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

Thursday, March 10, 2011
9:00 a.m.

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

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

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A P P E A R A N C E S

Board Members Present:

David Spencer, Chairman (Las Vegas)
Jim Nadeau
Mark Zane (Las Vegas)
Robert Uithoven

Also: Mechele Ray (Las Vegas)
Executive Director

Thoran Towler
Deputy Attorney General
Acting Board Counsel

Colleen Hemingway
Deputy Attorney General
Acting Board Counsel

Tammy Whatley
Investigator

Joe Dupuis
Investigator

Nick Roble (Las Vegas)
Investigator

Elyse Gresnick-Smith (Las Vegas)
Investigator

Brandi King
Assistant

Kimberly Christensen
Assistant

Other Participants in Carson City:

Robert Tinsley

(continued...)

1 Other Participants in Las Vegas:

2 John Vizcarra
3 Rebekah Baumgardner, Esq.
4 Uyen Vu
5 Deborah Schuff
6 Christopher West
7 Benjamin Elliott
8 Ariel Bonilla
9 Richard Aistle
10 David C. Bradley

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1 CARSON CITY, NEVADA, THURSDAY, MARCH 10, 2011, 9:10 A.M.

2 -oOo-

3 BOARD CHAIRMAN SPENCER: All right. We'll get
4 underway. This is the second day of the quarterly
5 meeting of the State of Nevada Private Investigators
6 Licensing Board. Generally, the second day is to hear
7 appeals, disciplinary hearings and various matters.

8

9 AGENDA ITEM 1

10 ROLL CALL

11

12 BOARD CHAIRMAN SPENCER: All right. Roll call
13 of the Board members.

14 MS. RAY: Board Member Zane?

15 BOARD MEMBER ZANE: Present.

16 MS. RAY: Chairman Spencer?

17 BOARD CHAIRMAN SPENCER: Present.

18 MS. RAY: Board member Nadeau?

19 BOARD MEMBER NADEAU: Here.

20 MS. RAY: Board Member Uithoven?

21 BOARD MEMBER UITHOVEN: Here.

22 MS. RAY: And, for the record, Board Member
23 Putnam is absent.

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AGENDA ITEM 2

ALL APPLICANTS AND WITNESSES TO BE SWORN IN

BOARD CHAIRMAN SPENCER: At this time, all applicants and witnesses, anybody who would speak before the Board today for any reason, we need to swear you in. And so if you would stand and raise your right hand.

Anybody, anybody wish to speak before the Board today for any reason?

Ah, come on. Okay. We're ready to go. Go ahead.

MS. HEMINGWAY: Do you solemnly swear to tell the whole truth, nothing but the truth, so help you God?

(Potential witnesses were sworn.)

BOARD CHAIRMAN SPENCER: Thank you very much.

AGENDA ITEM 3

PUBLIC COMMENT

BOARD CHAIRMAN SPENCER: Okay. The first is sue on the agenda -- or, yeah, let's go with public comment. In the past, we've had public comment at the last of the meeting, and people get tired, because it sometimes goes very long. So we're having it twice now. We're having it at the start of the meeting and again at

1 the end of the meeting. So if anyone has a public
2 comment, questions, anything like that, please feel free
3 to jump up and go for it.

4 Yes, sir?

5 MR. VIZCARRA: Hi. John Vizcarra, licensee,
6 provisional one. I have a question regarding the
7 Board's position on law enforcement agencies being able
8 to contract out their services to private parties.

9 To clarify, what is your position on a private
10 corporation, a private entity, a private party, in an
11 event, celebration, et cetera, calling up the Las Vegas
12 Metropolitan Police Department, Henderson, Las Vegas,
13 and others in the state, requesting officers from them,
14 and paying them for their services, which, in my humble
15 opinion, would be acting as private security? Is that a
16 violation of the statute? Or is that -- they're hiring
17 actual agents?

18 MS. RAY: They're hiring the actual agent, and
19 they have a special event unit.

20 MR. VIZCARRA: Okay. The reason why I'm asking
21 is I find myself increasingly competing with law
22 officers for jobs. And sometimes I get the contract,
23 sometimes I don't. It even gets to a point where the
24 agency that I'm competing against is also the agency
25 that has to sign on my permit. And so, with respect to

1 the employers, I've been told, "Well, if you don't use
2 us, you can't use them." And I just think that it's
3 unfair.

4 BOARD CHAIRMAN SPENCER: Would you repeat that
5 last statement you made, about people being told what?

6 MR. VIZCARRA: That the issuing agency, the
7 employer signing my permit, is actually the law
8 enforcement agency. So it comes to a point where the
9 prospective employer told me, "Listen, I spoke to" --
10 such-and-such agency's special event, and they told me
11 that if I didn't sign on the permit, hiring them, if I
12 didn't hire them, they would not be hired. So,
13 basically, I see the conflict of interest, that if
14 you're not hiring me, you can't hire them.

15 BOARD CHAIRMAN SPENCER: Well, I would run with
16 that information to the chief of police, because
17 they're, basically, starting a -- and I've never heard
18 of it. But that's not to say that it couldn't happen.

19 MR. VIZCARRA: And I've had three cases that
20 were mine, so, that are documented.

21 BOARD CHAIRMAN SPENCER: Well, actually, you
22 should probably send them to Mechele, and as a copy, if
23 you're going to say something to the police department,
24 with the original. Send us a copy.

25 Any other questions? Anything down there?

1 BOARD MEMBER UITHOVEN: No.

2

3 AGENDA ITEM 4

4 JOHNATHAN VIZCARRA

5

6 BOARD CHAIRMAN SPENCER: Okay. The first issue
7 up is a disciplinary hearing regarding Johnathan
8 Vizcarra.

9 Please have a seat.

10 BOARD MEMBER NADEAU: Mr. Chair?

11 BOARD CHAIRMAN SPENCER: Yes?

12 BOARD MEMBER NADEAU: I don't know if you
13 wanted to have Investigator Dupuis do an update on our
14 Mr. Astle, the one that we deferred till today?

15 BOARD CHAIRMAN SPENCER: Does he have results?

16 MS. RAY: No.

17 BOARD MEMBER NADEAU: No.

18 BOARD CHAIRMAN SPENCER: Okay. We'll hold on,
19 then, for a little bit.

20 BOARD MEMBER NADEAU: Okay. Thank you.

21 BOARD CHAIRMAN SPENCER: Let me see.

22 MS. RAY: Mr. Chairman, we have Thoran
23 Towler --

24 BOARD CHAIRMAN SPENCER: Okay.

25 MS. RAY: -- who is doing the appeals for

1 discipline. And we have -- is it Colleen Hemingway? --
2 as Board counsel today.

3 MS. HEMINGWAY: Yes.

4 MR. TOWLER: My first witness -- again, for the
5 record, Thoran Towler, Deputy Attorney General. My
6 first witness in this case will be Investigator Nick
7 Roble, who, I believe, is in Las Vegas.

8 MR. ROBLE: This was filed under complaint
9 number 9 -- 9-2092-10. The complainant was Carla Vine,
10 ex-wife of Johnathan Vizcarra, aka Whitney. The
11 allegation is he's not in compliance with his
12 court-ordered child support, which is a violation of NRS
13 648.485. Carla Vine sent a fax.

14 MR. TOWLER: I'm sorry. Sorry about that,
15 Nick. Let's just start. For the record, could you
16 state your name and spell your last name for the record,
17 please.

18 MR. ROBLE: My name is Nick Roble, R-O-B-L-E.

19 MR. TOWLER: And just so we have a clear
20 record, where is it that you work?

21 MR. ROBLE: I work for the PILB, Private
22 Investigations Licensing Board, in Las Vegas.

23 MR. TOWLER: And what's your title?

24 MR. ROBLE: Investigator.

25 MR. TOWLER: I think, you've just specified

1 that you -- in your official duties, you investigated a
2 Johnathan Vizcarra. Is that correct?

3 MR. ROBLE: That's true.

4 MR. TOWLER: All right. And then, I believe,
5 you were starting to say why you first came across John
6 Vizcarra.

7 MR. ROBLE: It came across as a complaint from
8 Carla Vine, his ex-wife, referencing him not paying his
9 court-ordered child support.

10 MR. TOWLER: Okay. Did you investigate whether
11 that was true or not, if he was in compliance?

12 MR. ROBLE: She supplied documentation from
13 Alameda County that has been forward, I believe, to your
14 office, indicating that he is not in -- he is in
15 arrears.

16 MR. TOWLER: Do you know whether that's a
17 problem for investigators in Nevada? I guess, well, to
18 clarify, I'm asking, is -- do you know whether not being
19 in compliance with child support is a violation of NRS
20 648?

21 MR. ROBLE: It is.

22 MR. TOWLER: Do you know if our investigators
23 have to sign forms to indicate whether they are in
24 violation or not?

25 MR. ROBLE: Private investigators, private

1 patrol, anyone that applies for a license, that I'm
2 aware of, they have to sign a statement saying they're
3 in compliance with child support. Even work card
4 applicants have to sign that statement.

5 MR. TOWLER: Do you know if he signed the
6 statement that he was in compliance?

7 MR. ROBLE: He had, he had submitted, in June
8 of '10, 2010, that he was in compliance. Well, he
9 contacted Alameda County. And he also supplied a check,
10 a copy of a check, and said that he was in compliance
11 with child support and that he was making payments.

12 MR. TOWLER: Did you ever find out whether that
13 was true or not; did you hear from Alameda County,
14 specifically?

15 MR. ROBLE: Alameda County was -- I can't --
16 I've contacted them directly. They won't supply me with
17 any information. Carla Vine did send copies, updated
18 copies of the child support, nonpayment, from Alameda
19 County.

20 MR. TOWLER: And for the record, Carla Vine,
21 who would that be?

22 MR. ROBLE: Carla Vine is Johnathan Vizcarra's
23 ex-wife.

24 MR. TOWLER: Okay. Do you know if a complaint
25 was ever forwarded from the P.I. Board regarding this

1 matter?

2 MR. ROBLE: I didn't understand what you said.

3 MR. TOWLER: Do you know whether a complaint
4 was issued against Mr. Vizcarra regarding this matter?

5 MR. ROBLE: Yes, it was.

6 MR. TOWLER: Okay. I have what's marked as
7 Exhibit 1. Do you have that down there?

8 MS. RAY: Yes.

9 MR. TOWLER: Would you take a look at it,
10 Mr. Roble. And I'd like that submitted to the Board.
11 Do you recognize that document?

12 MR. ROBLE: Yes.

13 MR. TOWLER: Are you guys hearing me okay?

14 BOARD CHAIRMAN SPENCER: Yes.

15 MR. TOWLER: Okay. Is that the complaint that
16 was sent?

17 MR. ROBLE: Yes, it was.

18 MR. TOWLER: Okay. Now, towards the end of the
19 complaint -- it's three pages from the end -- there's a
20 letter to Carla Vine. Do you see that?

21 MR. ROBLE: Yes.

22 MR. TOWLER: Okay. Is that the letter that you
23 were referring to earlier when you said that there was a
24 letter forwarded to you that he was not in compliance?

25 MR. ROBLE: This is one of the letters, but

1 this is also information from Alameda County. They
2 have -- they do a month-by-month survey of payments that
3 are made or not made. And that, too, was submitted.

4 MR. TOWLER: Correct. But this letter states
5 that he has not been in compliance, and there has not
6 been a regular payment received since 3-24, 2009. Do
7 you see that?

8 MR. ROBLE: Yes, I do.

9 MR. TOWLER: Does it show how much, from the
10 date of this letter, he is in arrears on his child
11 support?

12 MR. ROBLE: As of the date of this letter, it's
13 \$68,934.60.

14 MR. TOWLER: Go ahead and turn to the very next
15 page. Could you explain to the Board what that, what
16 that document is?

17 MR. ROBLE: This is the child support
18 information page. And he marked it on this, the second
19 item, which says "I am subject to court order for the
20 support of one or more children, and I am in compliance
21 with the order or I am in compliance with the plan
22 approved by the district attorney or other public agency
23 per the order, for the repayment of the amount owed
24 pursuant to the order." And it as signed by John
25 Vizcarra on 3-01 --

1 MR. TOWLER: Could you speak a little louder or
2 maybe have the microphone closer to you?

3 MR. ROBLE: Okay. What did you want me to
4 continue with?

5 MR. TOWLER: I think, you were just reading the
6 date, was the last part.

7 MR. ROBLE: I can, I can't read the date. It
8 looks like 3-10. It could be.

9 MR. TOWLER: Well, okay. I would submit that
10 the date says 3-1-08. Could you look at the next page?

11 MR. ROBLE: Yes.

12 MR. TOWLER: And that is -- looks like the same
13 form, basically, though it's a different date?

14 MR. ROBLE: It's the same form, and this one is
15 signed and dated. He also indicated exactly the same
16 thing that he did on the last form. And this was signed
17 and dated 6-29-10.

18 MR. TOWLER: When you said he signed, this is
19 the same thing, so, basically, he's subject to an order
20 for child support.

21 MR. ROBLE: And that he is in compliance with
22 the order.

23 MR. TOWLER: Okay. But, then, with that letter
24 that we have attached the complaint, you know that that
25 wasn't the case; is that correct?

1 MR. ROBLE: Yes.

2 MR. TOWLER: Did you contact Mr. Vizcarra
3 regarding these facts?

4 MR. ROBLE: Yes, I did. I -- well, I went to
5 his office and tried to contact him there. He was in a
6 meeting, or he had left for the day. He did call me the
7 following week, which I believe was in June of last
8 year. And I asked him, because he had submitted the
9 child support information and that check that we spoke
10 about previously, and he told me he would send, he would
11 fax me the information that that check and other checks
12 had been cashed. And I never received any information
13 from him.

14 MR. TOWLER: Have you been in contact with the
15 ex-wife, Carla Vine?

16 MR. ROBLE: Yes, I have. And she has not
17 received any money or -- from him or from the Child
18 Support Division of Alameda County. She did tell me
19 that her child support has been transferred to
20 Los Angeles County. So I -- and she didn't have any
21 documentation, or I haven't seen any documentation from
22 them.

23 MR. TOWLER: Do you know whether, pursuant to
24 NRS 648, you can be non -- you can be noncompliant with
25 an order for child support and still be licensed as an

1 investigator?

2 MR. ROBLE: No, you cannot.

3 MR. TOWLER: Okay. That's a complicated
4 question. But what I'm saying is, from your -- from
5 your knowledge of NRS 648, do you have to be in
6 compliance with an order for child support in order to
7 be licensed?

8 MR. ROBLE: Yes, you do.

9 MR. TOWLER: Okay. I have no further questions
10 for this witness. I believe, that's Mr. Vizcarra in
11 Las Vegas?

12 MR. VIZCARRA: Yes.

13 MR. TOWLER: You have the right to ask him
14 questions if you'd like to.

15 MR. VIZCARRA: Oh. Thank you. Mr. Roble, have
16 you talked to anyone outside the investigation regarding
17 my case?

18 MR. ROBLE: I don't recall if I brought it up.

19 MR. VIZCARRA: Okay. Would there be any reason
20 you would speak to anyone besides Carla Vine, the County
21 of Alameda, the County of Los Angeles or the State of
22 California?

23 MR. ROBLE: No.

24 MR. VIZCARRA: Would there be any reason you
25 would speak to an employee of Las Vegas Protective

1 Services regarding my case?

2 MR. ROBLE: I don't know that there's -- who
3 would you be referring to?

4 MR. VIZCARRA: Do you recall speaking to
5 Shannon Dilugo, the person used to work with the
6 Henderson Police Department, regarding the case?

7 MR. TOWLER: I guess, I'm going to -- again,
8 for the record, Thoran Towler, Deputy Attorney General.
9 I'm going to object to relevance. I guess, I don't know
10 what this has to do with the complaint on file. What
11 we're here for is, you know, the complaint is giving
12 false information.

13 MR. VIZCARRA: Well, what I am trying to
14 establish, sir, is I'm trying to establish the integrity
15 of the investigator.

16 BOARD CHAIRMAN SPENCER: All right. It might
17 be better, then, if you had any questions regarding his
18 testimony that was given already.

19 MR. VIZCARRA: Okay.

20 BOARD CHAIRMAN SPENCER: And then call your
21 witness --

22 MR. VIZCARRA: Okay.

23 BOARD CHAIRMAN SPENCER: -- at a later time.

24 MR. VIZCARRA: Okay. I apologize.

25 BOARD CHAIRMAN SPENCER: Do you agree, counsel?

1 MS. RAY: They might not be able to hear.

2 BOARD CHAIRMAN SPENCER: Do you agree with
3 that, counsel?

4 BOARD MEMBER NADEAU: Mr. Chairman, which
5 counsel are you requesting, asking the question to,
6 Board counsel or the prosecution?

7 BOARD CHAIRMAN SPENCER: The prosecution.

8 MS. RAY: Prosecution.

9 MR. TOWLER: I agree.

10 BOARD CHAIRMAN SPENCER: Okay.

11 MR. VIZCARRA: Okay. I have no further
12 questions for the witness. Thank you.

13 BOARD CHAIRMAN SPENCER: All right. No further
14 questions.

15 MR. TOWLER: I don't have any further witnesses
16 or evidence. I think these documents that we have are
17 fairly clear. The issue is we have two dates where he
18 signed that he had an order to pay child support and did
19 not pay child support. We have proof from the child
20 support representative that spells out that, no, he has
21 not been in compliance. He has not made a regular
22 payment since June 24, 2009. Specifically, I'll quote
23 it: "Mr. Vizcarra is not complying with the terms of
24 the court order." But yet he said that he was in
25 compliance.

1 And that is, Board, that is my case.

2 BOARD CHAIRMAN SPENCER: Do you have any other
3 witnesses?

4 MR. VIZCARRA: I have no witnesses other
5 than -- other than the issue that I tried to bring up
6 earlier.

7 BOARD CHAIRMAN SPENCER: All right.

8 MR. VIZCARRA: But I do have some material.
9 And am I allowed to -- to defend myself?

10 BOARD CHAIRMAN SPENCER: That's what I'm asking
11 you.

12 MR. VIZCARRA: Oh. Okay. I do. I do have
13 some things to present. And I'd like to, and I'd like
14 to address the complaints by count that are in this,
15 that are in this document. Count --

16 BOARD CHAIRMAN SPENCER: Refer to each document
17 that you have to make sure that the Board members know.

18 MR. VIZCARRA: Okay.

19 MS. RAY: I just asked him --

20 MR. TOWLER: It's important to get close to the
21 microphone, because our court reporter is up here.

22 MS. RAY: Okay. We will do that.

23 MR. VIZCARRA: You need a microphone there.

24 BOARD CHAIRMAN SPENCER: Yeah.

25 MS. RAY: I just asked Mr. Vizcarra if we

1 needed to make any copies. And he said he did not
2 believe that we would need copies to provide Carson
3 City.

4 (The microphone in Las Vegas was checked.)

5 MR. VIZCARRA: So I would like to address the
6 concerns of the Board and offer you my confirmation of
7 what I signed when I signed the documents.

8 Count 1, that on June 29th, Mr. Vizcarra signed
9 a renewal application stating that he is subject to a
10 court order to pay child support, and that he's in
11 compliance with that order. See Exhibit 1, renewal
12 application.

13 At the time that I turned in my renewal slip, I
14 also turned in a letter to the Private Investigators
15 Licensing Board, which I don't see as part of this
16 documentation. And, unfortunately, I don't know where I
17 placed it. But I'd like to ask if they received it
18 along with a copy of the check in the envelope that I
19 had sent?

20 Yes? Yes. So in that letter I -- I'm getting
21 some feedback from Lake Tahoe. I'm sorry. In that
22 letter I stated that I was not in compliance but that I
23 was sending money in so that I would be in compliance
24 according to that, that paragraph statement, that I am
25 in with a plan approved by the district attorney or

1 other publication enforcing order for repayment.

2 I sent that payment, and it's part of the
3 envelope, and it went to -- and I was instructed to mail
4 it to the State of California. Prior to that, all my
5 payments had gone to the County of Alameda. I don't
6 know why there was a change. I really don't understand
7 their system too well, obviously.

8 So the check went to the State. And the check
9 was never cashed. I don't know what happened to it.
10 The check was never returned, the check was never
11 cashed, nothing. There was nothing for me to
12 investigate. And I told that to Mr. -- I mean to
13 Investigator Roble.

14 While researching this document, I started to
15 receive word that my son was no longer living with Carla
16 Vine, that she had kicked him out of the house -- he's
17 17 years old at this point -- that she kicked him out of
18 the house, he was no longer living there, and he also
19 dropped out of high school. So I researched that. And
20 that did -- was, in fact, the case.

21 Jumping forward, I've been trying to -- I've
22 been trying to substantiate that by calling West, West
23 Camino High School. But they won't give me any
24 information on his -- on his enrollment in the school,
25 because I'm not the custodial parent. So they won't

1 give me any information. And so I've been persevering,
2 and I finally found that proof that he is not in school,
3 by talking to him.

4 And so, now, as I've learned, my case has been
5 transferred to Los Angeles. I contacted Los Angeles
6 County, and my case has been terminated. I spoke to
7 Erica, with team 12. She wouldn't give me her last
8 name. She said team 12. That was it. And they have
9 terminated my case, and they are now filing the motion
10 to go after Ms. Vine for all support back to the date
11 that he dropped out of high school, which, I believe, is
12 August of 2010.

