chairman. A certified
letter was signed for at the address of record that was
on his return from his request for appeal.

ACTING CHAIRMAN NADEAU: Okay.

BOARD MEMBER UITHOVEN: Mr. Chair, I make a
motion to sustain the denial for Mr. Frank Gates.

BOARD MEMBER ZANE: Second.

ACTING CHAIRMAN NADEAU: All in favor, signify
by saying "aye."

(All Board members said "aye.")

ACTING CHAIRMAN NADEAU: Opposed?

AGENDA ITEM 21 (revisited)

PREDDY MANUEL

ACTING CHAIRMAN NADEAU: Okay. Number 21,
Preddy Manuel.

MS. RAY: Okay. Again, Mr. Chairman, a
certified letter was sent. I do not have the green card
in the file. However, it was sent to, I believe, the

1 address of record, which isn't indicated on here. But
2 if it's not -- I don't have an envelope. I pulled them
3 up in our data base, and it's the address that we have
4 on file for them.

5 MS. BRADLEY: And do you know what day that was
6 sent?

7 MS. RAY: August 13th.

8 MS. BRADLEY: And your practice would be to
9 pull that from the record, the address that you have on
10 file?

11 MS. RAY: Yes.

12 MS. BRADLEY: And your practice in sending the
13 letter would also be to deposit it postage prepaid into
14 a mail receptacle, right, on the 13th?

15 MS. RAY: We have state mail.

16 MS. BRADLEY: Okay. But you --

17 MS. RAY: Yes.

18 MS. BRADLEY: But you followed your normal
19 practice?

20 MS. RAY: Yes. Yes. It's stamped United
21 States Postal Service.

22 ACTING CHAIRMAN NADEAU: Okay. He may not have
23 gotten this. So, therefore --

24 MS. RAY: Well, I can't say for sure. It was
25 mailed.

1 ACTING CHAIRMAN NADEAU: We know it was mailed,
2 but we don't know that it was received?

3 MS. RAY: That is correct.

4 ACTING CHAIRMAN NADEAU: Okay. Would the Board
5 be comfortable? I'd make a motion that -- that we
6 sustain the denial pending any further request by
7 Mr. Manuel. In other words, he could come back and say
8 he never got it, and he received it.

9 MS. BRADLEY: I think, you'd want to put a time
10 frame on it.

11 ACTING CHAIRMAN NADEAU: Okay.

12 MS. RAY: Wouldn't that apply to Mr. Hannah
13 too, though?

14 BOARD MEMBER UITHOVEN: By the next hearing
15 perhaps, Mr. Chair, if you want to put a time frame
16 on --

17 ACTING CHAIRMAN NADEAU: Oh, I thought
18 Hannah -- I thought we had, I thought we had the
19 receipt.

20 MS. RAY: No, his letter came back returned.

21 ACTING CHAIRMAN NADEAU: Okay. He came back
22 returned. But -- okay. No, I'm doing it on Mr. Manuel.
23 Yes, it's fine. If we haven't received additional
24 correspondence by -- well, let's just sustain the
25 denial. And then, I guess, they can always appeal that,

1 correct?

2 MS. RAY: (Nodded head affirmatively.)

3 ACTING CHAIRMAN NADEAU: Okay. So, I guess,
4 I'd make a motion to sustain the denial.

5 BOARD MEMBER UITHOVEN: Second.

6 BOARD MEMBER ZANE: A question?

7 ACTING CHAIRMAN NADEAU: Yes?

8 BOARD MEMBER ZANE: If we sustain the denial,
9 by regulation, don't we have to wait a year?

10 BOARD MEMBER UITHOVEN: Right.

11 MS. BRADLEY: Well, I think, though, they could
12 potentially make an argument to the Board that, "I
13 didn't receive it. Could you please reconsider this,
14 the sustaining of the denial." I mean they would have
15 to ask you to reopen the matter you're deciding right
16 now. There is a procedure in NRS 233B that allows
17 motions. And I'm guessing you have some sort of
18 provision about motions before the Board. So,
19 potentially, they could file a motion and say, "I'm so
20 sorry. I was in a car accident," or whatever their
21 really good reason is. Obviously, for them to ask you
22 to reopen it, they're going to have to have a really
23 good reason.

24 ACTING CHAIRMAN NADEAU: So, then, we could
25 just come back at the next meeting and say --

1 MS. BRADLEY: I think so.

2 ACTING CHAIRMAN NADEAU: -- move for
3 reconsideration?

4 MS. BRADLEY: I think, it's out of fairness.
5 And that's what it's really about. If they have a
6 really valid reason, they're in the hospital right now,
7 that's why they're not here, you know, I think you can,
8 out of fairness, try to consider that, and I don't think
9 anyone's going to complain too loudly.

10 ACTING CHAIRMAN NADEAU: Did that address your
11 concern, Mark?

12 BOARD MEMBER ZANE: Yes, sir. Thank you.

13 ACTING CHAIRMAN NADEAU: All right. We have a
14 motion and a second. All in favor, signify by saying
15 "aye."

16 (All Board members said "aye.")

17

18 AGENDA ITEM 23 (revisited)

19 TW GARRARD

20

21 ACTING CHAIRMAN NADEAU: All right. Now we
22 will go to Mr. TW Garrard.

23 MS. RAY: Thank you, Mr. Chairman. I do have
24 proof that a letter was sent to him, but I do not have
25 the return receipt. So same situation.

1 ACTING CHAIRMAN NADEAU: Same situation. And,
2 then, but it was sent to --

3 MS. RAY: The address of record, yes.

4 ACTING CHAIRMAN NADEAU: All right.

5 MS. BRADLEY: And that was also sent probably
6 on August 13th?

7 MS. RAY: No. His request didn't come in until
8 September 1st. So his was sent September 8th.

9 ACTING CHAIRMAN NADEAU: I'd accept a motion.

10 BOARD MEMBER UITHOVEN: Mr. Chair, I make a
11 motion to sustain the denial for TW Garrard.

12 BOARD MEMBER ZANE: Second.

13 ACTING CHAIRMAN NADEAU: Discussion on the
14 motion?

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

16 (All Board members said "aye.")

17

18 AGENDA ITEM 24 (revisited)

19 JONATHAN WAIALAE

20

21 ACTING CHAIRMAN NADEAU: Number 24, Jonathan,
22 and it's W-A-I-A-L-A-E.

23 MS. RAY: Oh. Mr. Chairman, he was notified,
24 and he sent my letter back with a handwritten note:

25 P.S. I will not be attending.

1 ACTING CHAIRMAN NADEAU: Okay.

2 BOARD MEMBER UITHOVEN: Mr. Chair, I make a
3 motion to sustain the denial for Mr. Jonathan Waialae.

4 ACTING CHAIRMAN NADEAU: I'll second that.

5 Discussion on the motion?

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

7 (All Board members said "aye.")

8 ACTING CHAIRMAN NADEAU: Okay. That pretty
9 well clears that.

10

11

AGENDA ITEM 27

12

FUTURE AGENDA ITEMS

13

14 ACTING CHAIRMAN NADEAU: Future agenda items.
15 Any future agenda items? I would expect that we will
16 continue the items that we didn't have at this time,
17 that weren't -- in other words, the policy manual, that
18 kind of stuff, those will be moved to the next agenda.

19

20 MS. RAY: If I could ask a question. When I
21 was speaking about other items to be talked about,
22 whether we have the workshop, was there any interest in
23 talking about the private prison issue for the Board to
24 discuss?

24

25

 ACTING CHAIRMAN NADEAU: Yes, I think, I think,
that would probably be a good thing to put on the

1 agenda.

2 MS. RAY: Okay.

3 ACTING CHAIRMAN NADEAU: What do you think,
4 Mark?

5 BOARD MEMBER ZANE: Well, I would assume that
6 we have the federal preemption argument again, but, I
7 guess, it would be good to hear.

8 MS. RAY: Yeah, it's possible, but I think we
9 should talk about it.

10 ACTING CHAIRMAN NADEAU: Wouldn't that be if it
11 was a federal prison?

12 BOARD MEMBER ZANE: That's what it is.

13 ACTING CHAIRMAN NADEAU: Oh, it is? Okay.

14 BOARD MEMBER ZANE: It's private. It's private
15 and operates on behalf of the program.

16 ACTING CHAIRMAN NADEAU: Okay. I guess, that
17 would be good to have that discussion, at least just
18 to -- for to have it on the record that we've looked at
19 it, don't you think?

20 MS. RAY: Yes.

21 ACTING CHAIRMAN NADEAU: Okay.

22 MS. RAY: And, Mr. Chairman, I believe that
23 there might be some history of previous discussions.
24 And I'll try and locate that, too, to see if it has any
25 bearing on anything.

1 ACTING CHAIRMAN NADEAU: Okay.

2 MS. RAY: And if I might also take a moment, I
3 believe, Kimberly Christensen is in the audience in
4 Las Vegas. So we'll make a moment to introduce her to
5 everybody.

6 And we're looking forward to having you on
7 Board.

8 MS. CHRISTENSEN: I'm looking forward to it,
9 too.

10 MS. RAY: How's the move?

11 MS. CHRISTENSEN: It's going slow. We just got
12 three truckloads last weekend, and wrenching my back
13 and -- Thursday morning.

14 MS. RAY: She's relocating from Las Vegas to
15 Carson City. So.

16 MS. CHRISTENSEN: Yes.

17 MS. RAY: Anyway, we're looking forward to
18 having you.

19 ACTING CHAIRMAN NADEAU: Welcome.

20 MS. CHRISTENSEN: Thank you.

21 ACTING CHAIRMAN NADEAU: Welcome aboard.

22 MS. CHRISTENSEN: Thank you.

23 ACTING CHAIRMAN NADEAU: If I could go back to
24 item 26 just for one second, and that was Board comment
25 and discussion only. One of the things that we brought

1 up in our discussion on the investigation was the
2 criminal history thing. Could we -- would -- I'd kind
3 of like to know, when we do the opening on the hearing
4 of these particular investigations, where we're standing
5 as far as the criminal history, whether it's come back
6 or not. Is it possible?