13 MR. TOWLER: Do you have any document -- I'm
14 sorry. This is Thoran Towler for the record.

15 MR. VIZCARRA: Yes.

16 MR. TOWLER: Do you have any documentation for
17 any of this? Is this what you have in front of you?

18 MR. VIZCARRA: Unfortunately, no, sir, I don't.
19 I don't have any information. I requested information
20 from Los Angeles County. They told me it would be at
21 least three to four weeks before they could provide me
22 with documentation. But it is the truth.

23 So they are also requesting that I file a
24 motion with the family law facilitator. Because
25 Ms. Vine has been receiving money fraudulently for child

1 care, in the amount of \$300 per month, for 180 months,
2 or \$54,000.

3 I have long thought that Ms. Vine has someone
4 in Alameda County Support Services Unit who was helping
5 her defraud me and the State of California. And now
6 that my case has been transferred to Las Angeles County,
7 I will prove that.

8 And so I'm sorry if I got off track here. On
9 to the next count, Count 2. March 2008, Mr. Vizcarra
10 signed a renewal application subject -- saying that he
11 is subject to a court order to pay child support.

12 If you look at that documentation, 3-1-08, when
13 I signed that, per their letter, I was in compliance
14 with my court-ordered child support. So that is true.
15 In fact, I was in compliance.

16 The reason for my noncompliance, because the
17 money has not been received, is that, unfortunately,
18 I've been laid off three times in the course of -- in
19 the course of living here in Las Vegas, beginning in
20 '09. And I'm starting a new business. It's difficult.
21 I've also been unable to keep my real estate because of
22 loss of employment.

23 So I apologize that I haven't been able to pay.
24 But I can assure you I'm not spending the money
25 unwisely.

1 So on to the next one, Count 3. I'm not sure
2 about the date, June 15th. I'm sure Mr. Roble has
3 accurate information and more, more detailed and
4 documented than mine. But June 15th sounds like a --
5 sounds like an early date. I would think, if anything,
6 that I spoke with him after June 29th. But I really
7 don't have any proof. I don't have any notes. So I
8 apologize.

9 I believe, that really kind of addresses the
10 counts, as they are. I don't know what else I can say
11 regarding this case other than I'm finally free of it.
12 I'm no longer subject to a court order to pay child
13 support. And as soon as I get proof of that, I will be
14 more than happy to forward it to -- to the Board for
15 filing.

16 MR. TOWLER: If I may. Again, this is Thoran
17 Towler. The concern we have -- I understand
18 Mr. Vizcarra brought out a lot of really unique and
19 interesting arguments that maybe are true, but there's
20 no documentation at this time. But what I come back to
21 is that June 29, 2010, in your packet, second to the
22 last page of Exhibit 1, he checked the box that he is
23 subject to an order and that he is in compliance. We
24 have no proof of that. In fact, we have proof that
25 that's not true. If you turn back two pages prior to

1 that document, you will have a letter from Alameda
2 County. Of course, Mr. Vizcarra, I think, is saying, is
3 testifying that he is in compliance or is no longer
4 subject to an order.

5 I guess, the solution would be for him to
6 submit a new form. And if he's going to check the box
7 "I'm not subject," then he needs to have proof of that.
8 Or if he wants to check the box "I am in compliance", he
9 needs to have proof of that instead of having his
10 testimony alone. That's my concern. I'll just submit
11 that to the Board.

12 MR. VIZCARRA: Can I respond?

13 BOARD CHAIRMAN SPENCER: Certainly.

14 MR. VIZCARRA: My feeling, and the reason why I
15 sent the letter to the Private Investigators Licensing
16 Board, was that I was not being untruthful with the
17 Board. I was not attempting to deceive the Board. I
18 was meaning in that letter that I -- that I was not in
19 compliance. I sent that check, which I felt put me in
20 compliance per the -- per the statement that I was
21 initialing. If I'm wrong, I apologize, but that's my
22 interpretation of it.

23 After that, I began to research where the check
24 went. During that time, in August, which is not too far
25 away from what we're talking about here, June 29th to

1 August, is when I learned that he was no longer in
2 school, that he had dropped out of school, that he was
3 no longer living with her.

4 The wheels in the child support system move
5 very slow. You will go through periods of not being
6 able to get ahold of people for weeks at a time. I have
7 dealt with uncooperative people in that office and
8 uncooperative people at the high school so that I could
9 prove my case.

10 I am a victim of bureaucratic issues. But I do
11 accept responsibility that I have an obligation, or I
12 had an obligation to pay child support. And I have been
13 paying my child support for the past however many years
14 I've been living here in Vegas. I believe, seven.

15 I would like to clarify why there is such a
16 large balance on my -- on my child support, if I could
17 explain that to the Board.

18 BOARD CHAIRMAN SPENCER: Please.

19 MR. VIZCARRA: The reason why there's a large
20 balance on the child support -- and I have documentation
21 of this. I apologize. I didn't bring it with me. I'm
22 very unorganized. But we originally separated in 1992.
23 During that time, Ms. Vine could not get a bank account.
24 So I've been paying her in cash. I never thought that
25 would come back to bite me.

1 When I was remarried in 1999 -- prior to that,
2 several years, I met my wife, my fiance' at that time.
3 Ms. Vine was very upset. And she assaulted me
4 physically in the City of Oakland. And I had her
5 arrested under California Penal Code 273.5 for spousal
6 battery. After I had her arrested -- and this all
7 coincides with the time line. After I had her arrested,
8 she went to the courts, told them that I had not been
9 paying her, and hit me with this large bill of back due
10 child support.

11 Fortunately, I had some records to dismiss some
12 of that money. But I didn't have all the records, which
13 is why you see that large amount. However, then I filed
14 this motion about her fraud for \$300 for the past 180
15 months. That would be \$54,000. And then I intend to go
16 after her for the rest.

17 BOARD CHAIRMAN SPENCER: It seems that you
18 suffer from document phobia, and you have -- don't have
19 any.

20 MR. VIZCARRA: You are correct.

21 BOARD CHAIRMAN SPENCER: Everything that you're
22 talking about is -- is -- sounds good, you know, and it
23 may very well be true. But I would have showed up here
24 with -- shown up here with a lot more documentation of
25 the things you're going to say, and that would be true

1 of anybody that was to appear before us, regarding the
2 case.

3 MR. VIZCARRA: Right. I had attempted to get
4 the documentation from -- and I know that there's other
5 documentation that I should have. But I -- I will have
6 that documentation for the Board. And that is right.

7 BOARD CHAIRMAN SPENCER: Board questions?

8 BOARD MEMBER UITHOVEN: Mr. Chairman, I just
9 had a question. On the two documents on the
10 applications for child support information, the one with
11 the March date of what looks like to be 2008, and then
12 the following document of June 29, 2010, my question for
13 Mr. Vizcarra, are both of those your signatures? If you
14 look at the signatures, they just -- I'm just curious.
15 They certainly don't look consistent to me. But.
16 Besides I know they both answer the same question in
17 both of those.

18 MR. VIZCARRA: Yes, those are, those are both
19 my signatures.

20 BOARD MEMBER UITHOVEN: Okay. I would just
21 echo what our Chairman has said. And, you know, we
22 can't, we can't, without documentation, we can't -- we
23 have nothing to verify what you're telling us here
24 today. And that's -- I think that proves difficult to
25 me as well.

1 MR. VIZCARRA: Is it possible to --

2 BOARD MEMBER UITHOVEN: Actually, the
3 documentation we do have is difficult for you. And in
4 order for this -- just speaking for myself, but as a
5 Board member, I need some documentation to match with
6 the story you're telling us today. And we just don't
7 have that.

8 BOARD CHAIRMAN SPENCER: Any other Board
9 questions?

10 BOARD MEMBER NADEAU: I just had a real quick
11 question. That is, you indicated, Mr. Vizcarra, you
12 indicate that you sent a check to the State of
13 California. Did you just write a check to the State of
14 California, or did you send it to any particular
15 division, office or anything of that nature? I mean
16 that's pretty nebulous. The State of California,
17 there's a whole bunch of -- if I wrote a check to the
18 State of California, I wouldn't expect that it would be
19 cashed necessarily.

20 MR. VIZCARRA: Yes, sir. And I'm sorry for not
21 clarifying. I sent it to -- and I apologize. I've
22 included a copy of it with my renewal, and the PILB has
23 it. I would hope they have it. But, I believe, you
24 know, just trying to recall, it was State of California
25 Task Board Unit, and gave an address, if it was a form

1 letter, and that's where I sent it to. And I included a
2 copy of that, as well as a letter to the Board
3 explaining my position.

4 BOARD MEMBER NADEAU: May I ask a question of
5 Mechele or the investigator?

6 MS. HEMINGWAY: Yes.

7 BOARD CHAIRMAN SPENCER: Certainly.

8 BOARD MEMBER NADEAU: Are we aware, within the
9 file, do we know if that's contained within his file,
10 that letter?

11 MR. ROBLE: I have never seen the letter. I do
12 have a copy of the check --

13 BOARD MEMBER NADEAU: Okay.

14 MR. ROBLE: -- that he sent.

15 BOARD MEMBER NADEAU: Okay.

16 MR. ROBLE: But I've never seen the letter.

17 BOARD MEMBER NADEAU: Thank you.

18 MS. RAY: We've got a copy of the letter, also.

19 MR. ROBLE: You have a copy? They have a copy.

20 BOARD MEMBER NADEAU: Oh, okay.

21 BOARD CHAIRMAN SPENCER: Yes, we have copies.

22 BOARD MEMBER UITHOVEN: Okay.

23 BOARD CHAIRMAN SPENCER: Mark, do you have
24 anything?

25 BOARD MEMBER NADEAU: And, then, if we have a

1 copy of the check and a copy of the letter, first off,
2 who are they to? And, secondly, when are they dated?

3 MS. RAY: Board Member --

4 BOARD MEMBER NADEAU: And, I guess, my third
5 question, is the check a copy of the check, the
6 cancelled check, or is it the copy of the -- just the
7 plain check?

8 MS. RAY: Okay. Board Member Nadeau, the check
9 is dated June 29th, 2010, made payable to California
10 State Department for \$843. It is not a cancelled check.
11 It's just a copy of the written check.

12 MR. VIZCARRA: It is.

13 BOARD MEMBER NADEAU: Okay. Thank you.

14 BOARD CHAIRMAN SPENCER: Is there any thought
15 among the Board members to continue this matter until
16 Mr. Vizcarra can come up to the Board with the proper
17 documentation?

18 BOARD MEMBER ZANE: I wouldn't support a
19 motion.

20 BOARD CHAIRMAN SPENCER: Okay.

21 BOARD MEMBER NADEAU: Mr. Chairman, we have
22 absolutely nothing to corroborate Mr. Vizcarra's side of
23 the story. All the evidence that we have is, in fact,
24 contrary to that. So I wouldn't, in my opinion, I
25 wouldn't, I would not be comfortable in just continuing

1 this to a later date.

2 I might be amenable to suspending his license,
3 if that's one of our options, pending additional
4 information. But it seems fairly clear to me that at
5 the time he signed his application, he was in violation
6 of the -- of our Nevada Revised Statutes.

7 BOARD CHAIRMAN SPENCER: All right. I tend to
8 agree.

9 Mr. Vizcarra, there's just so many things here
10 that, you know -- do you have a license for -- as an
11 investigator?

12 MR. VIZCARRA: I have a license for private
13 patrolman and process server.

14 BOARD CHAIRMAN SPENCER: Oh. To me, it's just
15 too obvious that -- that nothing was done. And I have
16 the documentation. If I had a bill facing me of
17 \$68,000, I'd be asking the other party to document what
18 that's for, you know, the whole ball of wax.

19 MR. VIZCARRA: M-hm (affirmative).

20 BOARD CHAIRMAN SPENCER: And I would not have
21 come here unprepared without the documentations that
22 you've been talking about.

23 MR. VIZCARRA: Right.

24 BOARD CHAIRMAN SPENCER: I think that's -- it's
25 not what the majority of the people would have done.

1 MR. VIZCARRA: I agree. I agree.

2 BOARD MEMBER ZANE: Mr. Chairman, I do have a
3 question for staff counsel.

4 BOARD CHAIRMAN SPENCER: Certainly.

5 BOARD MEMBER ZANE: I'm wondering. We have a
6 single violation but for two categories of licensure.
7 So is this -- if we just take action, are we just taking
8 it on a single license, two licenses?

9 MS. HEMINGWAY: Well, I would imagine his
10 license application would apply to each and every one of
11 those. And so, I think the finding is that potentially
12 648.1503 for, potentially, each and every one of those
13 applications. But you could also consider it one
14 license application. I think, it was alleged as one
15 license application.

16 MR. TOWLER: Right.

17 BOARD MEMBER ZANE: Thank you.

18 BOARD MEMBER NADEAU: Mr. Chairman, are you
19 prepared to accept a motion?

20 BOARD CHAIRMAN SPENCER: Yes.

21 BOARD MEMBER NADEAU: Let's see if I can get
22 this right. I would move that Johnathan Vizcarra, of
23 Las Vegas Protective Services, Incorporated, license
24 1501a and 1501b, 1501d and 1501e, be suspended pending
25 documentation of the -- be suspended pending

1 documentation that this issue is no longer valid,
2 including any information dealing with arrearages of
3 payments not made and that type of information.

4 Additionally, I guess, I have a question for
5 counsel. Do we have the ability to administer a fine
6 for -- if we suspend the license, can we also administer
7 a fine based on violation of -- as far as discipline?

8 MR. TOWLER: I think, it's not clear in the
9 statute, from what I've seen, because this is a false
10 application or false renewable, basically, and there's
11 not a fine attached to that, that I have found.

12 BOARD MEMBER NADEAU: Okay. I guess, what I'm
13 asking is, if we find that there were circumstances at
14 the time he filled out the application that was
15 consistent with his first, the first application, and it
16 appears that there may be been an issue there, if there
17 are extenuating circumstances, that can be considered.
18 And so, I guess, I'm -- that's what. But I think there
19 should have been more effort on his part to bring
20 forward -- and I know I'm interrupting my motion. But
21 there should have been more effort on his part to
22 substantiate and bring forth any kind of evidence or
23 viability to -- regarding his response to the
24 application at that time.

25 So, I guess, if there's -- so why don't I just

1 say suspended until such time as he's able to prove to
2 the Board that he was not in violation of the statute?
3 How's that? I guess, that's probably a better way of
4 stating the motion.

5 BOARD CHAIRMAN SPENCER: Discussion on the
6 motion?

7 BOARD MEMBER NADEAU: And, and that he is -- he
8 was not in violation at the time and that he is
9 currently not in violation. But I also want information
10 on the arrearages, too, which is part of -- part going
11 to the initial violation of the NRS.

12 BOARD CHAIRMAN SPENCER: Do I have a second?

13 BOARD MEMBER NADEAU: Boy, I went through all
14 that, and I don't have a second.

15 BOARD MEMBER UITHOVEN: Second. I'll second
16 it.

17 BOARD CHAIRMAN SPENCER: All right. Discussion
18 on the motion. What if he's unable to do that?

19 BOARD MEMBER NADEAU: Well, I guess, I would be
20 willing to amend my motion to allow him six months to
21 bring that information forward. And if not, it would
22 come back to the Board, and we would then consider
23 revocation.

24 BOARD CHAIRMAN SPENCER: All right. Second on
25 that addition?

1 BOARD MEMBER NADEAU: Or if his -- I guess, or
2 if his renewal comes up prior to that date, then it's
3 not renewed. In other words, we -- because statutorily
4 we can't renew it. So, therefore, if -- I guess, we
5 could suspend it until such time as he comes up for
6 renewal, and then it's a moot point from that point on.

7 BOARD CHAIRMAN SPENCER: Okay.

8 MR. TOWLER: Again, for the record, this is
9 Thoran, just for discussion purposes. Mechele, do you
10 know when he will be up for renewal?

11 MS. RAY: The licenses currently expire
12 June 30th of this year. So that would be the deadline.

13 BOARD MEMBER NADEAU: So by default, it
14 would -- by default, we couldn't renew his license as it
15 is, unless he has adequate -- unless he can bring proof
16 forward. Correct?

17 MS. RAY: Yes.

18 BOARD MEMBER NADEAU: Okay. So, I guess, I
19 would just amend my motion to suspend it until renewal,
20 and then if he hasn't brought that information, then we
21 can't renew it anyway.

22 BOARD CHAIRMAN SPENCER: Robert, do you second
23 the additions?

24 BOARD MEMBER UITHOVEN: Yes, I'll second the
25 amended motion.

1 BOARD CHAIRMAN SPENCER: Okay. Motion. All in
2 favor, signify by saying "aye."

3 (Board members said "aye.")

4 BOARD CHAIRMAN SPENCER: Opposed?

5 No. It passes. So you can get with it.

6 MR. VIZCARRA: Thank you, sir.

7 BOARD CHAIRMAN SPENCER: Okay.

8 BOARD MEMBER ZANE: And don't mistake my
9 motion.

10 MR. VIZCARRA: I understand what you're saying.
11 I understand. That's not a problem.

12 BOARD CHAIRMAN SPENCER: Okay.

13 MR. VIZCARRA: Thank you.

14

15 AGENDA ITEM 5

16 UYEN VU, LOTUS CONSULTING

17

18 BOARD CHAIRMAN SPENCER: Moving on,
19 disciplinary hearing in the matter of Uyen Vu, license
20 number 143.

21 BOARD CHAIRMAN SPENCER: Hi.

22 MS. VU: Good morning.

23 MS. BAUMGARDNER: Good morning.

24 BOARD CHAIRMAN SPENCER: How are you guys?

25 MS. VU: Good.

1 MS. BAUMGARDNER: My name is Rebekah
2 Baumgardner, bar number 10855.

3 BOARD CHAIRMAN SPENCER: Thank you.

4 MS. BAUMGARDNER: Before we begin, may I ask
5 that the Board see this?

6 BOARD CHAIRMAN SPENCER: Sure.

7 MS. BAUMGARDNER: Thank you.

8 BOARD CHAIRMAN SPENCER: By the way, do you
9 have any additional documentation to be entered?

10 MS. BAUMGARDNER: I do. I have already
11 provided the documents to Mr. Towler.

12 BOARD CHAIRMAN SPENCER: That's fine. I'm
13 just -- if that's all, that's great.

14 MS. BAUMGARDNER: Okay. I have one. So I have
15 one when --

16 MS. RAY: When it's time?

17 MS. BAUMGARDNER: Yes.

18 BOARD CHAIRMAN SPENCER: Please proceed.

19 MS. BAUMGARDNER: Thank you. Am I to remain
20 seated while I address the court?

21 BOARD CHAIRMAN SPENCER: Be seated. Address
22 the court, or did --

23 MS. RAY: Seated.

24 MS. BAUMGARDNER: No, I asked if I could sit
25 while I'm addressing the court.

1 BOARD CHAIRMAN SPENCER: Oh. Certainly.

2 Okay. Go ahead.

3 MR. TOWLER: For the record, Thoran Towler,
4 Deputy Attorney General. I call my first witness,
5 Investigator Nick Roble.

6 MR. ROBLE: Here.

7 MS. RAY: Why don't you come sit up here?

8 MR. TOWLER: Would you please state your name
9 and spell your last name for the record.

10 (The Las Vegas videoconference connection was
11 lost and reconnected.)

12 BOARD MEMBER UITHOVEN: We have you connected.

13 MR. ROBLE: Okay. My name is Nick Roble,
14 R-O-B-L-E. I am an investigator with the PILB.

15 MR. TOWLER: Okay. I know we've been through
16 this already, but how long have you worked there?

17 MR. ROBLE: One year.

18 MR. TOWLER: What did you do before you became
19 an investigator with the PILB?

20 MR. ROBLE: I was a Henderson police officer
21 for 22 years.

22 MR. TOWLER: Okay. And as you're an
23 investigator for the PILB, did you ever come across a --
24 I believe, the pronunciation is Uyen Vu ("WEN-VOO")?

25 MR. ROBLE: Yes, I did. I received a complaint

1 about some of her practices.

2 MR. TOWLER: Do you remember who first
3 complained to you?

4 MR. ROBLE: Yes. It was Mr. Gaza Otay
5 (phonetic).

6 BOARD CHAIRMAN SPENCER: Go ahead.

7 MR. ROBLE: Mr. Gaza Otay from Discount
8 Firearms.

9 MR. TOWLER: And what, what did Mr. Otay tell
10 you?

11 MR. ROBLE: He told me that Ms. Vu was not
12 spending five hours on the range and was not -- was just
13 qualifying some of her students and not having them do
14 the required training, along with the classroom portion
15 of the certified firearms instructor class for arms
16 security.

17 MR. TOWLER: Did you investigate whether that
18 statement was true?

19 MR. ROBLE: Yes, I did. I went to Discount
20 Firearms on 11-10 of 2010 and spent approximately four
21 hours there. I arrived about 9:00 o'clock, when they
22 opened, and Ms. Vu was not present at the time. She
23 came in with some students and another gentleman. And
24 they took about eight students in to qualify. And as a
25 few students would come out, she -- or not she. As a

1 few students would come out, some more would go back in.
2 But the entire time I was there -- and she left -- she
3 arrived after I arrived and left before I left -- she
4 did not enter the range, and stayed in the sales
5 portions of Discount Firearms.