7 MS. RAY: Are you talking about on registration
8 appeals or licensing applications?

9 ACTING CHAIRMAN NADEAU: Licensing
10 applications.

11 MS. RAY: We can --

12 ACTING CHAIRMAN NADEAU: I guess, and where I'm
13 coming from is like, when we announce that we're talking
14 about licensed corporations requesting to qualify an
15 agent and say da-da, da-da, da-da, then, when we open
16 that up, then we can at least maybe get some feedback if
17 the criminal history had not been received by the time
18 the investigating report was forwarded.

19 MS. RAY: Right.

20 ACTING CHAIRMAN NADEAU: If it's been received,
21 at least we'd know it.

22 MS. RAY: If you have a report and the
23 information is still golden, you'd like to know if we've
24 received it once since you received the report, one way
25 or another?

1 ACTING CHAIRMAN NADEAU: Yeah.

2 MS. RAY: And I think the investigators will
3 have a report, and it's just as simple as you asking a
4 question or --

5 ACTING CHAIRMAN NADEAU: Yeah.

6 MS. RAY: Yes, that's not a problem.

7 ACTING CHAIRMAN NADEAU: Are you okay with
8 that?

9 MS. RAY: Yeah.

10 ACTING CHAIRMAN NADEAU: What do you think,
11 Mark?

12 BOARD MEMBER ZANE: I agree.

13 ACTING CHAIRMAN NADEAU: All right. Since I
14 opened that up, does anybody else have any Board comment
15 or discussion?

16 BOARD MEMBER ZANE: Is it possible if we could,
17 in the next newsletter or some sort of a publication,
18 maybe outline the specifics, as generally as we can,
19 about the lawsuit that was recently settled?

20 MS. RAY: It's in the -- oh, okay. You want it
21 put in a newsletter?

22 BOARD MEMBER ZANE: Well, no. It's just that I
23 know people of the opinion that, you know, the Board
24 lost that. It was more, you know, the activity of the
25 individual investigator was the culprit behind it. And,

1 you know, I got some feedback from a couple of different
2 people that thought it just generally made something
3 wrong with the Board historically.

4 MS. RAY: The facts or -- yeah.

5 BOARD MEMBER ZANE: Yeah. The newspaper didn't
6 do it any justice either by just simply saying that the
7 PILB was found liable, and it wasn't actually the case
8 once you read it.

9 ACTING CHAIRMAN NADEAU: What about just
10 putting a link on the webpage that links it to the suit,
11 or what do you think?

12 MS. RAY: I don't have the final document.
13 But, I guess, we can get a copy of the order. Or I'm
14 not sure.

15 ACTING CHAIRMAN NADEAU: Well, we can check.

16 MS. BRADLEY: Most likely, the order's going to
17 be -- it was settled?

18 MS. RAY: Yeah, it was settled.

19 MS. BRADLEY: Oh. Maybe you could help me out
20 with some of details, because I don't know that one.

21 MS. RAY: All they put in the newspaper was
22 just a huge amount what was settled by the State, and
23 that's it. I mean the -- yeah.

24 ACTING CHAIRMAN NADEAU: Well, what about, is
25 it possible that we could put that as an agenda item?

1 MS. RAY: Oh, just an update.

2 ACTING CHAIRMAN NADEAU: As a report to the
3 Board?

4 MS. RAY: We could have the counsel that
5 handled that, the deputy attorney general that handled
6 that matter -- we could put that on the next agenda and
7 have him give the Board a summary of the outcome. How
8 would that be?

9 BOARD MEMBER ZANE: That would be good. That
10 would be good.

11 MS. RAY: All right.

12 ACTING CHAIRMAN NADEAU: And that way, it
13 becomes part of the public record.

14 MS. RAY: Right. And then we don't have to
15 have a link for anything.

16 ACTING CHAIRMAN NADEAU: Okay.

17 MS. RAY: Okay. I will get together with them
18 and -- I don't know.

19 ACTING CHAIRMAN NADEAU: Okay. Anything else,
20 Mark?

21 BOARD MEMBER ZANE: Not that I can think of.

22 ACTING CHAIRMAN NADEAU: Feel kind of lonely
23 down there?

24 BOARD MEMBER ZANE: No, I think you guys will
25 come and see me at Christmas.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AGENDA ITEM 28

PUBLIC COMMENT

ACTING CHAIRMAN NADEAU: All right. Then, we'll move on to item number 28. Do we have any public comment?

MS. RAY: We have no public.

ACTING CHAIRMAN NADEAU: Then, that said, then we're adjourned.

* * * * *

(The meeting adjourned at 1:22 p.m.)

-oOo-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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, September 23, 2010, and commencing at 9:00 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, and that the foregoing transcript, consisting of all but the closed portions of the meeting, consisting of pages 1 through 166, is a full, true, and correct transcription of said stenotype notes of the open portion 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 29th day of October, 2010.

SHANNON L. TAYLOR
Nevada CCR #322, RMR