6 MR. TOWLER: Do you know whether that's a
7 violation of NRS 648?

8 MR. ROBLE: Yes, it is. She should have been
9 the one qualifying the students and doing the range
10 training. There was a gentleman she did -- that was
11 with her, that he went into the range area.

12 MR. TOWLER: Did you know who that individual
13 was?

14 MR. ROBLE: No. I saw him at Discount
15 Firearms, and then I saw him again when I went to
16 Ms. Vu's residence to serve the subpoena. He took the
17 subpoena from me. It was the same gentleman.

18 MR. TOWLER: Okay. Do you know who signed off
19 on the certification cards as instructor?

20 MR. ROBLE: Ms. Vu did.

21 MR. TOWLER: Okay. But, I believe, what -- to
22 tie that together, that was a problem, because?

23 MR. ROBLE: Because she's the one, she's the
24 certified firearms instructor, she should be doing the
25 training and also the qualification.

1 MR. TOWLER: Do you know if a cease and desist
2 letter was ever issued in this case?

3 MR. ROBLE: Yes, there was. It was at a time
4 where I wasn't working that, that day.

5 MR. TOWLER: All right. I'd like to show
6 Exhibit 1, which I'm offering as the cease and desist
7 letter. Do you have a copy of that, Mr. Roble?

8 MR. ROBLE: Yes, I do.

9 MR. TOWLER: Do you recognize that letter as
10 one you've seen?

11 MR. ROBLE: Ask again.

12 MR. TOWLER: Do you recognize that letter as
13 being the one that was sent?

14 MR. ROBLE: Yes.

15 MR. TOWLER: Okay. Do you know whether the
16 PILB agreed to lift the cease and desist letter?

17 MR. ROBLE: Yes, they did.

18 MR. TOWLER: And on the second page, I believe,
19 there's that agreement?

20 MR. ROBLE: Yes, that's correct.

21 MR. TOWLER: And with the agreement to lift,
22 there were certain requirements that had to be met by
23 Ms. Vu; is that correct?

24 MR. ROBLE: Yes, there were.

25 MR. TOWLER: Do you know if she met those

1 requirements?

2 MR. ROBLE: No, she -- there were -- no, but
3 I'll have to explain that in detail.

4 MR. TOWLER: Right. So let's start at number
5 one, on page two, for everybody following along. It
6 says "All certification, instruction and qualification
7 specific to NRS and NAC 648 will be provided as outlined
8 in the standard curriculum." Do you know if she did
9 that or if she did not do that?

10 MR. ROBLE: She did not. I don't know about
11 the classroom portion, because I didn't attend that.
12 But some of the people that came in with cards from
13 Lotus Consulting told me that they -- they only fired a
14 certain amount of rounds. One gentleman said that all
15 he did was qualify and then left the range.

16 MR. TOWLER: And how many rounds should he have
17 fired?

18 MS. BAUMGARDNER: I'm going to object to this
19 line of questioning, because it's my understanding that
20 the agreement to lift the cease and desist was from
21 January 20th, 2011 on. And it seems that Mr. Roble is
22 responding to a time frame before that.

23 MR. TOWLER: Well, I guess, what, what my
24 question was, was whether -- what I'm trying to talk
25 about is January 26, 2011 on.

1 MR. ROBLE: Do you have my report?

2 I documented speaking with several people after
3 the cease and desist letter was lifted. I forwarded a
4 copy, I forwarded a copy to the PILB, Mechele Ray. And
5 when I printed my copy out, it was just my initial
6 investigation. So I need to go --

7 MS. RAY: I don't have that.

8 MR. ROBLE: Don't have that. Okay.

9 MR. TOWLER: Okay.

10 MR. ROBLE: Hm?

11 MR. TOWLER: That's fine.

12 MR. ROBLE: It's in my files.

13 MR. TOWLER: Do you know if a complaint was
14 issued?

15 BOARD CHAIRMAN SPENCER: Counselor, the
16 investigator needs to get his report.

17 MR. TOWLER: Okay.

18 BOARD CHAIRMAN SPENCER: And he needs to look
19 for his report. Would it be time to have a short break?

20 MR. ROBLE: Hold on a second. Hold on.

21 I do have it. I'm sorry.

22 BOARD CHAIRMAN SPENCER: Okay.

23 MR. ROBLE: Okay. And I want to make sure, in
24 all fairness, that I talk about the people that were
25 trained after the cease and desist was lifted.

1 MR. TOWLER: Right. That was my question.

2 MR. ROBLE: Okay.

3 MR. TOWLER: What I was getting at, for the
4 record, was whether the cease and desist, as far as you
5 know, was complied with?

6 MR. ROBLE: Okay. On 2-9 of 2011, at about
7 2:15 p.m., I spoke to Christopher Eilers, E-I-L-E-R-S,
8 who was dropping off his supplemental documents for his
9 workcard. He had taken the class from Ms. Vu. And he
10 took the classroom course. And he said he spent about
11 eight hours in the classroom. And then he went to the
12 shooting part at the Clark County Shooting Range. And
13 he told me that the training lasted about five hours. I
14 asked him how many rounds he fired during that training,
15 and he told me he qualified firing only 30 rounds.

16 He also told me that he did a few strings of 16
17 rounds which amounted to about 84 rounds total. He told
18 me he had taken to the range 180 rounds approximately,
19 and he still had plenty of ammo left. The qualification
20 and the training is 149 rounds.

21 MR. TOWLER: Okay. So just to be clear, you
22 first received a complaint in November 2010. I think
23 we've showed the cease and desist letter that was -- I'm
24 looking at that first page. I don't see a date on that
25 first page. But the agreement to lift the cease and

1 desist was January 20, 2011.

2 So we do have these two different dates, and I
3 just wanted to be mindful so that the Board's clear on
4 what I'm referring to.

5 Do you know, Mr. Roble, if a complaint was ever
6 issued?

7 MR. ROBLE: Yes, it was.

8 MR. TOWLER: Okay. I'm going to show what's
9 been marked as Exhibit Number 2.

10 Do you recognize that document?

11 MR. ROBLE: Yes, I do.

12 MR. TOWLER: Now, for the record, I believe you
13 contacted me and said that there was one thing that
14 you'd like to clarify to the complaint that was not
15 accurate. Is that correct?

16 MR. ROBLE: Yes, there was. It -- on the day
17 that I attended to the -- observe the class, the
18 qualification at Discount Firearms on 11-10 of '10, in
19 the complaint it said that she entered the range for
20 about 15 minutes. And that's incorrect. She did not
21 enter the range. And that was documented in my initial
22 report, that she never entered the range.

23 MR. TOWLER: That's Count 1, number 10, on page
24 two, line one. Is that correct?

25 MR. ROBLE: Count 10. I didn't --

1 MR. TOWLER: No, Count 1, number 10.

2 MS. BAUMGARDNER: Paragraph 10. It's at the
3 top of page two.

4 MR. ROBLE: Thank you.

5 Yes. That's an incorrect statement here on the
6 complaint.

7 MR. TOWLER: So would you like to amend that
8 just on the record that she did not enter the range that
9 you saw?

10 MR. ROBLE: She did not enter the range. She
11 stood outside the range and observed downrange. But
12 because the shooters are in enclosed areas, she couldn't
13 see what they were doing, even if she stood down at the
14 outside of the range and looked towards the students.

15 MR. TOWLER: But the rest of that line, that
16 she was on her phone, is that accurate?

17 MR. ROBLE: During the times I observed her,
18 she was texting and talking on her phone. She was in
19 the sales area of Discount Firearms.

20 MR. TOWLER: All right. Were there any other
21 people that you haven't yet mentioned that have come to
22 you and said that they have not spent the requisite
23 amount of time on the range?

24 MS. BAUMGARDNER: Just to be clear -- I
25 apologize for interrupting. This is since the cease and

1 desist was lifted?

2 MR. TOWLER: Well, we're going over the
3 complaint now.

4 MS. BAUMGARDNER: Okay. Thank you.

5 MR. TOWLER: You know, and those are all good
6 points. There's the pre and post cease and desist. The
7 issue in this case is that the complaint was sent after
8 the cease and desist and after the cease and desist was
9 lifted. So the complaint actually has some before and
10 some after. And if I could offer to the Board, I
11 believe the factual allegations of Count 1, 2 were all
12 before the cease and desist. Count 4 was directly, was
13 after the cease and desist clearly.

14 Count 3, I think, is where we're going to have
15 some confusion, and that's what -- I guess, it's up to
16 Mr. Roble, whether there was -- if that was before or
17 after the complaint and Count 3 of people coming in.

18 MR. ROBLE: The main thing, when they come in,
19 and we asked them how many rounds they fired at the
20 range, some of them said -- and I tried to get people to
21 come to testify today, and I informed them of the time
22 and the place of the meeting. And I don't know if
23 anyone's here or not, now, to talk about that. But she
24 wasn't -- if they were good enough shooters, according
25 to them, they weren't required to shoot the training

1 rounds.

2 MR. TOWLER: Okay. But with Count 3, I guess,
3 what I'm hearing is you're not sure whether that was
4 before or after the cease and desist?

5 MR. ROBLE: No, there was some after the cease
6 and desist. But that's not the only thing. Some that
7 came in after the cease and desist had not even applied
8 to the PILB at the time that they took the class. And
9 according to the rules, they have to either be in
10 provisional status or complete status and have a
11 referral from an employer.

12 Now, it is my understanding that sometimes that
13 they were allowed to do that and keep the -- allowing
14 some certified firearms instructors to teach the class
15 and then, when the person brought back the referral form
16 from their employer, was then given the white card, the
17 qualification card.

18 MR. TOWLER: And do you have any dates of when
19 that, when those issues occurred?

20 MR. ROBLE: Well, for example, and this is --
21 one second. I have the notes.

22 This past Monday, on 3-7 of '11, a man came in,
23 named Don L. Wilson, and he told me he took the class in
24 October. Well, we received his application. And I
25 understand that this is after the cease and desist

1 was -- this was prior to the cease and desist and after
2 it was lifted, that he took the class in October. And
3 we received his application on March 3rd of '11. He
4 told me he spent five hours in the class and that he did
5 qualify, but he only fired 30 rounds on the range.

6 MR. TOWLER: Okay.

7 BOARD MEMBER NADEAU: Investigator Roble, how
8 many rounds on the range?

9 MR. ROBLE: 149, including training and
10 qualification.

11 BOARD MEMBER NADEAU: Thank you.

12 MR. TOWLER: Does the Board have any other
13 questions for this witness?

14 BOARD CHAIRMAN SPENCER: Robert, Jim, do you
15 have anything, do you have any questions?

16 BOARD MEMBER NADEAU: Yeah, I -- for the
17 record, for -- how many rounds -- could you clarify for
18 me, under NAC, what are the requirements for the
19 firearms as far as the hours of training and the number
20 of rounds?

21 MR. ROBLE: Okay. We sent a standardized
22 curriculum to all CFIs indicating that they had to spend
23 eight hours in the classroom and five hours on a
24 live-fire range, and the training rounds, including --
25 including, including the training rounds and the

1 qualification, they have to fire 149 rounds.

2 MR. TOWLER: And, for the record, you stated
3 that at least the last individual explained to you that
4 he did not fire that, that amount of rounds?

5 MR. ROBLE: No, he told me he fired 30 rounds
6 for the qualification and -- but that was back in
7 October.

8 BOARD MEMBER NADEAU: And the requirements for
9 eight hours and five hours and the 149 rounds is in our
10 curriculum; is that correct?

11 MR. ROBLE: Yes, it is. It's standardized, and
12 it's -- a copy was made available to all the CFIs.

13 BOARD MEMBER NADEAU: Okay. And maybe I can
14 ask, then, for this. Am I misreading the NAC? Because
15 they have different, different standards and
16 requirements.

17 MR. TOWLER: I think the best way to explain
18 this would be to call up Investigator Whatley to explain
19 how this -- what the current requirements are.

20 BOARD MEMBER NADEAU: If you'll -- I'm finished
21 with Investigator Roble.

22 MR. TOWLER: I want to give counsel a chance to
23 ask questions of the investigator. But, first, I'd like
24 to call in Investigator Whatley to address the rest of
25 the complaint and, also, the question asked by the

1 Board.

2 Please state your name and spell your last name
3 for the record.

4 MS. WHATLEY: Tammy Whatley, W-H-A-T-L-E-Y.

5 MR. TOWLER: Where do you work?

6 MS. WHATLEY: Private Investigators Licensing
7 Board.

8 MR. TOWLER: And what's your position there?

9 MS. WHATLEY: Investigator.

10 MR. TOWLER: How long have you held that
11 position?

12 MS. WHATLEY: Two years four months.

13 MR. TOWLER: What special training do you have
14 for that position?

15 MS. WHATLEY: I'm a sworn law enforcement
16 officer.

17 MR. TOWLER: Are you familiar with the
18 curriculum requirements of firearms instruction?

19 MS. WHATLEY: Yes, I am.

20 MR. TOWLER: I think there was a question you
21 probably heard.

22 Oh, I think they want you to speak up a little.
23 If you can't, I'll move the microphone closer.

24 MS. WHATLEY: I apologize. And what -- please
25 repeat the question.

1 MR. TOWLER: Well, I think the question is what
2 is the standard curriculum of the amount of hours that
3 need to be spent?

4 MS. WHATLEY: Okay. Per the -- according to
5 the newly adopted reg that was provided to all CFIs
6 along with the standardized curriculum, Nevada
7 Administrative Code 648.346 -- let me find which
8 exact -- 346(2)(b) says -- or (2)(a), excuse me, eight
9 hours of training and instruction on carrying, handling
10 and using firearms safely, including the completion of a
11 written examination, with a passing score of 75 percent.
12 The examination must consist of questions with answers
13 that are true/false, multiple choice and fill in the
14 blank. (b), five hours of instruction and training on
15 the firing range, during which all persons must qualify
16 using a firearm of the same type and caliber as the
17 firearm the person will use while on duty.

18 MR. TOWLER: All right.

19 BOARD MEMBER NADEAU: And then, if I may, then,
20 also, (6), which talks about qualifying rounds, has that
21 changed, then, that changed also?

22 MR. TOWLER: Number (6). Do you have number
23 (6)?

24 MS. WHATLEY: Are you talking about number (6)
25 in the NAC or number (6) in the complaint or --

1 BOARD MEMBER NADEAU: No, number (6) in the --
2 I'm sorry. Number (6) in the NAC.

3 MS. WHATLEY: Okay.

4 BOARD MEMBER NADEAU: I want to clarify,
5 because the -- well, we just changed that reg, and I
6 want to make sure that it's clear --

7 MS. WHATLEY: Okay.

8 BOARD MEMBER NADEAU: -- what the reg says.

9 MS. WHATLEY: Under --

10 BOARD MEMBER NADEAU: I'm sorry. It's under
11 648.346, section -- subsection (6) of section (1).

12 MS. WHATLEY: Here's (6).

13 BOARD MEMBER NADEAU: So it's (1)(f)(6).

14 MS. WHATLEY: Okay. (1)(f)(6). One moment.

15 MR. TOWLER: There it is.

16 MS. WHATLEY: Okay. So it starts the
17 qualifying with -- qualifying with a course of fire
18 established by the instructor using a firearm of the
19 same type and caliber as the firearm the person will use
20 while on duty. The course of fire must require firing
21 at least 30 rounds of live ammunition, with a passing
22 score of 75 percent, must include shooting 10 rounds of
23 ammunition from a distance of three yards in 30 seconds,
24 10 rounds of ammunition from a distance of seven yards
25 in 30 seconds, and 10 yards of ammunition from a

1 distance of 15 yards in 30 seconds, on a full-sized
2 B27-type target.

3 But that is just the qualification. But prior
4 in the NAC, it talks about using exercises on a
5 live-fire range. And that's where the additional rounds
6 come in, in the live-fire exercises.

7 BOARD MEMBER NADEAU: Okay.

8 MS. WHATLEY: The qualification itself is 30
9 rounds.

10 BOARD MEMBER NADEAU: Okay. That, I just
11 needed to make sure I was clear on the whole thing.
12 Thank you very much.

13 MS. WHATLEY: Okay. I'm sorry. I didn't
14 understand at first.

15 BOARD MEMBER NADEAU: No, that's okay.

16 MR. TOWLER: So now, since you're here, we'll
17 just finish up, because Count 4 of the complaint
18 mentions you.

19 MS. WHATLEY: Okay.

20 MR. TOWLER: And it says that you received an
21 e-mail. Do you remember that?

22 MS. WHATLEY: Yes.

23 MR. TOWLER: And what was the e-mail referring
24 to?

25 MS. WHATLEY: A Craigslist advertisement for

1 Lotus Consulting.

2 MR. TOWLER: So if you look at past the
3 claimant, the second to the last page.

4 MS. WHATLEY: Yes.

5 MR. TOWLER: Do you recognize that
6 advertisement?

7 MS. WHATLEY: Yes, I do.

8 MR. TOWLER: And was that what was sent to you?

9 MS. WHATLEY: Yes, that is correct.

10 MR. TOWLER: What's wrong with that
11 advertisement as far as being in compliance with the
12 NAC?

13 MS. WHATLEY: What is incorrect is it says the
14 class is on Tuesday, February 15, excuse me, Tuesday,
15 February 15th, 2011. However, according to the NAC,
16 648(3) -- let me go to (3) now that I -- it states "The
17 course must be completed within a period of seven days.
18 Each day of the course must consist of a number of
19 contact hours of training. Not more than nine contact
20 hours of training may occur on any day." And it goes on
21 to (4), "As used in this section, contact hour means 50
22 minutes of instruction in a period of 60 minutes."

23 Therefore, if you have an eight-hour class and
24 a five-hour range, that is more than nine contact hours.
25 So it cannot be completed in one day.

1 MR. TOWLER: And do you see, that
2 advertisement, to who it says to reply to?

3 MS. WHATLEY: It says "For more info, call,"
4 and it gives a phone number, "or e-mail
5 LotusConsultants@cox.net."

6 MR. TOWLER: And who is Lotus Consultants?

7 MS. WHATLEY: That is Uyen Vu.

8 MR. TOWLER: That's her company?

9 MS. WHATLEY: That is correct.

10 MR. TOWLER: All right. I have nothing further
11 for this witness unless the Board has questions.

12 BOARD MEMBER UITHOVEN: Is that phone number
13 listed on the advertisement, also, the phone number for
14 Uyen Vu?

15 MS. WHATLEY: One moment.

16 BOARD MEMBER UITHOVEN: 702-285-1256?

17 BOARD CHAIRMAN SPENCER: Do you have questions?

18 BOARD MEMBER UITHOVEN: Oh, I was just asking,
19 I was just asking if the phone number, along with the
20 e-mail address, is also the phone number for Lotus
21 Consulting or Uyen Vu.

22 MS. WHATLEY: Yes, on her CFI application, that
23 number is also stated.

24 BOARD MEMBER UITHOVEN: Thank you.

25 MS. WHATLEY: You're welcome.

1 BOARD CHAIRMAN SPENCER: Ready for cross?

2 MR. TOWLER: Yes.

3 BOARD CHAIRMAN SPENCER: Go ahead.

4 MS. BAUMGARDNER: Thank you. Investigator
5 Whatley?

6 MS. WHATLEY: Yes.

7 MS. BAUMGARDNER: I just wanted to ask you a
8 question about this Craigslist advertisement. Anywhere
9 in this advertisement does it say that the entire course
10 is to be completed in one day?

11 MS. WHATLEY: No, it does not. It just says
12 "Sign up for our upcoming class on Tuesday,
13 February 15th, 2011."

14 MS. BAUMGARDNER: So is it possible, is it
15 possible -- I'm sorry. Were you finished?

16 MS. WHATLEY: Yes.

17 MS. BAUMGARDNER: Okay. Is it possible that my
18 client just had ambiguous wording in here and actually
19 meant just sign up for the first day of class?

20 MR. TOWLER: I'm going to have to object. You
21 can answer it if you know.

22 MS. BAUMGARDNER: Well --

23 MR. TOWLER: But I think that's calling for an
24 opinion.

25 MS. BAUMGARDNER: In your opinion.

1 MS. WHATLEY: I don't know the intent of this.
2 I would have to be Uyen Vu to know the intent, or the
3 person that placed the ad to know that intent.

4 MS. BAUMGARDNER: But someone viewing the ad,
5 in your opinion, isn't it possible that she just meant
6 sign up for the upcoming class on -- starting on
7 Tuesday, February 15th?

8 MR. TOWLER: Again, if you don't know, you
9 don't have to answer that, because that's --

10 MS. WHATLEY: I don't know.

11 MS. BAUMGARDNER: I'm asking for her opinion.
12 In your opinion?

13 MS. WHATLEY: I don't think my opinion is the
14 matter here. We're talking about NAC and NRS, not
15 opinion.

16 MS. BAUMGARDNER: Well, but you view this ad in
17 a certain way. And my client views it in a different
18 way. So any -- let me, let me rephrase the question.
19 Anywhere in here, does it say that the class can be
20 completed in one day?

21 MS. WHATLEY: It just states that there is an
22 upcoming class --

23 MS. BAUMGARDNER: Yes or no. Yes or no.

24 MR. TOWLER: No, actually she can answer the
25 question unless the Board says that she has to answer

1 yes or no.

2 MS. WHATLEY: The fact is it says "Sign up for
3 our upcoming class on Tuesday, February 15th, 2011."

4 MS. BAUMGARDNER: No further questions.

5 I would like to examine Investigator Roble, if
6 I may.

7 Investigator, I would like to direct your
8 attention to February 9th, 2011. You discussed
9 Mr. Eilers, who took the class?

10 MR. ROBLE: Yes.

11 MS. BAUMGARDNER: You said that Mr. Eilers
12 reported to you that he put five hours on the range?

13 MR. ROBLE: Yes.

14 MS. BAUMGARDNER: Is five hours within the
15 statutory framework?

16 MR. ROBLE: Five hours on the range, yes.

17 MS. BAUMGARDNER: And he said he spent 30
18 rounds qualification; is that correct?

19 MR. ROBLE: He spent 30 rounds qualification,
20 which is the appropriate rounds, but he did not complete
21 the other training reps. He completed a -- three series
22 of 16 rounds, I believe he said.

23 MS. BAUMGARDNER: Can you direct our attention
24 to the NAC provision that gives us the exact number,
25 just so we can all be clear?

1 MR. ROBLE: It's in the -- it's in the
2 curriculum that was supplied to Ms. Vu.

3 MS. BAUMGARDNER: Okay. So let's just suppose
4 that it is the 149 rounds, as you testified. He said
5 that he took, in your words, reported to you, that he
6 took 180 rounds to the range and had some left?

7 MR. ROBLE: Yes. He told me he fired three
8 strings of 16 rounds and then the qualification. That's
9 not the completed training and qualification rounds.

10 MS. BAUMGARDNER: Did you verify how many
11 rounds he had left?

12 MR. ROBLE: No. No, and he didn't, he didn't.

13 MS. BAUMGARDNER: So is it possible that he
14 could have been mistaken? That's a lot of rounds.

15 MR. ROBLE: Sure. I can, I can -- sure, he
16 could have been mistaken.

17 MS. BAUMGARDNER: You also referred to the
18 dates in the complaint where you viewed my client at the
19 range?

20 MR. ROBLE: At Discount Firearms.

21 MS. BAUMGARDNER: Discount Firearms, right.
22 You said there was a man there with her and that he went
23 into the shooting range?

24 MR. ROBLE: Yes.

25 MS. BAUMGARDNER: If I represent that is her

1 assistant, would that sound right?

2 MR. ROBLE: Sure.

3 MS. BAUMGARDNER: Okay. Did you see the
4 assistant, other than going in, accompanying students
5 into the range, did you see my client's assistant doing
6 anything else?

7 MR. ROBLE: No.

8 MS. BAUMGARDNER: Did you see him checking the
9 number of shots?

10 MR. ROBLE: Oh, I did go into the range, and I
11 observed. He had four shooters in there. And I
12 observed them shooting. And they were in there for
13 about 20 minutes. Some shot and then left because they
14 qualified. And I think one or two of the individuals
15 didn't complete the qualification, so they had to shoot
16 it over.

17 MS. BAUMGARDNER: But just as an even smaller
18 matter, did you see him checking the number of shots,
19 did you see him look at the -- physically look at the
20 sheet and check the number of shots?

21 MR. ROBLE: No.

22 MS. BAUMGARDNER: And did you see him giving
23 scores out to any of the students?

24 MR. ROBLE: No.

25 MS. BAUMGARDNER: Did you see my client

1 checking the number of shots?

2 MR. ROBLE: No.

3 MS. BAUMGARDNER: Did you see my client giving
4 scores?

5 MR. ROBLE: I didn't see her giving scores, no.

6 MS. BAUMGARDNER: Did you observe at that time
7 that my client was pregnant?

8 MR. ROBLE: I didn't know she was. I found out
9 she was pregnant later.

10 MS. BAUMGARDNER: Okay.

11 MR. ROBLE: And, and I understand why she
12 wouldn't be on the range if she was pregnant.

13 MS. BAUMGARDNER: Okay. And just one more
14 question. You referenced a Mr. Don L. Wilson.

15 MR. ROBLE: M-hm (affirmative).

16 MS. BAUMGARDNER: And just to be clear for the
17 record, Mr. Wilson's report was for the October class,
18 and that was before the cease and desist letter was
19 issued, correct?

20 MR. ROBLE: Yes, it was; but it was after, it
21 was after she received the curriculum, also.

22 MS. BAUMGARDNER: Okay. Thank you. No further
23 questions.

24 BOARD CHAIRMAN SPENCER: Do you have any other
25 witnesses?

1 MS. BAUMGARDNER: I'd like to call my client.

2 BOARD CHAIRMAN SPENCER: Let me check. Do you
3 have any other witness, counsel?

4 MR. TOWLER: No.

5 BOARD CHAIRMAN SPENCER: I'm sorry. I didn't
6 understand you. Was it no?

7 MR. TOWLER: No.

8 BOARD CHAIRMAN SPENCER: Okay. You may call
9 your first witness.

10 MS. BAUMGARDNER: Respondent calls Uyen Vu.

11 BOARD CHAIRMAN SPENCER: Okay. Ms. Vu.

12 MS. BAUMGARDNER: Ms. Vu, let's talk about the
13 assistant that Investigator Roble and I were just
14 discussing. Who is this?

15 MS. VU: Erik Sowers.

16 MS. BAUMGARDNER: Erik Sowers. And is it
17 correct that he is your assistant?

18 MS. VU: Yes.

19 MS. BAUMGARDNER: Okay.

20 BOARD CHAIRMAN SPENCER: Ms. Vu, you're going
21 to have to speak up a little bit.

22 MS. BAUMGARDNER: Yes.

23 MS. VU: I'm sorry.

24 MS. BAUMGARDNER: Okay. What, what was his
25 role in all of this?

1 MS. VU: To go in the range to observe the
2 shooting, because I was unable to go inside the range at
3 that time.

4 MS. BAUMGARDNER: And why were you unable?

5 MS. VU: I was pregnant.

6 MS. BAUMGARDNER: And do you recall how far
7 along you were in your pregnancy?

8 MS. VU: Yes. I was two weeks before my due
9 date.

10 MS. BAUMGARDNER: Okay. So you have, you have
11 your child now?

12 MS. VU: Yes.

13 MS. BAUMGARDNER: Okay. Now, did your
14 assistant -- what was his help, how did he participate
15 in this?

16 MS. VU: At the time, I had the class
17 scheduled, and I needed to be on the range, and I was
18 unable to because of my daughter. So I was unable to be
19 inside the range. So his -- his role was to assist, to
20 be in the range to observe the shooters. But that was
21 it.

22 MS. BAUMGARDNER: Okay. And did you let your
23 assistant check the number of shots?

24 MS. VU: No.

25 MS. BAUMGARDNER: Did you do that?

1 MS. VU: They were supposed to bring it out and
2 check it, yes.

3 MS. BAUMGARDNER: And how about the score, did
4 you let your assistant get the scores?

5 MS. VU: No.

6 MS. BAUMGARDNER: Did you do that?

7 MS. VU: Yes.

8 MS. BAUMGARDNER: Okay. Now, let's talk about
9 the advertisement that is attached to the complaint that
10 you have before you. What did you mean by this?

11 MS. VU: I asked for the upcoming class,
12 basically, starting on the first day of February 15th,
13 with a call for information as far as the range date.
14 But they wouldn't even be allowed to attend the range
15 date if they didn't pass the first day, which was
16 February 15th. If they didn't pass, they didn't pass
17 the class, period.

18 BOARD MEMBER ZANE: So did you offer the eight
19 hours of classroom and five hours of range on
20 February 15th?

21 MS. VU: No.

22 MS. BAUMGARDNER: I'd like to mark as Exhibit A
23 a list I've previously provided.

24 And, Mr. Towler, I included this in that, the
25 e-mail and the hard copy, to you.

1 MR. TOWLER: I have a few hundred pages of
2 documents that you sent. Which, what exactly would you
3 like me to give to the Board?

4 MS. BAUMGARDNER: I'm referring to the list of
5 class dates and clients.

6 MR. TOWLER: Well, like I said, I have all the
7 documents that you sent. Can you tell me what --

8 MS. BAUMGARDNER: It is a list of dates and
9 names underneath the dates. I actually --

10 MS. WHATLEY: It's towards the back.

11 MS. BAUMGARDNER: I think it was Exhibit B.

12 MR. TOWLER: B. Okay. I found B.

13 MS. BAUMGARDNER: But, for the record, we
14 should mark it as Exhibit A.

15 MS. RAY: All of it?

16 MS. BAUMGARDNER: Yes, all of it.

17 I'm sorry. May I look at one copy? I just
18 need to look at the dates.

19 Thank you very much.

20 Where I'm going with this is that shows that
21 the class was completed on February 15th and, I believe,
22 17th or 18th. So I just wanted to show the Board that
23 the interpretation of the advertisement that it was a
24 one-day course is inconsistent with what actually
25 happened.

1 I apologize. I'm trying to save.

2 I can pull up some but not all. Okay. Thank
3 you. Does that -- is that all on here?

4 MS. RAY: It's not our Internet connection.
5 It's the Legislative Counsel Bureau. So I think there's
6 a lot of people trying to connect.

7 MS. BAUMGARDNER: The legislature's in session
8 now. Maybe they could fix it.

9 MR. TOWLER: I'm sorry. Are we waiting for
10 something?

11 MS. RAY: I apologize. We're making copies.

12 BOARD MEMBER UITHOVEN: Could we get a quick
13 break, Mr. Chairman?

14 BOARD CHAIRMAN SPENCER: Five minutes.

15 BOARD MEMBER UITHOVEN: Five minutes? Thanks.

16 * * * * *

17 (A break was taken, 10:35 a.m. to 10:52 a.m.)

18 * * * * *

19 BOARD CHAIRMAN SPENCER: All right.

20 MS. BAUMGARDNER: I'd like to direct everyone's
21 attention to what has been marked Exhibit A, which I can
22 represent is a list of dates of classes. And under each
23 date are the people who took the classes.

24 So, Uyen, I'd like to direct this to your
25 attention. And I'm looking on the second to the last

1 page of the list. What dates are on this page?

2 MS. VU: You want all the dates or?

3 MS. BAUMGARDNER: Yes.

4 MS. VU: February 8th and 9th of 2011, February
5 15th and 18th of 2011, and February 22nd and 24th, 2011.

6 MS. BAUMGARDNER: Okay. So the Craigslist ad
7 that is in question is regarding February 15th; is that
8 correct?

9 MS. VU: Yes.

10 MS. BAUMGARDNER: And what does this show?

11 MS. VU: That class was two days. It was the
12 15th and the 18th.

13 MS. BAUMGARDNER: Okay. And it's my
14 understanding the rules changed on this.

15 MS. VU: Yes.

16 MS. BAUMGARDNER: All right. So it used to be
17 one day, now it's two?

18 MS. VU: Yes.

19 MS. BAUMGARDNER: Okay. Since the changes have
20 happened, have you ever offered any course in one day?

21 MS. VU: No.

22 MS. BAUMGARDNER: Okay. I'd like to just
23 briefly go back to the gentleman who you refer to as
24 your assistant. Since you have given birth, have --
25 what has his role been?

1 MS. VU: Just there to help with people,
2 safety, make sure everyone's performing in a safe
3 manner. But I am actually physically on the range now.

4 MS. BAUMGARDNER: Okay.

5 MS. VU: And I conduct all the drills and
6 everything.

7 MS. BAUMGARDNER: Okay. I have no further
8 questions.

9 MR. TOWLER: I have a couple just regarding
10 that. You're referring to that February 15 and 18 on
11 your Exhibit A. I see some of those, three of those
12 names have a card with numbers attached. What does that
13 mean?

14 MS. VU: Those are the numbers to the firearm
15 safety permits that were issued to them once they
16 brought in an armed verification form for employment
17 from their employer.

18 MR. TOWLER: What about those two people that
19 don't have card numbers?

20 MS. VU: They were not issued any permits
21 because they did not have the verification form.

22 MR. TOWLER: So back to the complaint, do you
23 remember when you received that complaint?

24 MS. BAUMGARDNER: Do you remember when you
25 received the complaint? This complaint.

1 MR. TOWLER: And to help out, there's a
2 certificate of service on the back.

3 MS. VU: I received it sometime last month,
4 probably a couple weeks ago. I don't remember the exact
5 date that I actually received it.

6 MR. TOWLER: Could you look at the last page of
7 it.

8 MS. VU: Okay.

9 MR. TOWLER: But you don't know the exact date
10 of when it was served to you?

11 MS. VU: The 16th of February.

12 MR. TOWLER: So what I'm hearing is, on the
13 15th of February, you had a class that you advertised
14 for?

15 MS. VU: Yes.

16 MR. TOWLER: On the 16th, you got a complaint
17 from us saying you can't just have one-day classes?

18 MS. VU: Right. But class wasn't completed
19 yet. The second day was completed on the 18th.

20 MR. TOWLER: That's convenient.

21 MS. VU: Do you want me --

22 MR. TOWLER: So let's go back to that --

23 MS. BAUMGARDNER: Is that a question?

24 MR. TOWLER: Let's go back to that ad. So
25 you're saying that advertisement, you were advertising

1 that that was a two-day course; is that correct?

2 MS. VU: Yes.

3 MR. TOWLER: Okay. Does it say it was a
4 two-day course?

5 MS. VU: No, it doesn't. It just says "Call
6 for more information."

7 MR. TOWLER: Well, I think what it says is
8 "Sign up for our upcoming class on Tuesday, February 15,
9 2011." It doesn't say "beginning Tuesday," does it?

10 MS. VU: No, it does not.

11 MR. TOWLER: But you're saying it was a two-day
12 course all along?

13 MS. VU: Yes.

14 MR. TOWLER: So is this an issue of maybe false
15 advertising?

16 And I think you testified or at least referred
17 to that you were given the new regulations regarding
18 firearm instruction in August of 2010?

19 MS. VU: Yes.

20 MR. TOWLER: Okay. So you know about the rules
21 that we've been discussing about how many rounds?

22 MS. VU: Yes.

23 MR. TOWLER: Okay. Is it your testimony that
24 you didn't break any of the rules?

25 MS. VU: I don't understand. I would say not

1 break it. In retrospect, I should have given more
2 thought to the decisions that I made. Never was it
3 intentionally to break the rules. It was just at the
4 time I was pregnant, and I had a lot of things on my
5 mind. So lack of judgment thereof.

6 MR. TOWLER: Okay.

7 MS. VU: But it's never my intention to break
8 any of the rules. And since I've had my child, I've
9 done everything in my being to uphold all the rules, to
10 be compliant.

11 MR. TOWLER: Yeah, I understand you have a kid
12 now. I think that's been brought up.

13 MS. VU: Yes.

14 MR. TOWLER: Are you aware that the PILB has
15 had to take away some of the cards that you have issued?

16 MS. VU: Yes.

17 MR. TOWLER: I guess, do you understand why
18 they had to take away those cards?

19 MS. VU: Yes.

20 MR. TOWLER: Okay. Have you been able to --
21 those individuals who's had their cards taken away --
22 your customers is who I'm referring to -- have you been
23 able to contact them or to give them a new class so that
24 they could become compliant with the rules and
25 regulations of the PILB?

1 MS. VU: Yes.

2 MR. TOWLER: Okay. So I'm not trying to put
3 words in your mouth. What I'm hearing is mistakes may
4 have been made, but they're not going to be made again.
5 Is that fair?

6 MS. VU: Yes, sir.

7 MR. TOWLER: I have nothing further.

8 MS. BAUMGARDNER: May I give a brief closing
9 statement?

10 MR. TOWLER: Actually, I would -- I have one
11 rebuttal. I'd like to bring back Investigator Whatley.

12 BOARD CHAIRMAN SPENCER: Okay.

13 MR. TOWLER: Just briefly. So she's been
14 sworn.

15 Just state your name for the record, if you
16 would.

17 MS. WHATLEY: Tammy Whatley.

18 MR. TOWLER: We were just talking about
19 individuals that had their cards, their white cards -- I
20 believe it's called a white card. Is that right?

21 MS. WHATLEY: That's a slang term for it, yes.

22 MR. TOWLER: Okay. Are you familiar with any
23 cases where those had to be removed from this -- from
24 any of Ms. Vu's clients?

25 MS. WHATLEY: Yes. I was contacted from our

1 Las Vegas office on January 19th. Investigator Roble
2 was not scheduled to work on that day. And the office
3 did have to confiscate someone's card because they had
4 not met the full requirements. That person, I did talk
5 to him. I did interview him. And he did have to go and
6 take the class from another certified firearms
7 instructor and be out double the fees.

8 MR. TOWLER: Nothing further.

9 MS. BAUMGARDNER: May I redirect on my client?

10 BOARD CHAIRMAN SPENCER: Certainly.

11 MS. BAUMGARDNER: Uyen, have you been contacted
12 by any former students who have had their cards taken?

13 MS. VU: Yes.

14 MS. BAUMGARDNER: And have you offered a --
15 either a refund or another class to all of them?

16 MS. VU: Yes.

17 MS. BAUMGARDNER: Is there anybody who has come
18 to you who has been refused the opportunity to take
19 another class from you or a refund?

20 MS. VU: No.

21 MS. BAUMGARDNER: If somebody came to you today
22 and requested either a refund or the opportunity to take
23 another class, would you give it to him or her?

24 MS. VU: Yes.

25 MS. BAUMGARDNER: No further questions.

1 MR. TOWLER: I'm not sure.

2 BOARD CHAIRMAN SPENCER: Ready for closing?

3 MR. TOWLER: Are there any witnesses left in
4 Vegas?

5 (The Las Vegas videoconference connection was
6 lost and reconnected.)

7 MR. TOWLER: Actually, I have a follow-up for
8 Ms. Vu about what she was just saying about contacting
9 individuals and allowing them other dates.

10 Did you give any January classes? I'm looking
11 at Exhibit A, and I don't see any January classes
12 listed.

13 MS. VU: I did.

14 BOARD CHAIRMAN SPENCER: I don't believe they
15 were --

16 MS. VU: I did.

17 MR. TOWLER: Okay. They're just not listed on
18 this document?

19 MS. VU: No.

20 MR. TOWLER: Do you know why they're not here?

21 BOARD CHAIRMAN SPENCER: Counsel, was that a
22 question? I couldn't hear you.

23 MR. TOWLER: I was asking if she knows why
24 there's no January dates listed on this form. Because I
25 believe I heard this was all the dates of her classes.

1 MS. VU: It was, it was left out by mistake.
2 It wasn't done intentional. What happened was I had a
3 stack of papers. I was going through the papers to type
4 up the dates, and I must have misplaced them.

5 MR. TOWLER: I have nothing further. And if
6 there's -- I don't have any further testimony unless
7 there's anybody in Vegas that I'm not aware of that
8 would like to testify as a witness to this case.

9 BOARD CHAIRMAN SPENCER: Are there any audience
10 members who wish to testify that have not had the chance
11 to testify with regard to this case?

12 (An unidentified man in Las Vegas began talking
13 but could not be clearly heard in Carson City.)

14 MR. TOWLER: I'm sorry. We can't hear that
15 individual, or we don't know who he is.

16 BOARD CHAIRMAN SPENCER: No.

17 MR. TOWLER: Okay.

18 BOARD MEMBER NADEAU: Mr. Chairman, may I ask
19 Ms. Vu a question, please?

20 BOARD CHAIRMAN SPENCER: Certainly.

21 BOARD MEMBER NADEAU: Am I understanding
22 correctly that your contention, then, is that anything
23 that occurred prior to your -- I guess, the contract, or
24 whatever we want to call it, is like a freebie, that
25 you're not, you're not going to be held responsible for

1 that? Is that, is that what your contention was, that
2 anything prior to the agreement to lift, to lift the
3 cease and desist, that regardless of the fact that they
4 were violations of NAC, that you're not -- you're
5 contending that you shouldn't be held responsible for
6 that? Was that --

7 MS. BAUMGARDNER: I've got to object to that
8 question, because it misstates my client's testimony.
9 Is it's very inflammatory to use the word "freebie" when
10 my client never used that word.

11 BOARD MEMBER NADEAU: Okay. Then, let me ask
12 the question. Are you or your client, are you
13 contending that your client is not responsible for her
14 actions prior to the --

15 MS. BAUMGARDNER: I'm sorry, but I am not here
16 to testify. I am counsel --

17 BOARD MEMBER NADEAU: Okay.

18 MS. BAUMGARDNER: -- for my client. So you
19 cannot ask me questions.

20 BOARD MEMBER NADEAU: So I can go ahead and
21 asked your client that question, correct? Ms. Vu?

22 MS. BAUMGARDNER: Correct, by all means.

23 BOARD MEMBER NADEAU: Okay. Ms. Vu, you're
24 saying that Count 1 and Count 2, which occurred prior to
25 the cease and desist, you should not be held responsible

1 for that?

2 MS. VU: No, I never said that.

3 BOARD MEMBER NADEAU: Okay.

4 (There was a brief discussion off the record
5 between the attorneys in Carson City.)

6 MR. TOWLER: So if there's no other questions
7 from the Board, I'm going to go ahead with my closing
8 statement.

9 Again, for the record, Thoran Towler, Deputy
10 Attorney General. My concern with this is really two
11 things. I think the firearms instruction is very
12 important. These are individuals that are going to be
13 carrying weapons in their professional capacity, and I
14 think that the training is very important. I think that
15 the Board understands that, and I think the staff
16 understands that. And that's why updates to the
17 curriculum were made and were sent out to everyone.
18 That is my first concern.

19 But, also, I'm thinking about the individuals
20 that took this course. I think, when you take the
21 course from someone, you purchase something, you rely on
22 that individual to be able to know what the rules are.
23 And I know there's always excuses of why mistakes were
24 made. But I think what we heard today is that mistakes
25 were made. And I believe she's -- her testimony is that

1 they won't be made again. I appreciate that. But, I
2 guess, if forgiveness is that easy, then, you know,
3 that's up to the Board.

4 My concern is being able to watch this
5 individual ongoing and to make sure that both the
6 curriculum is always up to par with the requirements of
7 the Board, so that the Board is protected and the
8 citizens of the state are protected. And my second
9 concern is that the customers are protected.

10 And I would ask the Board to create a function
11 here, just even ongoing, that there are safeguards in
12 place with this individual. Because there was an
13 admission that there were mistakes made in the past.
14 And I think there needs to be at a safeguard in place,
15 maybe a probationary period or something, to ensure that
16 this doesn't keep happening. You know, and that's
17 just -- as far as what happened in the past, it's up to
18 the Board. But my concern is what's going to happen in
19 the future.

20 That's all I have.

21 MS. BAUMGARDNER: Thank you for hearing us
22 today. And thank you for the brief recess so we could
23 copy the pages.

24 Members of the Board, my client has expressed
25 that she did have a lapse in judgment. And she also

1 expressed that she was two weeks away from giving birth.
2 And we're not here to give excuses, but we are here to
3 give justifications and explain that these issues will
4 not happen again. And my client has expressed to me
5 that she's willing to run her business with an open
6 book, and she has no problem with any kind of
7 scrutinized supervision by the Board.

8 She has expressed that the assistant who was
9 helping her during her pregnancy is no longer
10 maintaining that role and that she is, in fact,
11 maintaining the five hours, the five hours on the range
12 and the eight-hour course. And we have supplied
13 documentation to Mr. Towler and to the Board showing
14 that my client has been compliant with the rules.

15 And we respectfully request that the Board show
16 leniency towards my client, because she was in a fragile
17 state at the time. And, again, not an excuse, but a
18 justification. And since that fragile state is now
19 removed, my client is now in full capacity to conduct
20 the course and follow the rules. And she herself
21 testified that she has been compliant with the rules.

22 Mr. Towler said that he was concerned that the
23 customers would be protected. My client testified that
24 if anybody who had taken one of her classes, who had an
25 issue with one of their white cards, came forward, asked

1 for a refund or asked her to perform the class again for
2 that, that she would absolutely be amenable to that.
3 And she has so far. She testified that she has done
4 that with the clients who -- her former clients who have
5 come to her and requested such.

6 So, in closing, I would just respectfully
7 request that the Board show leniency towards my client.
8 She's expressed that she is -- she wouldn't object to a
9 probationary period. But time with the Board would
10 ensure that she would be in compliance with NAC and NRS
11 and all of the provisions therein.

12 Thank you.

13 BOARD CHAIRMAN SPENCER: Board questions?

14 BOARD MEMBER ZANE: Based upon your closing,
15 and pursuant to each of the counts that are issued in
16 the violations, would it be your position that those --

17 (A request was made by the Reporter that the
18 participants in Las Vegas speak louder.)

19 BOARD MEMBER ZANE: Based upon the content of
20 your closing, would it be your position as counsel that
21 the violations have been proved in each of the counts?

22 MS. BAUMGARDNER: No.

23 BOARD MEMBER ZANE: And that you're asking us
24 to simply be fair and just?

25 MS. BAUMGARDNER: Well, no. And, first of all,

1 we -- with regards to the Craigslist advertisement, I'm
2 the first to admit that that was ambiguously worded.
3 But we showed that the class took place on two days.
4 And Mr. Towler insinuated that that was very convenient,
5 because my client was served with the complaint on
6 February 16th, the day after the first class.

7 I don't want to waste the Board's time, but if
8 you'd like, we can go through every single class that
9 she's given since August and show that every one is two
10 days. And that documentation is before us. We have
11 nothing to hide. Everything is here.

12 So I don't think that my client was false
13 advertising, you know, one of the charges in the
14 complaint. But I don't think she -- I don't think
15 anything was proved with respect to that omission.

16 With regards to the allegation that my client
17 was letting an unqualified assistant or an unqualified
18 person supplying scores, my client explained that this
19 was just somebody helping her, standing in on the range,
20 because she was two weeks away from giving birth. But
21 she was the one scoring the sheets. And she was the one
22 counting the shots. So she wasn't sitting by taking a
23 passive role while somebody else was doing her job. She
24 just needed a little help for that one class. She was
25 two weeks away from giving birth, and the she was

1 concerned for the safety of her child. And as she
2 expressed to you, she understands that now, looking back
3 on that, that was a bad call. And that's all she can
4 say about that.

5 But as far as that allegation, Investigator
6 Roble testified that he did not see the assistant
7 checking the number of shots or scoring. So it's
8 unclear what he witnessed, as far as his participation.

9 This wasn't really addressed here today. It's
10 in the complaint. But as far as the allegation of
11 issuing permits to unqualified individuals, again, I
12 don't have copies here today, because it's about a
13 four-inch stack. But I provided copies to Mr. Towler of
14 every card issued by my client, and attached to every
15 card is the verification form.

16 MR. TOWLER: And we have those up there. I'm
17 sorry. We have those forms up here, if that's something
18 you want me to pass out.

19 MS. BAUMGARDNER: I don't really think that's
20 necessary, because that wasn't addressed here. But my
21 client is more than happy to provide all that
22 information to you. No cards have been issued to
23 anybody who was not verified. People may have taken the
24 class; but until they provided her with the verification
25 form, they were not issued a white card. Period.

1 And, once again, I want to appeal to the Board
2 to show some leniency to my client. She showed she is
3 in compliance since the cease and desist was issued.
4 And she is committed to remaining compliant with the
5 rules. And she understands that the rules are for a
6 reason, and that's safety primarily. And as I -- as I
7 already mentioned, she's more than open to a heightened
8 level of scrutiny in her business.

9 BOARD CHAIRMAN SPENCER: Thank you. May I ask
10 Ms. Vu a question?

11 Have you instructed without --

12 (The Las Vegas videoconference connection was
13 lost and reconnected.)

14 BOARD CHAIRMAN SPENCER: The question was had
15 she provided training to her assistant in the past, so
16 that that assistant knew what was expected?

17 MS. VU: Yes.

18 BOARD CHAIRMAN SPENCER: Okay. The next
19 question is for anybody who can answer it, probably
20 Mechele. Do we claim to say anywhere that only the
21 licensee can give the instruction? I'm thinking of like
22 my licenses, I go over with my investigators what's
23 expected and what we can do and what we can't do. Does
24 the license carrier that -- that carrier, that it can
25 only be conducted by the licensed person?

1 MS. RAY: Mr. Chairman, there's a provision
2 that allows you, as a licensee, to hire employees to
3 work under your license as an investigator or a process
4 server or for whatever you're licensed for. There's not
5 a provision for that for the certified firearms
6 instructor. And that's the purpose of the
7 certification. It is a certification issued to them to
8 teach the class.

9 BOARD CHAIRMAN SPENCER: All right. Well, I
10 was just -- I can certainly understand why you weren't,
11 because of your condition. I'll never have that
12 problem.

13 MS. BAUMGARDNER: Yeah.

14 BOARD CHAIRMAN SPENCER: I hope. Are there any
15 other Board questions? Jim? Robert?

16 BOARD MEMBER NADEAU: I have no questions,
17 Mr. Chairman.

18 BOARD MEMBER UITHOVEN: None.

19 BOARD CHAIRMAN SPENCER: What did Jim say?

20 MS. RAY: He has a question.

21 BOARD CHAIRMAN SPENCER: Okay, Jim.

22 BOARD MEMBER NADEAU: No. No, I have no
23 questions. Thank you, Mr. Chairman.

24 BOARD CHAIRMAN SPENCER: Oh, you have no
25 questions. All right. Then, we'll proceed with a

1 motion.

2 BOARD MEMBER ZANE: Mr. Chairman, I'd make a
3 motion to sustain the complaint, as issued, and that we,
4 for lack of a better term, find, indicate one count
5 violation. And I'm not sure that we submit the
6 discipline. I believe, it's the staff that indicates.
7 We just find for the complaint or against it. Right?

8 MS. RAY: No. In the past, you've -- I'll have
9 to defer to counsel, but in the past, you guys have
10 determined that.

11 BOARD MEMBER ZANE: Right. At this point in
12 time, we just find for or against the complaint and then
13 determine a penalty if it's upheld?

14 BOARD CHAIRMAN SPENCER: In the past, we have
15 done just that, we found --

16 BOARD MEMBER ZANE: Let me amend or change my
17 motion. I move that the complaint be sustained as to
18 one count violation.

19 MS. RAY: So, then, I wonder what the statute
20 says.

21 BOARD CHAIRMAN SPENCER: Would you like to pick
22 any one of them? Or --

23 BOARD MEMBER ZANE: No.

24 BOARD CHAIRMAN SPENCER: Okay. Motion. Do I
25 have a second?

1 BOARD MEMBER NADEAU: Let me understand the
2 motion. At this point, you want to take the second step
3 as far as discipline. You just want to make the motion
4 for sustained, one particular, sustained?

5 BOARD MEMBER ZANE: Yes, sir.

6 BOARD CHAIRMAN SPENCER: Yeah.

7 BOARD MEMBER NADEAU: I'll second that.

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

11 (Board members said "aye.")

12 Opposed?

13 Hearing none, the motion carries for one count.
14 What is our range of availability, or the range
15 of --

16 MS. RAY: It is \$5,000.

17 BOARD MEMBER NADEAU: Yeah. Mr. Chairman, do
18 you want counsel to read it, our options?

19 BOARD CHAIRMAN SPENCER: All right.

20 MS. HEMINGWAY: This is Colleen Hemingway, for
21 the record.

22 NRS 648.175 discusses the authorized
23 disciplinary that the -- disciplinary action that the
24 Board may impose: If after notice of the hearing the
25 Board finds that cause exists, the Board may, A, revoke

1 the license of the licensee; B, suspend the license of
2 the licensee for not more than one year for each
3 violation; C, fine the licensee not more than \$5,000 per
4 each violation; D, suspend an order, excuse me,
5 authorized by this section upon such terms and
6 conditions as the Board considers appropriate; E, place
7 the licensee on probation for not more than two years
8 upon such terms and conditions as the Board considers
9 appropriate; F, publicly reprimand the licensee; G,
10 affirm, modify or vacate the penalty imposed by a notice
11 of violation.

12 BOARD CHAIRMAN SPENCER: Discussion?

13 BOARD MEMBER NADEAU: May I make a -- do a
14 clarification? It could be one or all, I mean, well, or
15 it could be a combination, it could be a combination of
16 these, or does it have to be one specific part of this?

17 MS. HEMINGWAY: I believe, it's written
18 generally enough that you could be fairly creative with
19 it. They're all options on the table as to what I read.

20 MR. TOWLER: (Nodded head affirmatively.)

21 BOARD MEMBER NADEAU: Mr. Chair, I would -- it
22 looks to me like we have the option for a probationary
23 period.

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

25 BOARD CHAIRMAN SPENCER: M-hm (affirmative).

1 BOARD MEMBER UITHOVEN: Right there.

2 Probation.

3 BOARD MEMBER NADEAU: So we have -- I would --
4 I guess, I'll make a -- I'll just make a motion, and
5 let's see how it flies. I would move that we suspend
6 the license of the -- we suspend the license of Ms. Vu
7 for a period of six months, but we suspend that, because
8 it looks like we have the option of suspending that,
9 pending any further, any other, any further violations;
10 that, additionally, we fine her the sum of \$1,000 and
11 expenses for the investigation and the hearing.

12 BOARD MEMBER ZANE: Second.

13 MS. BAUMGARDNER: May I have the opportunity to
14 respond?

15 BOARD CHAIRMAN SPENCER: We'll have discussion
16 on the motion.

17 I'm sorry? All right. Okay.

18 BOARD MEMBER NADEAU: So I want -- Mr. Chair,
19 just to make sure I'm clear, we're suspending her
20 license for six months but suspending the imposition of
21 that based on her activity. I guess, we could, say, put
22 her on probation for six months. Maybe that would be --
23 I'm just, I'm trying to frame this correctly. So,
24 counsels, help me out here.

25 BOARD CHAIRMAN SPENCER: So your intent, your

1 intent is not to put her out of business for six months?

2 BOARD MEMBER NADEAU: That's correct.

3 BOARD MEMBER UITHOVEN: Probation.

4 BOARD MEMBER NADEAU: So, I guess, maybe it's a
5 probation, six-month probation. Though I may add that,
6 I may make that a year probation. I know Mark has
7 already seconded it. But I'm still in discussion of our
8 motion. But probation for one -- for six months, fine
9 of \$1,000, and expenses.

10 Is that what you understood, Mark, or --

11 BOARD MEMBER ZANE: Yes, that's my
12 understanding, that you're going to -- so you're going
13 to impose the penalty, and it's all suspended?

14 BOARD MEMBER NADEAU: Not the -- I'm sorry. I
15 initially said suspension. I meant, or I should have
16 said probation. But I think the monetary penalty and
17 the expenses should be -- should not be suspended. They
18 should be included.

19 MS. HEMINGWAY: So condition of probation.

20 BOARD MEMBER ZANE: Okay. And I'd amend that
21 second.

22 BOARD CHAIRMAN SPENCER: So you are our second?

23 BOARD MEMBER ZANE: Yes.

24 BOARD CHAIRMAN SPENCER: Second.

25 BOARD MEMBER UITHOVEN: So the motion, the

1 motion would be six months or one-year probation? Six
2 months probation?

3 BOARD MEMBER NADEAU: Six months probation.

4 BOARD MEMBER UITHOVEN: Six months probation, a
5 \$1,000 fine, and costs?

6 BOARD MEMBER NADEAU: Correct, the cost of
7 investigation --

8 BOARD MEMBER UITHOVEN: Okay.

9 BOARD MEMBER NADEAU: -- and the administrative
10 hearing.

11 BOARD MEMBER UITHOVEN: Yeah. Okay.

12 BOARD CHAIRMAN SPENCER: Is there any further
13 discussion on the motion?

14 BOARD MEMBER UITHOVEN: I just, I would just
15 say, Mr. Chairman, that I will be supporting this
16 motion. And I think on all of these four counts, I
17 think we are showing a significant amount of leniency in
18 this case with this, with this motion, should it pass,
19 given the four counts.

20 I am, I am sensitive to the -- you know, the
21 Craigslist posting that, you know, that could have
22 certainly been worded better, and certainly hope that
23 future advertisements like that, that the same mistakes
24 won't be repeated. And I think with my support of this
25 motion, we are showing a significant amount of leniency.

1 I intend to support the motion.

2 BOARD CHAIRMAN SPENCER: All right. And I just
3 asked the question of Mechele regarding the fine. It
4 doesn't have to be stated, but the fine could be paid in
5 increments, you know, or any type of time that you work
6 out.

7 MS. VU: (Nodded head affirmatively.)

8 BOARD MEMBER NADEAU: And, I guess, my one
9 question would be do we know what -- do we have any idea
10 of what the cost of the investigation and administrative
11 fees are, or does that have to be delineated? It can
12 just be formulated based on --

13 MR. TOWLER: Yeah, I think Mechele can -- for
14 the record, Thoran Towler. I think Mechele probably
15 could figure out what that would be. You know, she can
16 correct me if I'm wrong.

17 BOARD CHAIRMAN SPENCER: You're not.

18 MS. RAY: Board Member Nadeau, I don't have a
19 figure for you now. But, yes, I can. I can be able to
20 come up with that.

21 BOARD MEMBER NADEAU: Okay. Thank you very
22 much.

23 BOARD CHAIRMAN SPENCER: Any further
24 discussion?

25 No further discussion, we'll call for the vote.

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

2 (Board members said "aye.")

3 BOARD CHAIRMAN SPENCER: All right. It passes.

4 Would you like to say anything to that?

5 MS. BAUMGARDNER: I was just going to request
6 that the Board reconsider the \$1,000 fine. My client is
7 a new mother. I do appreciate the leniency and for
8 paying over time. I was going to request that the Board
9 suspend the \$1,000 fine, and if there's future violation
10 during this six-month period, that it would be an
11 automatic implicated sum.

12 BOARD CHAIRMAN SPENCER: Well, I think it's too
13 late. We've passed that. And I'm sorry that we
14 couldn't make the request beforehand.

15 MS. HEMINGWAY: Well, I think it's appropriate
16 if she'd like to formulate it as a motion for
17 reconsideration.

18 MS. BAUMGARDNER: I would like to do a motion
19 for reconsideration at this time. I understand where
20 the \$1,000 fine comes from. The Board could suspend
21 that for any violations over the six-month probationary
22 period. That would be greatly appreciated for my
23 client.

24 BOARD CHAIRMAN SPENCER: Board comments on this
25 question?

1 BOARD MEMBER ZANE: I believe, and in line with
2 Member Uithoven's comments, that consolidating the
3 violations into the one count is particular leniency,
4 that the ability to pay the fine over an extended period
5 of time has to be negotiated with the Executive Director
6 is another level of leniency, and that I -- I, for one,
7 don't believe that we should reconsider it any more than
8 we already have.

9 BOARD CHAIRMAN SPENCER: Further Board comment?

10 BOARD MEMBER NADEAU: I'm not -- I guess,
11 Mr. Zane has, basically, expressed my same comments.

12 BOARD MEMBER UITHOVEN: I agree, stand by the
13 motion.

14 BOARD CHAIRMAN SPENCER: Thank you.

15 MS. BAUMGARDNER: Okay.

16 BOARD MEMBER ZANE: I guess, the motion would
17 be to deny the reconsideration.

18 BOARD CHAIRMAN SPENCER: Well, I don't think
19 there needs to be a motion for this.

20 BOARD MEMBER ZANE: No further needed.

21 BOARD CHAIRMAN SPENCER: Yeah. What he said.

22 MS. VU: Thank you.

23 ///

24 ///

25 AGENDA ITEM 6

1 DEBORAH SCHUFF, ON BEHALF OF JUNE'S LEGAL SERVICE

2

3 BOARD CHAIRMAN SPENCER: Okay. Ms. Schuff. Is
4 that the correct pronunciation of your name, "SHUFF"?

5 MS. SCHUFF: That's the correct pronunciation.

6 BOARD CHAIRMAN SPENCER: Schuff.

7 This is an appeal of a notice for violation
8 hearing. It's Deborah Schuff, on behalf of June's Legal
9 Service, 1068, appealing a notice issued to her on the
10 1st of December, 2010.

11 This matter was decided at one time?

12 MS. GRESNICK-SMITH: It was continued from the
13 last meeting.

14 MR. TOWLER: If I could, Mr. Chairman.

15 BOARD CHAIRMAN SPENCER: Yes.

16 MR. TOWLER: For the record, Thoran Towler,
17 Deputy Attorney General. I've got the minutes from the
18 last time. So I think it might refresh the Board's
19 recollection of where we're at in this case if I could
20 read those. And, also, I have Exhibit 1, which I
21 collected from last time, which was already given out at
22 our last meeting. And like I said, I'll read the
23 minutes now from the section.

24 BOARD CHAIRMAN SPENCER: All right.

25 MR. TOWLER: "June's Legal Service, license

1 number 1068, Deborah Schuff, appealed the notice of
2 violation, number 08-1068-10, issued on September 1,
3 2000. Deputy Attorney General Towler presented the case
4 to the Board. He called Investigator Gresnick-Smith as
5 a witness. He asked Investigator Gresnick-Smith if she
6 audited June's Legal Service records and what she
7 discovered during the audit. She stated that there were
8 violations regarding employees who should have been
9 terminated from the system, and there were others where
10 there were no records for employees.

11 "Deputy Attorney Towler asked if Mrs. Schuff
12 had any questions. Ms. Schuff stated she wanted to
13 provide evidence and truth. Everything had been
14 supplied to the PILB quarterly. She also stated that
15 she used a payroll company. Investigator Gresnick-Smith
16 said that there was a person who worked for June's Legal
17 Service with an expired card. At this point, Deputy
18 Attorney General Towler asked Investigator
19 Gresnick-Smith to go through each name on the list of
20 employees. She did and stated dates of hire,
21 termination dates, and which employees were never
22 registered with the Board. Ms. Schuff wanted to know
23 where the information came from. She asked to go
24 through the list as the Investigator did.

25 "Ms. Schuff had documentation on every employee

1 and their dates of hire or termination. Deputy Attorney
2 General Towler asked why that was never provided to the
3 investigator. Ms. Schuff stated she was never asked to
4 provide it. Chairman Spencer asked if she wanted a
5 continuance. Ms. Schuff said she would provide all
6 paperwork tomorrow. Chairman Spencer stated she could
7 come back at the next meeting. Ms. Schuff asked if that
8 was in three months. Chairman Spencer replies that was
9 correct. Board Member Nadeau motions to continue the
10 next regularly scheduled meeting. All Board members
11 were in agreement."

12 BOARD CHAIRMAN SPENCER: So what have you got?

13 MS. SCHUFF: A few records from Payroll
14 Solutions. I -- Good morning, Board. Deborah Schuff,
15 June's Legal Service. I am prepared to go through each
16 individual. I use a payroll company. And I can address
17 the 10 cited individuals, that apparently their
18 documentation was not provided at the time of the
19 investigation, which I thought was. And I have with me
20 today e-mails from the payroll company and payroll
21 records supporting my evidence provided at the time and
22 the same information I have now that I had then about
23 each employee. Some were never hired.

24 My position with my company is that before
25 consideration to even become a process server, they

1 would need to take the application to the pick-up
2 present to see if they're even qualified before they
3 even come to my company. So you will see people that
4 have cards, but I don't necessarily hire them. And in
5 almost every case here, you'll see "Never registered by
6 the licensee." I chose either not to hire them, or they
7 did not come and work for me as a process server.

8 So that's the evidence that I have here from
9 the payroll company. I am more than willing to address
10 each and every one of these individually. It's whatever
11 you'd like to do.

12 BOARD CHAIRMAN SPENCER: Counsel, how would you
13 like to continue? Have you received this information?

14 MR. TOWLER: I have not.

15 MS. SCHUFF: I have -- do you have a copy? I
16 didn't know of this ahead of time. But I have it here
17 for you if you would want to make copies or -- there's
18 evidence. Each individual, there are -- the payroll
19 company, and I must add, went through a change of the
20 records. So they had to send me a variety of different
21 e-mails with backup, because they went from one company
22 or one system to another. Consequently, they had this
23 in their records. So you've got four exhibits and
24 attachments to each one.

25 MS. GRESNICK-SMITH: Brandi, what's the fax

1 number up there?

2 MS. HEMINGWAY: 775 area code, 684-1108.

3 MS. GRESNICK-SMITH: Thank you.

4 MS. HEMINGWAY: And if you'd like, please put
5 "Please immediately deliver to the Moot Court Room"; and
6 then they'll run it right up. Unless you want to go get
7 it.

8 MS. KING: I'll go get it.

9 MS. HEMINGWAY: Okay. Thank you.

10 MS. SCHUFF: Could I ask a question while we're
11 waiting, or are we taking a little break?

12 BOARD CHAIRMAN SPENCER: Wait till we get this.

13 MR. TOWLER: Are we taking a recess?

14 BOARD CHAIRMAN SPENCER: No.

15 MS. RAY: No.

16 BOARD CHAIRMAN SPENCER: Just getting stuff
17 faxed. It'll be faxed up to you shortly.

18 Okay. We can proceed with --

19 MS. SCHUFF: I just have a general question.

20 BOARD CHAIRMAN SPENCER: Sure.

21 MS. SCHUFF: If you want to do that before we
22 go into each employee. On the cards that are now issued
23 for process servers, prior, the old cards, when we had
24 them through Metro, they came and they were issued as a
25 process server. And so that allowed the process servers

1 access without question that they were a process server.
2 The new cards that come now issued say "Unarmed." They
3 make no reference to being a process server. I'm
4 wondering if that's going to be changed.

5 MS. RAY: No, that's not.

6 MS. SCHUFF: No. No, I was just -- that was
7 just a question that I had. Okay.

8 BOARD CHAIRMAN SPENCER: We're going to have to
9 wait a minute. We can't proceed until we've got copies.

10 BOARD MEMBER ZANE: Mr. Chairman, is it
11 possible to proceed to the next item and just trail this
12 one until we've got the copies?

13 BOARD CHAIRMAN SPENCER: When is -- when is
14 your appointment?

15 MS. SCHUFF: Mine, at 1:00 O'clock in municipal
16 court.

17 BOARD CHAIRMAN SPENCER: Okay. Yeah, let's put
18 it on hold for just a second, and we'll skip down to
19 registration appeal hearings.

20

21 AGENDA ITEM 7

22 EBONY WILLIAMS

23

24 BOARD CHAIRMAN SPENCER: The first one is Ebony
25 Williams.

1 MS. RAY: Mr. Chairman, Ebony Williams withdrew
2 her appeal.

3

4

AGENDA ITEM 8

5

CHRISTOPHER WEST

6

7

BOARD CHAIRMAN SPENCER: Christopher West.

8

Good morning, sir.

9

10 MR. WEST: Good morning. Last time, I was
11 asked to come back with documentation from Colorado.
12 And I e-mailed some to Mechele. I also have a copy here
13 if you need a copy. But I have my original, too.

13

14

BOARD CHAIRMAN SPENCER: Bring us up to speed,
then.

15

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MR. WEST: You just wanted to -- my deferred
sentence for two years had not been coded properly. So
I had to contact the courts and have them code it
properly so that it could be released. But this is a
document saying that it's completely over with and has
been for a couple years.

21

22

23

24

25

Here. But I believe that's all you needed. I
did find out that David Johnson was my lawyer. I forgot
his last name. You just asked me, because you said you
would possibly give him a call. But because I have
this.

1 BOARD CHAIRMAN SPENCER: I just can't remember.

2 MR. WEST: Yeah.

3 MR. ROBLE: It looks like his revocation was
4 set aside and that probation was also dismissed.

5 BOARD CHAIRMAN SPENCER: That was, in fact, for
6 the --

7 MR. ROBLE: It stated let them pay January
8 2011.

9 BOARD CHAIRMAN SPENCER: That's set aside, or
10 was there --

11 MR. ROBLE: Yes, that's what it is, so ordered
12 on the 11th of the January of 2011.

13 BOARD CHAIRMAN SPENCER: So he has no criminal
14 history, then?

15 MR. ROBLE: I don't know if was the only thing
16 he had. But just to satisfy, I think this was what the
17 concern was. So it looks like this matter's been
18 resolved satisfactorily.

19 BOARD CHAIRMAN SPENCER: Yes, I apologize for
20 not remembering. Was that the only rule violation in
21 regards to --

22 MR. WEST: That was the only one that you had
23 concern on this. The other thing I listed, when I
24 contacted the courts in Oregon, it was basically
25 something that they told me that if I was ever asked any

1 questions, that that would not be needed to be brought
2 up, or act like nothing happened. So I was just being
3 honest. I was in the middle of something, and I was
4 questioned back then. But this one is the one that
5 hadn't been coded correctly what -- from what I found
6 out. So it's a good thing that it happened the way it
7 did. Now it's completed.

8 The gentleman with the probation office said
9 that there was another gentleman that had something from
10 1970s. So they do this a lot. I don't know why.

11 BOARD CHAIRMAN SPENCER: Never take that kind
12 of advice, if it's not written somewhere, you know.

13 MR. WEST: Yeah.

14 BOARD CHAIRMAN SPENCER: Because it'll never
15 happen. Well, then it'll happen.

16 MR. WEST: It just wasn't followed through with
17 is all. Yeah, I was here for the last meeting.

18 BOARD CHAIRMAN SPENCER: Does the Board have
19 any questions?

20 BOARD MEMBER NADEAU: Mr. Chairman?

21 BOARD CHAIRMAN SPENCER: Yes.

22 BOARD MEMBER NADEAU: This is the one from --
23 Mr. Chairman, this is -- which one is this, that we're
24 discussing?

25 BOARD CHAIRMAN SPENCER: Number eight,

1 Christopher West.

2 BOARD MEMBER NADEAU: No, I know that. But
3 which arrest?

4 BOARD CHAIRMAN SPENCER: Which arrest was it?

5 MR. WEST: These include the whole situation
6 for two arrests.

7 MR. ROBLE: In Colorado?

8 MR. WEST: The first arrest was here in Nevada,
9 because I live here. The second one was in California.
10 And that was the situation where I did -- it wasn't
11 marked down to pay my fine. My lawyer didn't tell me
12 that. That's why I didn't. But I then paid it, and it
13 was done.

14 BOARD MEMBER ZANE: There was an extradition on
15 the other charge; is that correct?

16 MR. WEST: Correct, yeah.

17 BOARD MEMBER ZANE: Against that gentleman.

18 BOARD MEMBER NADEAU: All right. So we've
19 concluded that the Las Vegas arrest was associated with
20 the Colorado incident, if I'm understanding correctly?

21 MR. WEST: That's correct, yeah.

22 MS. RAY: I'm trying to find the motion, if
23 you'd like me to read it, from last meeting.

24 BOARD MEMBER NADEAU: I was trying to go
25 through the minutes.

1 MS. RAY: It's the transcript. Okay.

2 BOARD MEMBER NADEAU: So, if I'm understanding,
3 then, the information that he has there sets aside the
4 fugitive arrest; is that what?

5 BOARD CHAIRMAN SPENCER: Yes, that's correct.

6 BOARD MEMBER NADEAU: Okay. Would the
7 appropriate --

8 BOARD CHAIRMAN SPENCER: It shows it on there.

9 BOARD MEMBER NADEAU: Would the appropriate,
10 then, action be for us to reconsider our vote from last
11 time, where we denied Mr. West his application, or is
12 this a -- because this is an appeal? I guess, I'm
13 looking for the appropriate protocol.

14 MS. RAY: Board Member Nadeau, I am not seeing
15 that we made a motion, but I'm having a hard time with
16 all this.

17 BOARD MEMBER NADEAU: It's on page 51 of the
18 last, of the minutes from the last meeting.

19 BOARD CHAIRMAN SPENCER: This is sort of like
20 Jell-O.

21 BOARD MEMBER NADEAU: We voted to deny him
22 this, his application last time. So we made a motion to
23 pass, and we denied him, denied his appeal. So would
24 the appropriate motion, then, be to reconsider that, you
25 know, now that we have additional, new information?

1 MS. HEMINGWAY: You denied his appeal last
2 meeting.

3 BOARD MEMBER NADEAU: Correct.

4 MS. HEMINGWAY: And so why are we here again,
5 because?

6 BOARD MEMBER NADEAU: Because he brought back
7 new information regarding the --

8 BOARD MEMBER UITHOVEN: The Board requested
9 that if he had any new information, to bring it back.

10 MS. HEMINGWAY: Okay. So you pretty much
11 opened it up to --

12 BOARD MEMBER NADEAU: For him to come back.

13 MS. HEMINGWAY: -- reconsidering based upon new
14 information. He's providing new information.

15 BOARD MEMBER NADEAU: Correct.

16 MS. HEMINGWAY: Are you satisfied with that new
17 information?

18 BOARD MEMBER NADEAU: Well, I don't know that
19 it's in here.

20 MS. HEMINGWAY: Oh, so you just got it?

21 BOARD MEMBER NADEAU: Right. So.

22 MS. GRESNICK-SMITH: He just provided that
23 information.

24 BOARD MEMBER NADEAU: He just provided him that
25 information.

1 MS. GRESNICK-SMITH: Investigator Roble.

2 MS. HEMINGWAY: So you all consider it as if
3 you were back at that hearing date.

4 BOARD MEMBER NADEAU: Okay. So would the
5 motion be for reconsideration of our past vote, or do we
6 just vote to get rid of the denial? I guess, I'm
7 asking. I know that's a nuance, but.

8 MR. TOWLER: Yeah, I'm not too worried too much
9 about that.

10 MS. HEMINGWAY: So, I think, procedurally, I
11 don't think you would impose the denial until you've
12 heard this new evidence.

13 BOARD MEMBER NADEAU: Okay.

14 MS. HEMINGWAY: You now consider the new
15 evidence. So go back as if you were at that initial
16 hearing, and discuss all the evidence you have before
17 you in making that decision.

18 BOARD MEMBER NADEAU: Okay. And then just make
19 a motion?

20 MS. HEMINGWAY: Then, and then you would then
21 just proceed as if you were at that hearing.

22 BOARD MEMBER NADEAU: Okay. Did you all, did
23 you all hear that?

24 BOARD MEMBER ZANE: Yes.

25 BOARD MEMBER NADEAU: Okay. So you guys have

1 the information. So I'm going to have to rely on what
2 your sense is.

3 BOARD CHAIRMAN SPENCER: Right. I think it was
4 sent, it was sent to -- oh, I'm sorry.

5 MS. RAY: Would you like to see a copy of that,
6 or would you rely on Investigator Roble's review of it?

7 BOARD MEMBER NADEAU: I'm comfortable with
8 Investigator Roble's review and the other Board review.

9 MS. RAY: Okay.

10 BOARD MEMBER NADEAU: Or it can be read into
11 the record.

12 MS. HEMINGWAY: That's probably the way to do
13 it.

14 BOARD MEMBER ZANE: Do you want me to read it?

15 BOARD CHAIRMAN SPENCER: Go ahead.

16 BOARD MEMBER ZANE: It's a document apparently
17 issued in the district court, Arapahoe County, the State
18 of Colorado. It gives the court address. The people of
19 the State of Colorado vs. Christopher West, Defendant.
20 Special Report and Order. The probation officer informs
21 the court that on November 14th, 2005 Judge Vincent
22 White placed the defendant on a deferred judgment and
23 was sentenced for two years following the defendant's
24 plea of guilty. The defendant was ordered to pay
25 extradition costs to the court; and once paid in full,

1 the defendant will be successfully completed. On
2 December 30, 2005 an amended compliant was filed with
3 the court. On January 17th, 2006 the court ordered a
4 bench warrant for the defendant's arrest. On March
5 23rd, 2006, Judge White signed an order closing the
6 warrant and closing the case. Probation was
7 respectfully requested, and defendant's case be
8 dismissed and a conviction not entered on the defendant.

9 That is the substance of the body.

10 BOARD CHAIRMAN SPENCER: Any further
11 discussion?

12 BOARD MEMBER NADEAU: No, not from me.

13 BOARD CHAIRMAN SPENCER: I'd entertain a
14 motion.

15 BOARD MEMBER ZANE: Mr. Chairman, based upon
16 the receipt of this information, I would move that the
17 registration card be issued to Christopher West.

18 BOARD CHAIRMAN SPENCER: Is there a second?

19 All right. I'll second it. I've got a motion
20 and a second. All in favor, signify by saying "aye."

21 (Board members said "aye.")

22 BOARD CHAIRMAN SPENCER: Opposed?

23 (None opposed.)

24 MR. WEST: I'll just get that later. All
25 right. Thanks.

1 BOARD CHAIRMAN SPENCER: Thank you.

2

3 AGENDA ITEM 6 (CONTINUATION)

4 DEBORAH SCHUFF

5

6 BOARD CHAIRMAN SPENCER: All right. Come on
7 up.

8 Did you all get your copies of the payroll
9 information?

10 BOARD MEMBER NADEAU: Yes.

11 BOARD CHAIRMAN SPENCER: Okay. A couple of
12 minutes more while you review that, then we can proceed.

13 Any question, no questions or more time?

14 Do you want to proceed, or do you need more
15 time?

16 Do you want to proceed?

17 MS. RAY: Going over each.

18 BOARD CHAIRMAN SPENCER: Do you have any
19 specific?

20 MS. SCHUFF: Well, I think, from the very
21 beginning, the last time, the late termination was
22 deemed a nonissue and was removed from the violation.

23 MS. GRESNICK-SMITH: That's what I remember,
24 yes.

25 MS. SCHUFF: So moving forward, the first one

1 in question was Henry, and I'm not sure even how to say
2 his last name, A-P-O-A. He was never hired, no wages
3 paid.

4 The second one, Collette Ferman, no wages paid,
5 never hired.

6 Janet Johnson actually quit mid October. We
7 closed out her cases. There was follow-up billing,
8 which came after her expiration date on her card, but
9 she was not serving papers for me anymore. And Payroll
10 Solutions could not close her out until a final check
11 was sent. But she had stopped serving papers in
12 October.

13 MR. TOWLER: If I could just interrupt. This
14 is Thoran Towler, for the record.

15 MS. SCHUFF: Sure.

16 MR. TOWLER: Could we go through maybe, because
17 I have a question on that last one, on Collette.

18 MS. SCHUFF: Okay.

19 MR. TOWLER: Did you provide proof on that one?
20 I was just looking through those documents that I was
21 just given.

22 MS. SCHUFF: You know what, I'm not sure
23 Payroll Solutions --

24 MR. TOWLER: Right.

25 MS. SCHUFF: You know, I didn't see anything on

1 her. They wrote a letter for one of the people. I
2 didn't --

3 MR. TOWLER: Right.

4 MS. SCHUFF: I didn't get that.

5 MR. TOWLER: I'll just say my concern. My
6 concern is giving us documents, that may cover some of
7 the people, it may not, but then going through the whole
8 list and saying "I've covered it." I guess, what I need
9 is you showing me exactly where you have proof. Because
10 that's what I need.

11 MS. SCHUFF: I do need to -- okay. I do need
12 to go back to the very original documents provided to
13 Collin Ray, Colin -- not Collin Raye. I'm sorry --
14 Colin Murphy, that Collette was listed on the payroll
15 report at that time with no wages paid, on the very
16 first documentations presented to P.I. Board.

17 MS. GRESNICK-SMITH: On this document, the
18 payroll documents I provided originally with your audit
19 documents, I show annualized pay for \$3,920 for Collette
20 Ferman.

21 MS. SCHUFF: From Payroll Solutions?

22 MS. GRESNICK-SMITH: The -- in this report that
23 you provided.

24 MS. SCHUFF: Okay. That's from Payroll
25 Solutions.

1 MS. GRESNICK-SMITH: Yeah.

2 MS. SCHUFF: Okay. Then, I apologize. That
3 one was -- that was not addressed in this last
4 documentation.

5 MR. TOWLER: Then, can we go back to the first
6 one, Henry? I understand Scott, Scott Austin, I
7 believe, was the one that we did receive documentation
8 on.

9 MS. GRESNICK-SMITH: Yes, he decided not to
10 pursue that.

11 MR. TOWLER: So that was off already. So the
12 Henry Apoa, what was your testimony to him?

13 MS. SCHUFF: Well, we paid him \$50, just let
14 his expenses. He never served papers, nor was he paid
15 any -- any actual wages per se. We had a problem with
16 him in his past. It showed up, not necessarily through
17 the Board, but through another employee. And I chose
18 not to hire him. And I just didn't want any issue. We
19 paid him \$50, I think is what is on that. Yeah. And if
20 you notice, on the notes from Payroll Solutions, start
21 and stopped all within a matter of a couple of weeks.
22 There was an issue.

23 MR. TOWLER: Looks like, on the second page,
24 it's on the second page?

25 MS. SCHUFF: Yes, that is correct.

1 MR. TOWLER: Okay.

2 MS. SCHUFF: He tried to come back again in
3 2010, and I -- there was never anything, no
4 consideration. He tried to, but the error made in '08,
5 and I wouldn't accept it.

6 MR. TOWLER: All right. So that one, he was
7 paid for, \$50.

8 The second one, Collette, I think you -- I
9 guess, what's your opinion of that one? Maybe that one
10 wasn't sent to us?

11 MS. GRESNICK-SMITH: No, I don't have any
12 information from the documents just recently provided.
13 But going off of the original payroll report provided
14 for the original audit documents, I show an annual, an
15 annualized pay for \$3,920.

16 MR. TOWLER: Okay. So I'm guessing -- well,
17 what I'm asking is, ma'am, what's the excuse for that
18 one, or what's the reason behind that one?

19 MS. SCHUFF: No excuse. I -- I assumed she
20 was -- I don't --

21 MR. TOWLER: Okay.

22 MS. SCHUFF: I'm not showing her as a
23 registered employee at the P.I. Board. So. But I --
24 she needs to meet with payroll. You have wages.

25 MS. GRESNICK-SMITH: Yes, it shows right in the

1 documents you provided, it shows she was paid.

2 MS. SCHUFF: Okay.

3 MR. TOWLER: How about Janet Johnson?

4 MS. SCHUFF: She actually -- she was a process
5 server. She did work for me, and she quit mid October.
6 Payroll Solutions did not term her out until the final
7 pay on her reports were turned in. So she got paid
8 after the expired work card, but she was not working
9 after that work card expired.

10 MR. TOWLER: I see on the page --

11 MS. SCHUFF: And is no longer working.

12 MR. TOWLER: Page six of the fax that you
13 provided to us today, I think there's an e-mail
14 regarding her.

15 MS. SCHUFF: Yes. And you'll see two weeks
16 there just finalizing some late billing.

17 MR. TOWLER: Okay. So I see that.

18 But that, the e-mail I'm looking at, seems to
19 match what we're saying, unless I'm missing something
20 here.

21 MS. SCHUFF: Right. Payroll Solutions, you'll
22 see as we go down on this, if we could skip to one,
23 you'll see my problem with them. They don't always term
24 the people when they need to. Cindy, you know, is an
25 example of that. They have her listed on payrolls for

1 almost six months and never receiving any wages, ever.
2 They just never termed her. She was never hired by me,
3 and just never termed her. She --

4 MR. TOWLER: Well, so I understand what you're
5 saying. So maybe the payroll didn't get the information
6 quicker or didn't put it in their system quick enough
7 and didn't use the correct date. So what is --

8 MS. SCHUFF: That's correct.

9 MR. TOWLER: So what is the date for Janet
10 Johnson, according to your recollection or records?

11 MS. SCHUFF: I have her down as October 15th or
12 thereabouts. It was that week, October 15th, 2005. And
13 we closed out her billing records and sent her -- she
14 indicated she had served papers that she hadn't been
15 paid for, and that's what those final two checks were
16 for.

17 MR. TOWLER: Do you -- okay. That would be on
18 page seven of what you provided to us. Is that right?

19 MS. SCHUFF: That is correct. That is one
20 check. Well, gross was 149, and then one for \$45.

21 MR. TOWLER: Those are both December checks?

22 MS. SCHUFF: Yes.

23 MR. TOWLER: Okay. Well, that, I guess, unless
24 I'm not seeing something, I -- I understand I'm not
25 seeing your line, but I just don't see. I guess, that

1 is what it is. It doesn't say what dates she was
2 employed. It says she was paid in December with her two
3 final checks. But you're saying she didn't work past
4 October.

5 MS. SCHUFF: No.

6 MR. TOWLER: So it took two months.

7 MS. SCHUFF: She quit for personal reasons.

8 MR. TOWLER: It took two months to get her last
9 paychecks?

10 MS. SCHUFF: She -- we don't pay them unless
11 they turn in actual reports. And there were no reports
12 turned in. So she had not received pay for those. She
13 found her documentation and turned it in.

14 MR. TOWLER: Okay. So let's move on to Melinda
15 Cayes.

16 MS. SCHUFF: Okay. Melinda has worked for me
17 since 2004. She was one of your very first, and I
18 believe your actual first person trying to do the
19 on-line registration. She tried. And we ended up
20 actually having to mail everything in, fingerprints and
21 whatnot. So. I believe, we also discussed the -- you
22 indicate two months on the violation, but you agreed to
23 one month last time we were here.

24 MR. TOWLER: Right.

25 MS. SCHUFF: And, in actuality, it took almost

1 five months for her to get her actual card. But we did
2 get a phone call from your office asking if she was
3 actually serving papers. And the call came in on
4 February 22nd, asking if Mindy was actually serving
5 papers. We had indicated to the Board at that time she
6 was doing specials waiting for her provisional, which, I
7 believe, she got by the end of that month. So she was
8 not doing process serving for about three weeks. And
9 that was the first time the notice -- the cards were
10 coming back as unarmed versus process server.

11 There was quite an issue trying to get her
12 registered on line with the system.

13 MR. TOWLER: So did she not get a provisional
14 registration card on 2-24-2010?

15 MS. SCHUFF: She did not get a provisional. It
16 took quite a while for the registration process to take
17 place. By the time -- I don't know the exact date of
18 her provisional.

19 MS. GRESNICK-SMITH: It's February 24th, 2010.

20 MS. SCHUFF: Okay.

21 MR. TOWLER: Okay.

22 MS. SCHUFF: And her actual card expired
23 January 6th. Which she was trying at that point to get
24 on-line.

25 MR. TOWLER: Okay. So you agree she didn't

1 have it for a month, but what you're saying is --
2 correct me if I'm wrong, but what you're saying is you
3 couldn't get it, you tried, but there's problems with
4 the computer?

5 MS. SCHUFF: That's what I'm saying.

6 MR. TOWLER: Okay. I understand. Just for the
7 record, page eight, you have a copy of her work card and
8 what you provided to us.

9 The next one, Nicholas Lawlor, what's the story
10 there?

11 MS. SCHUFF: He actually stopped serving in
12 August of that -- of 2005. He did not like serving
13 papers. And he worked only for a short time thereafter
14 as a court runner. And you'll see, by Payroll
15 Solutions, that he worked actually until -- well, his
16 last pay was in 2008, but he was not doing process
17 serving. He was kind of young and didn't really
18 understand.

19 MR. TOWLER: Well, he --

20 MS. SCHUFF: Work -- I'm sorry?

21 MR. TOWLER: What I see is that his card
22 expired 2005.

23 MS. SCHUFF: That's correct.

24 MR. TOWLER: But he's being paid through two
25 thousand -- does that say six or eight, 2008?

1 MS. SCHUFF: 2008, as a court runner.

2 MR. TOWLER: Okay.

3 MS. SCHUFF: He would pick up from law firms
4 and deliver documents to court and back. He did not do
5 process serving.

6 MR. TOWLER: So what you're saying is he didn't
7 need a card during that period of time?

8 MS. SCHUFF: That is correct.

9 MR. TOWLER: Okay. So the next one, Carl
10 Lundgren.

11 BOARD MEMBER NADEAU: Can I ask a question?

12 MS. SCHUFF: Yes.

13 BOARD MEMBER NADEAU: Mr. Chairman, can I ask a
14 question on Nicholas Lawlor?

15 MS. SCHUFF: Lawlor?

16 BOARD CHAIRMAN SPENCER: Certainly.

17 BOARD MEMBER NADEAU: How would we know that he
18 wasn't being -- in our audit, how would we know that he
19 wasn't serving process, that he was just a runner, if he
20 was still an employee? Because -- and maybe the
21 investigator can tell me. How would we know that he
22 wasn't serving process?

23 MS. GRESNICK-SMITH: The licensee would have to
24 notify us of his status changing.

25 BOARD MEMBER NADEAU: I'm sorry. I couldn't, I

1 couldn't understand what was --

2 MS. GRESNICK-SMITH: On paper we wouldn't, we
3 wouldn't see that. We would see him as the employee,
4 unless otherwise specified, maybe an employee contract
5 or something, from the licensee specifically stating
6 what his job duties and responsibilities were from when
7 he went from a process server to court runner.

8 BOARD MEMBER NADEAU: Okay.

9 MR. TOWLER: And for the record, that's
10 Investigator Gresnick-Smith. Is that correct?

11 MS. GRESNICK-SMITH: Yes.

12 BOARD MEMBER NADEAU: And so, from our
13 perspective, from your perspective, unless you're
14 specifically told or it's identified somewhere within
15 the employee records that you're auditing, you wouldn't
16 know that he was not doing service of process, correct?

17 MS. GRESNICK-SMITH: Correct, unless otherwise
18 told by the license, I would assume that he was a
19 process server.

20 BOARD MEMBER NADEAU: Thank you.

21 MS. SCHUFF: For the record, all my process
22 servers are paid by piece. All my runners are paid on
23 the hour with time cards. And I would have time cards
24 over any of these people. So that's available.

25 BOARD MEMBER NADEAU: Okay.

1 MR. TOWLER: So Carl Lundgren?

2 MS. SCHUFF: This was one that was caught in
3 the system change between two payroll systems with
4 Payroll Solutions. I'm not sure why they don't have a
5 W-4 on him. I provided all that documentation after
6 court and all the documentation from Payroll Solutions
7 to the P.I. Board. Apparently, they couldn't pay him
8 payroll without having that initially on file. So
9 somewhere in their files, they have lost that. However,
10 he could not drive. He's an older gentleman, could not
11 drive at night. So he did not do any process serving
12 for me and was only doing special runs and actually only
13 worked part-time prior to quitting.

14 MR. TOWLER: And I think that's page three;
15 there's an e-mail regarding him?

16 MS. SCHUFF: Yes, item number two, with backup
17 from Payroll Solutions.

18 MR. TOWLER: On page three of our document, of
19 our fax.

20 BOARD MEMBER NADEAU: Right.

21 MR. TOWLER: So you --

22 MS. SCHUFF: He only worked --

23 MR. TOWLER: He worked for you for a little
24 over a month?

25 MS. SCHUFF: Actually, he worked from September

1 through mid December of 2005 as a special runner.

2 MR. TOWLER: Why would their e-mail say he was
3 terminated on October 25?

4 MS. SCHUFF: No, that's also where they note on
5 their e-mail that -- the second sentence to that says
6 "However, then I pulled data from our old payroll
7 system, and I see wages were paid up through 12 of '05."
8 They went through a payroll change or system change.

9 MR. TOWLER: So his pay wasn't as delayed as
10 that last individual?

11 MS. SCHUFF: No. They had, they had two
12 systems. They had two payroll systems going. I --
13 unbeknownst to me. But one payroll system shows
14 payroll. The second one shows through 12 of '05. And
15 that's what they attached here as backup, all the
16 payroll for him. That was just an internal system for
17 them. That's what their e-mail says.

18 MR. TOWLER: I understand. The next one,
19 Cindy?

20 MS. SCHUFF: Cindy is one that we -- I
21 discussed a little bit earlier where Payroll Solutions
22 never terminated her. She should have been terminated.
23 She was never hired, and they kept her on payroll for
24 six months with no wages paid.

25 MR. TOWLER: And I remember you referenced that

1 earlier. Venita Portilla?

2 MS. SCHUFF: Yes, there's a letter from Payroll
3 Solutions confirming that she was never on payroll, also
4 never removed from their system.

5 MR. TOWLER: Page five.

6 The next name is Shahe, S-H-A-H-E.

7 MS. SCHUFF: Yes, that is correct. He's
8 actually stopped and started three different times
9 during the time he was employed. He was -- he came in
10 as a runner. I did not hire him as a process server.
11 He never served process. I believe, after he left my
12 employment, he did go to work for another company as a
13 process server. And I did check your on-line system,
14 and I saw that he was working for another company after
15 he left my employment.

16 MR. TOWLER: Well, it says, under our document
17 or our complaint, "Worked almost one year with an
18 expired work card."

19 MS. SCHUFF: Right.

20 MR. TOWLER: My question for the investigator,
21 where would we have gotten that information?

22 MS. GRESNICK-SMITH: From the documents that
23 she provided for the purpose of the audit originally.

24 MR. TOWLER: Okay. That's my only question on
25 that. Next question, Julian.

1 MS. SCHUFF: Yes. He was not hired as a
2 process server, had one check, only hired as a court
3 runner, did not work out.

4 MR. TOWLER: It seems like you've gone through
5 a lot of employees during this period.

6 MS. SCHUFF: Yeah. M-hm (affirmative).

7 MR. TOWLER: Okay.

8 MS. SCHUFF: These are all about 2005. I've
9 been pretty consistent with my current employees.

10 MR. TOWLER: Is there anything you'd like to
11 add to what -- that we haven't gone over yet?

12 MS. SCHUFF: I would like to say that I've been
13 in business since 1973. I have been licensed by the
14 Board here in Nevada since, I believe, well, 2000.
15 Well, 1998, '99. I have been in compliance by giving
16 quarterly reports at the time we needed to do it, every
17 three months, to Mechele via fax. Then we went on the
18 new on-line system. We've had issues with trying to do
19 that and, most recently, as of January 20th, tried to
20 get someone hired through the on-line system.

21 So I have tried to stay in compliance. And I
22 believe that only with the one exception that I see
23 here, Collette Ferman, everything is in compliance.

24 MR. TOWLER: All right. For Board
25 clarification, on the first page of our notice of

1 violation, we have a fine of \$25, that we asked to be
2 stricken from the record last time, because we did find
3 there was documentation. So now at issue is the 10
4 employees that she just went through, and \$50 fine per
5 employee.

6 BOARD CHAIRMAN SPENCER: Counsel, are you
7 satisfied with her explanation of the 10?

8 MR. TOWLER: Oh, I wouldn't go that far. I'm
9 not saying she's lying, but, you know. I think the
10 question that was brought up previously is why didn't
11 she let us know or, you know.

12 Each one is very specific. I think, with
13 Henry, he was paid \$50. I understand that was to make
14 him go away. So that's up to the Board if that means he
15 wasn't an employee and shouldn't have been registered.

16 Collette, she did. I believe she's saying that
17 that one is subject to a \$50 fine.

18 The third one, she's saying that the individual
19 was terminated before the work -- 15 days before the
20 work card expired.

21 MS. SCHUFF: No, she quit.

22 MR. TOWLER: Oh, I'm sorry. But she was no
23 longer there 15 days before, so there's no violation.
24 That's up to the Board to believe if she's credible.

25 The next one, Cayes, that was the problem where

1 she is testifying she's having trouble, and there is a
2 month-long period where she's trying to get a card
3 through the -- our website. I can't testify to whether
4 there has been problems in the past.

5 The next one, a runner, I guess, that's where
6 the question was asked How do we know that he turned
7 into a runner automatically? She should have let us
8 know that. So that one, also, is a definite. You know,
9 I think that was an issue, that that would be subject to
10 a \$50 fine, if I were to make a recommendation.

11 So, I guess, you know, I believe her testimony
12 to some, but it's up to the Board to see if what she's
13 saying is credible and if they believe the fines, if any
14 of the fines or all the fines or none of the fines,
15 should be upheld.

16 BOARD CHAIRMAN SPENCER: Do you have anything
17 further, Ms. Schuff?

18 MS. SCHUFF: I am more than willing to fax in
19 time cards on any of these people. I mean that's from
20 like 2005. And so I assumed the payroll records would
21 suffice.

22 I would just like to say that I currently have
23 a variety of mix of employees, from runners to process
24 servers. All of my process servers are licensed and on
25 the Board, Board website. I did not know, back then,

1 other than the letters that I would give, fax to
2 Mechele, about termination of these people.

3 And, honestly, it didn't cross my mind
4 regarding going from a process server and their card
5 expiring, to going to a runner. I just knew, I knew
6 they weren't doing process serving. So I wasn't as
7 concerned about terminating them as a process server. I
8 just knew the position that I was hiring them for. And
9 I felt like I wasn't in violation.

10 BOARD CHAIRMAN SPENCER: Okay. Board
11 questions, any further questions?

12 Mark?

13 BOARD MEMBER ZANE: What, based upon the
14 totality of what the audit showed and the amount of
15 money the fine would have represented, did you appeal
16 this based upon the fact that you thought that the Board
17 was wrong in its assessment or that there was just an
18 explanation for everything that occurred?

19 MS. SCHUFF: Well, being wrong and an
20 explanation was kind of one and the same. I -- I
21 didn't -- the amount of money wasn't an issue. It was
22 the fact that each one of these people did have an
23 explanation to substantiate and support the findings
24 that I disagreed with. And that's why I was here to
25 oppose the violation on this.

1 BOARD CHAIRMAN SPENCER: Any other questions?
2 Entertain a motion.

3 MS. GRESNICK-SMITH: Mr. Chairman, can I make a
4 statement before you guys make your motion, regarding
5 the audit?

6 BOARD CHAIRMAN SPENCER: Certainly.

7 MS. GRESNICK-SMITH: Okay. What Ms. Schuff did
8 provide shows payroll. But the issue of the audit and
9 the reason for the violation was because they were not
10 registered. So she did show that these employees were
11 working, and with the payroll records, it showed that.
12 But the issue was that the Board never received it at
13 this time and was the carbon copy registered employee
14 forms that should have been submitted with the 850. So
15 those were not received, or those individuals were not
16 indicated on quarterly reports.

17 So they may or may not have work cards. They
18 were paid, they weren't paid, but they were never
19 registered. And that's what the violations is. It's 10
20 employees that were not registered or who are working
21 with expired work cards.

22 MS. SCHUFF: And I'd like to make a comment to
23 that. They weren't registered because they weren't
24 hired as process servers. And out of that list, I
25 believe -- I'm not sure -- that there was maybe 70

1 employees that you went through. And you've picked out
2 these 10. And that's why I brought in evidence to show
3 you that they were not process servers.

4 MS. GRESNICK-SMITH: Okay. But in the original
5 correspondence going into audit, you did send an e-mail
6 stating who was not working as a process server and who
7 was, and these individuals were not on that list that
8 you provided, the ones that you're saying here are not,
9 that you have stated are not working as process servers.

10 MS. SCHUFF: Because I had just the names that
11 were given to me at that time. And this is the other
12 reason that this was continued. This list that we are
13 now discussing was never provided to me until the time
14 of the hearing. So that's why I asked to go back and
15 get the records from Payroll Solutions to substantiate
16 what I just stated on each one of those. Had I had that
17 list at the time -- and I addressed to the investigator
18 at the time that the audit took place, you addressed
19 specific people at that time, and I addressed each one
20 of those, and this list then was not provided. And,
21 hence, I asked for the continuance.

22 BOARD CHAIRMAN SPENCER: Any questions from the
23 Board?

24 Still entertain a motion.

25 BOARD MEMBER ZANE: Out of the 10, and I

1 followed the chronology, but out of -- out of all the
2 people that are on this list, Collette Ferman would be
3 the only one that, apparently, you felt you hired?

4 MS. SCHUFF: That's correct.

5 BOARD MEMBER ZANE: Being paid and employed as
6 a process server?

7 MS. SCHUFF: That is -- to that, I do not --
8 this wasn't ever back on the list back when she was
9 hired.

10 BOARD MEMBER ZANE: And all of the others are a
11 combination of never was a process server, never was
12 hired, or was paid a certain amount and told to get out
13 of the office?

14 MS. SCHUFF: That is correct.

15 BOARD MEMBER ZANE: And for those that you say
16 were -- never were hired, how would your payroll company
17 come to know that they were not hired?

18 MS. SCHUFF: We -- they do, as a payroll
19 company, offer a background check on people. So I have
20 to, I guess, tentatively hire them for them -- and they
21 have to fill all the paperwork out, before they would do
22 the background investigation. So that, then, becomes a
23 day to hire, for them to do the background. And then,
24 if no wages were ever paid, they're never hired.

25 MS. RAY: Are they licensed?

1 MS. SCHUFF: As they -- they come in as a
2 different -- pardon me? Payroll Solutions, that would
3 be a question for Payroll Solutions. But that's...

4 BOARD MEMBER ZANE: I don't have anything
5 further.

6 BOARD CHAIRMAN SPENCER: Is there, up in Carson
7 City, questions?

8 BOARD MEMBER NADEAU: I have no questions.

9 BOARD MEMBER UITHOVEN: No.

10 BOARD CHAIRMAN SPENCER: Motion?

11 BOARD MEMBER NADEAU: Mr. Chairman, I'd make a
12 motion.

13 BOARD CHAIRMAN SPENCER: All right.

14 BOARD MEMBER NADEAU: Given the information
15 that we have, I would sustain violations on three
16 employees.

17 BOARD CHAIRMAN SPENCER: Do you wish to name
18 them, or were you -- just that, that number?

19 BOARD MEMBER NADEAU: I'm willing to name them
20 if that's -- I believe there's a violation on Ferman, I
21 believe there's a violation on Johnson, and I believe
22 there is a violation on Nicholas Lawlor.

23 BOARD CHAIRMAN SPENCER: Okay. Do I hear a
24 second?

25 BOARD MEMBER ZANE: Second.

1 BOARD CHAIRMAN SPENCER: All right. Motion and
2 second. All in favor, signify by saying "aye."

3 (Board members said "aye.")

4 BOARD CHAIRMAN SPENCER: Opposed?

5 (None.)

6 BOARD MEMBER ZANE: I'd make a motion that any
7 discipline issue regarding this motion be handled
8 administratively.

9 BOARD CHAIRMAN SPENCER: Second. Motion and
10 second. All in favor?

11 (Board members said "aye.")

12 BOARD MEMBER NADEAU: I'm sorry. What does
13 that mean?

14 BOARD MEMBER ZANE: That Mechele determined the
15 penalty is -- I mean that the violation's a thousand, a
16 maximum of \$1,000 per issue. So, originally, the staff
17 had indicated that they assessed a fine based upon their
18 conclusions, which is -- was almost less than half of
19 what this one simple violation would be. So I would not
20 want to deny them that discretion.

21 BOARD MEMBER NADEAU: Okay. Okay. I'm okay
22 with that. So what you're saying, then, is the citation
23 initially implemented a fine of \$525 and the assessment
24 for the other penalties. And so you're saying leave
25 that open to -- for administrative -- for staff to go

1 ahead and do that assessment. Is that what I'm
2 understanding?

3 BOARD MEMBER ZANE: That way, there may be some
4 consistency historically on how these matters are
5 handled. I mean, if it wouldn't have been appealed, it
6 would have been a payment of \$525, and the matter would
7 have been resolved. But the regulations allow for --
8 for this particular violation, this many counts, I don't
9 know, we could go to 12 grand as a maximum penalty. So
10 that leaves so much leeway in between. I think the
11 discretion should be left to staff to determine what it
12 is we found, that the three violations occurred, to let
13 staff assess what the administrative penalty should be,
14 based upon whatever we've done historically.

15 BOARD MEMBER NADEAU: Okay. I understand.
16 Thank you. Thank you for that explanation.

17 BOARD MEMBER ZANE: You're welcome.

18 BOARD CHAIRMAN SPENCER: You made a motion.
19 And you made the second. I had the second.

20 BOARD MEMBER ZANE: You had a second.

21 BOARD CHAIRMAN SPENCER: Yeah. But we didn't
22 have a vote.

23 We have a motion and a second. All in favor,
24 signify by saying "aye."

25 (Board members said "aye.")

1 BOARD CHAIRMAN SPENCER: Opposed?

2 All right. It is.

3 Thank you for coming in.

4 MS. SCHUFF: Thank you. Have a good day.

5 BOARD CHAIRMAN SPENCER: The next stretch is
6 going to be a long one. So let's take a break.

7 * * * * *

8 (A break was taken, 12:32 to 1:00 p.m.)

9 * * * * *

10 BOARD CHAIRMAN SPENCER: Well, let's go ahead
11 and get underway.

12

13 AGENDA ITEM 13

14 BENJAMIN ELLIOTT

15

16 BOARD CHAIRMAN SPENCER: We'll start with
17 Benjamin, Mr. Elliott.

18 BOARD MEMBER NADEAU: Mr. Chairman, is
19 Mr. Astle in the audience?

20 MS. RAY: I told him he could go grab a bite to
21 eat. So we're going to try and find him.

22 BOARD MEMBER NADEAU: Okay. Because, as you
23 know, we have an update.

24 BOARD CHAIRMAN SPENCER: Have a chair.

25 MR. ELLIOTT: After hearing the Board, I have

1 a -- the last proceeding and many of the cases of
2 your -- that I can rest assured, so.

3 BOARD CHAIRMAN SPENCER: And why were you
4 denied?

5 MR. ELLIOTT: Well, I had a misdemeanor --

6 (There was a request by the Reporter to adjust
7 the microphone in Las Vegas so Carson City could hear.)

8 BOARD CHAIRMAN SPENCER: This is Benjamin
9 Elliott, 13. All right.

10 MS. GRESNICK-SMITH: The reason for
11 Mr. Elliott's denial was a 2010 domestic violence
12 conviction in October, so within the last 12 months.
13 But he was forthcoming with that information and did
14 indicate it on his application.

15 BOARD CHAIRMAN SPENCER: Okay. Tell me about
16 that, that case, the domestic violence.

17 MR. ELLIOTT: Well, as I previously stated,
18 that's my only crime in the last seven years. And,
19 unfortunately -- I'm not proud of what I did.

20 BOARD CHAIRMAN SPENCER: Do you want a closed
21 hearing?

22 MR. ELLIOTT: Oh, no.

23 BOARD CHAIRMAN SPENCER: All right. Go ahead.

24 MR. ELLIOTT: All right. As I was stating, I
25 sincerely apologize for my past accounts of that,

1 considering that criminal violation. And to answer your
2 question, sir, the reason why it happened, I was under a
3 lot of stress, still am to this very day. And my -- the
4 person, the two people that I hit made threats on
5 numerous occasions, and they had been telling me that
6 I -- we had significant religious differences. And I
7 don't know if you need me to --

8 BOARD CHAIRMAN SPENCER: No.

9 MR. ELLIOTT: -- expose it on a more intricate
10 basis. But suffice it to say they were harassing me
11 constantly. I went through a couple of nervous
12 breakdowns, nightmares. I know it's -- I can't really
13 prove all that, but I swear I'm being as honest as I
14 possibly can. And I was --

15 (The Las Vegas videoconference connection was
16 lost and reconnected.)

17 BOARD CHAIRMAN SPENCER: Were you convicted of
18 spousal battery?

19 MR. ELLIOTT: It was against my mother.

20 BOARD CHAIRMAN SPENCER: Oh, not --

21 MR. ELLIOTT: Yeah, I've never had any spouse
22 or -- I would want it; I've asked that numerous times in
23 my life, but they've all turned me down.

24 BOARD CHAIRMAN SPENCER: What was your
25 sentence?

1 MR. ELLIOTT: Community service, domestic
2 violence class and four days in jail.

3 BOARD CHAIRMAN SPENCER: Was a weapon involved?

4 MR. ELLIOTT: No weapons involved.

5 BOARD CHAIRMAN SPENCER: Okay. Any questions
6 from the Board?

7 BOARD MEMBER ZANE: When you -- what were you
8 planning to become?

9 MR. ELLIOTT: A security officer. There's a
10 company in town that told me to take your class and
11 complete the test, pay a fine, or the tuition, and then
12 get my passport photos made. I did all of that. I
13 turned in the passport photos a little late, but.

14 BOARD MEMBER ZANE: What made you to decide to
15 think that you were predisposed for that type of
16 profession?

17 MR. ELLIOTT: Well, I've done it in the past.
18 My sheriff's card expired years ago. I was looking for
19 work, and this company called me up and offered me a
20 job.

21 BOARD MEMBER ZANE: How long have you been a
22 security professional for?

23 MR. ELLIOTT: Well, if the loss prevention
24 counts, about two years.

25 BOARD MEMBER ZANE: Anything where you should

1 be prohibited from carrying a weapon?

2 MR. ELLIOTT: No, I never carry a weapon.

3 BOARD CHAIRMAN SPENCER: Any questions from up
4 north?

5 BOARD MEMBER NADEAU: I have no questions.

6 BOARD MEMBER UITHOVEN: No questions.

7 BOARD CHAIRMAN SPENCER: Go ahead, Mark.

8 BOARD MEMBER ZANE: You had indicated that you
9 still have an issue with stress?

10 MR. ELLIOTT: Well, I'm taking three separate
11 counseling classes I've signed up for, the domestic
12 violence, and I'm taking also counseling classes to
13 control any medical discrepancies I'm having on my own
14 behalf, my choice.

15 BOARD MEMBER ZANE: Your choice?

16 MR. ELLIOTT: Yes. I check myself in
17 mandatorily. And I haven't had any nightmares or some
18 of the strange spiritual occurrences that were befalling
19 me at that time. Most of it's alleviated.

20 BOARD MEMBER ZANE: That's all I have. Thank
21 you.

22 BOARD CHAIRMAN SPENCER: Now, anybody up north
23 have anything to ask?

24 BOARD MEMBER NADEAU: I do not.

25 BOARD MEMBER UITHOVEN: No.

1 BOARD CHAIRMAN SPENCER: I'll take a motion.

2 BOARD MEMBER ZANE: Mr. Chairman, I'd move to
3 uphold the denial of Benjamin Elliott as it applies to
4 his registration.

5 BOARD MEMBER NADEAU: I'll second.

6 BOARD CHAIRMAN SPENCER: Second. All in favor?
7 (Board members said "aye.")

8 BOARD MEMBER ZANE: Sorry about that.

9 MR. ELLIOTT: That's all right.

10 BOARD CHAIRMAN SPENCER: I'll tell you what you
11 can do. Go to your -- it's a long time from now, but in
12 a year, reapply.

13 MR. ELLIOTT: Okay. All right. Thank you,
14 guys. Have a great day.

15 BOARD CHAIRMAN SPENCER: Thank you, you, too.

16

17 AGENDA ITEM 16

18 ROBERT TINSLEY

19

20 BOARD CHAIRMAN SPENCER: Shall we take
21 Mr. Tinsley?

22 BOARD MEMBER NADEAU: Who are we going to do
23 now, Mr. Tinsley?

24 MS. HEMINGWAY: Tinsley.

25 BOARD CHAIRMAN SPENCER: Mr. Tinsley, is he

1 there?

2 BOARD MEMBER NADEAU: Mr. Tinsley, please.

3 BOARD CHAIRMAN SPENCER: Good morning,
4 Mr. Tinsley. Or good afternoon, I should say.

5 MR. TINSLEY: Good afternoon.

6 BOARD CHAIRMAN SPENCER: Would you tell us a
7 little bit about what happened.

8 MR. TINSLEY: I defrauded an innkeeper in 2010.
9 So. So I received a citation, misdemeanor. I'm
10 currently homeless. So that had a lot to do with being
11 broke and homeless. So I dined and left, so to speak.
12 But now I realize, I see the problem. That is causing
13 me to move on with my life. So that's what I'm trying
14 to do.

15 So I was just hoping you guys would reconsider
16 allowing me to continue to be a security guard. ESI
17 Security has already agreed to hire me contingent
18 that -- that I get this card.

19 BOARD CHAIRMAN SPENCER: Any questions from the
20 Board members?

21 BOARD MEMBER NADEAU: When did this happen?

22 MR. TINSLEY: January. No. I'm sorry. I
23 think it was November 2010, a few months ago.

24 BOARD MEMBER NADEAU: And you received a
25 citation?

1 MR. TINSLEY: M-hm (affirmative).

2 BOARD MEMBER NADEAU: Did you pay the citation?

3 MR. TINSLEY: Yes, 30 hours community service.

4 Everything is taken care of as far as the, you know,
5 legal proceedings with those.

6 BOARD MEMBER NADEAU: Okay. And how -- you're
7 working, or you have a job offer with?

8 MR. TINSLEY: ESI Security.

9 BOARD MEMBER NADEAU: ESI Security. Have you
10 worked security previously?

11 MR. TINSLEY: Yeah, I got about 11 years worth
12 of security. I have a resume here if you want to see
13 it.

14 BOARD MEMBER NADEAU: No, that's fine. Thank
15 you.

16 Okay. Thank you, Mr. Chairman.

17 BOARD CHAIRMAN SPENCER: You said it was a
18 misdemeanor?

19 MR. TINSLEY: Yes, defrauding an innkeeper.

20 BOARD MEMBER NADEAU: And was it -- you said
21 you ate a meal and then left?

22 MR. TINSLEY: Yeah.

23 BOARD MEMBER NADEAU: Didn't pay the check?

24 MR. TINSLEY: Yes.

25 BOARD MEMBER NADEAU: How much was the meal

1 for?

2 MR. TINSLEY: I think, 42 bucks.

3 BOARD MEMBER NADEAU: Did you hear that,
4 Mr. Chairman?

5 BOARD CHAIRMAN SPENCER: Any further questions
6 from the Board members?

7 BOARD MEMBER ZANE: What was the amount, \$42?

8 MR. TINSLEY: There was someone else with me,
9 so.

10 BOARD MEMBER NADEAU: Oh, it was two people.
11 They ate and left without paying the check. The total
12 amount for two people, \$42.

13 BOARD CHAIRMAN SPENCER: All right. Thank you.

14 BOARD MEMBER NADEAU: Misdemeanor, and he paid
15 the fine through 30 days of community service.

16 BOARD MEMBER ZANE: The reason for the denial,
17 was it close in time to misdemeanor, or he failed to
18 report?

19 MS. GRESNICK-SMITH: Close in time.

20 BOARD MEMBER ZANE: And you said that you
21 worked in the security industry before?

22 MR. TINSLEY: Yes, sir.

23 BOARD MEMBER ZANE: What brought you to the
24 point where you're homeless now?

25 MR. TINSLEY: Gambling. And I'm currently in a

1 diversion program as we speak, 28-day program. So I'm
2 just steadily moving forward. So I'm hoping to go back
3 to work as a security guard after the diversion program.

4 BOARD MEMBER ZANE: Are you in the diversion
5 program voluntarily or through a court action?

6 MR. TINSLEY: Yes, voluntarily. I went from
7 the homeless shelter, as of yesterday, to the diversion
8 program, which is Bristlecone.

9 BOARD MEMBER ZANE: So you've been in the
10 diversion program how long?

11 MR. TINSLEY: A day. I just started yesterday.
12 Yesterday was my first day in the diversion.

13 BOARD MEMBER ZANE: Okay. So you -- you
14 understand that you yourself had a -- what, a substance
15 abuse problem?

16 MR. TINSLEY: No. I'm mainly there for
17 gambling, not so much substance abuse.

18 BOARD MEMBER ZANE: Not so much or not at all?

19 MR. TINSLEY: Not so much, yeah.

20 BOARD MEMBER ZANE: Okay.

21 MR. TINSLEY: It's more gambling than anything
22 else. But, you know, that was added on there. So, you
23 know, I mean you can probably talk to my counselor more
24 about that. She just wants me to go to all the classes.
25 So I'm in full participation. But, honestly, I'm there

1 for, you know, the gambling problem, which caused me to
2 be homeless, which caused me to make the mistake of
3 defrauding an innkeeper.

4 BOARD MEMBER NADEAU: What was your last job?

5 MR. TINSLEY: Security officer.

6 BOARD MEMBER NADEAU: And that was with whom?

7 MR. TINSLEY: With Bayer Security in
8 Sacramento.

9 BOARD MEMBER NADEAU: Bayer Security in
10 Sacramento?

11 MR. TINSLEY: M-hm (affirmative).

12 BOARD CHAIRMAN SPENCER: All right. I'll
13 entertain a motion if there are no further questions.

14 BOARD MEMBER ZANE: Mr. Chairman, have we
15 discussed or made a decision whether or not any of these
16 are -- can be considered probationary? I don't recall.

17 BOARD CHAIRMAN SPENCER: No, I don't think we
18 did. How would you consider that?

19 BOARD MEMBER ZANE: I don't know, like a
20 conversation about it might be a good subject matter.

21 BOARD MEMBER NADEAU: Can we -- is this an
22 in-house diversion program, or is this --

23 MR. TINSLEY: Yes, it is.

24 BOARD MEMBER NADEAU: So you're actually
25 staying at Bristlecone?

1 MR. TINSLEY: Yeah. Here's the pass to get off
2 of the premises.

3 BOARD MEMBER NADEAU: Thoran, can we issue a
4 permit based upon completion of the diversion program?
5 Do we have a provisional means of approval in that
6 sense?

7 MR. TOWLER: Not that I'm aware of, unless
8 Mechele knows. You mean because they complete a
9 diversion, that they can award?

10 MR. TINSLEY: No.

11 BOARD MEMBER NADEAU: No, he's in a diversion
12 program.

13 MR. TOWLER: Okay.

14 BOARD MEMBER NADEAU: So if he completes the
15 diversion program, then the licensure would be based on
16 completion of the diversion program?

17 MR. TOWLER: Right. Well, what the Board has
18 done in the past is give him the work card, or as soon
19 as he completes a program, and then as staff could find
20 that he did complete the program. So it's like a
21 conditional approval. Or this would be a conditional
22 overturn of the denial based on certain facts.

23 BOARD MEMBER NADEAU: Okay.

24 MR. TOWLER: Issue those facts to staff, and
25 then they can issue a work card.

1 BOARD MEMBER UITHOVEN: Did you guys hear that?

2 BOARD MEMBER ZANE: Yes, that's great. I'm
3 prepared to make a motion.

4 BOARD CHAIRMAN SPENCER: All right.

5 BOARD MEMBER ZANE: I would move that Robert
6 Tinsley, his registration application be granted and
7 based upon his application to the staff after his
8 completion of his current program.

9 BOARD MEMBER NADEAU: I'd second that.

10 BOARD CHAIRMAN SPENCER: Okay. Just a word of
11 discussion on the motion. Mr. Tinsley, when you say
12 primarily the gambling problem, you're still implying
13 that there may be substance abuse in there. And that
14 would -- if that raises its ugly head, with regards
15 to -- you know, with ESI.

16 MR. TINSLEY: I don't have a history of
17 drinking on the job or anything like that. You know,
18 when they give you the paperwork that you fill out at
19 Bristlecone, most of my answers were yes to the gambling
20 problems and, you know, okay, yes, some drinking while I
21 gamble. But I don't have a history of alcohol or any
22 other substance abuse.

23 BOARD CHAIRMAN SPENCER: Okay.

24 MR. TINSLEY: I don't have any alcohol or DUI
25 convictions of any sort. So that's, that's not an

1 issue.

2 BOARD CHAIRMAN SPENCER: And just to caution
3 you, or a reminder to you, because we're testing new
4 ground here with you. Okay.

5 MR. TINSLEY: We noticed that, yes, sir.

6 BOARD CHAIRMAN SPENCER: All right. On the
7 motion, all in favor, say "aye."

8 (Board members said "aye.")

9 BOARD CHAIRMAN SPENCER: Okay. You got it.

10 MR. TINSLEY: Thank you.

11 BOARD CHAIRMAN SPENCER: Oh, Mr. Tinsley?

12 MR. TINSLEY: Yes?

13 BOARD CHAIRMAN SPENCER: On your completion
14 date, will they give you a -- could you ask that they
15 send a notification of your successful completion of
16 that? And can somebody there give him the name of -- is
17 that Brandi back there?

18 MS. KING: Yes.

19 BOARD CHAIRMAN SPENCER: Brandi, can you give
20 him the information he'll need to get that to you?

21 Thank you.

22 BOARD MEMBER UITHOVEN: Yep.

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25 AGENDA ITEM 10

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ARIEL BONILLA

BOARD CHAIRMAN SPENCER: All right. Moving on,
Ariel Bonilla.

How are you, sir?

MR. BONILLA: Good.

BOARD CHAIRMAN SPENCER: Come on up and have a
seat. Do you wish a closed hearing?

MR. BONILLA: Closed hearing?

BOARD CHAIRMAN SPENCER: Yeah.

MR. BONILLA: What do you mean?

BOARD CHAIRMAN SPENCER: Everybody else has to
leave.

MR. BONILLA: No, that's fine.

BOARD CHAIRMAN SPENCER: Okay.

MR. BONILLA: Oh, that's fine.

BOARD CHAIRMAN SPENCER: Okay. There's a
difference. There's a lady taking it all down,
everything that's said.

MR. BONILLA: Yes, sir.

BOARD CHAIRMAN SPENCER: So she needs to hear
you.

MR. BONILLA: Okay.

BOARD CHAIRMAN SPENCER: Can you tell us why
you were denied?

1 MR. BONILLA: I have -- that's why I'm here. I
2 want to know, why was I denied?

3 BOARD CHAIRMAN SPENCER: Nobody told you?

4 MR. BONILLA: No. I have all misdemeanors.

5 MS. GRESNICK-SMITH: The reason for his denial
6 was, number one, he didn't disclose all of his arrests.
7 And, number two, he got a citation for discharging a
8 firearm. And there is a citation for an ex-felon
9 failing to register. So. And there weren't any
10 felonies that came up in your fingerprint. But it's
11 still a citation that's present.

12 BOARD CHAIRMAN SPENCER: How long have you been
13 in Las Vegas?

14 MR. BONILLA: All my life, 35 years.

15 BOARD CHAIRMAN SPENCER: All right. Any
16 questions from the Board?

17 BOARD MEMBER ZANE: You sent an appeal letter.

18 MR. BONILLA: Yes, sir.

19 BOARD MEMBER ZANE: You laid it out fairly well
20 what reasons you were appealing. Do you remember
21 sending that letter?

22 MR. BONILLA: I remember sending the letter
23 saying that I didn't recall the other arrests, because
24 there were like -- and they were so long ago, that I
25 don't remember them. This happened like over 10 years

1 ago, and I was like, I can't remember that far how many
2 times I've been arrested. I mean I have no felonies.
3 All I have, all I have is misdemeanors.

4 One time, when I got pulled over, and I was
5 giving my neighbor a ride from the hospital, and I
6 happened to have a pocket knife, and the officer took
7 it. That was when I got pulled over. Because the
8 lights on my Camaro was out, and he pulled me over, and
9 he searched me and found a pocket knife. And that was
10 it. But I went to court on that, and they threw that
11 out of court.

12 BOARD MEMBER ZANE: What were the circumstances
13 around the 2009 domestic violence?

14 MR. BONILLA: That was my brother. That was a
15 domestic dispute with my brother. But we get along good
16 now. It was just a brother thing. He called the cops
17 on me.

18 BOARD MEMBER ZANE: He called the cops on you?

19 MR. BONILLA: Yes, sir.

20 BOARD MEMBER ZANE: So he had some injury?

21 MR. BONILLA: Yeah, I hit him. I hit him. It
22 was a brother thing. That's -- unless you have a
23 brother.

24 BOARD MEMBER ZANE: Got that.

25 MR. BONILLA: Then you understand. But,

1 otherwise, I'm a good citizen. I'm a hard-working man.
2 I go to church. I love my mom. Just little things that
3 come up in life. I mean I wish I could rewind, rewind
4 life, and certain things not do. But there's no way to
5 go back and correct it, you know, hitting my brother or
6 carrying a knife with my neighbor. It's just it was a
7 gift, and I had it in my -- my pocket and...

8 BOARD MEMBER ZANE: Are you working now, are
9 you employed?

10 MR. BONILLA: Part-time. Part-time. I drive
11 for an auction, car auction. We pick up repos, yeah.

12 BOARD MEMBER ZANE: How long have you done
13 that?

14 MR. BONILLA: Couple months now, three months.
15 It's on call. So I only work like two days, three days
16 when it's busy.

17 BOARD MEMBER ZANE: What type of work were you
18 trying to get?

19 MR. BONILLA: Security, unarmed, security, you
20 know, and eventually move on to apply at Metro. That's
21 why I was thinking this could be, this could be like a
22 stepping stone towards that.

23 BOARD MEMBER ZANE: The investigator indicated
24 that you had a citation for being an ex-felon?

25 MR. BONILLA: Yeah, I don't understand how that

1 come up as an ex-felon. Because they threw that out of
2 court. But it was when I got pulled over with my
3 neighbor, and they took the knife. Then he had me go to
4 court. And the judge told me that I had to apply for
5 some card. And I did apply for it. And that was it.

6 But I've never done anything. It was just
7 something, and I don't understand how the system goes.
8 And it was out of my hands. I really don't understand
9 how the system goes about that. But I've never done
10 anything wrong. I mean I've never.

11 BOARD MEMBER ZANE: What's your educational
12 background?

13 MR. BONILLA: High school.

14 BOARD MEMBER ZANE: Did you graduate?

15 MR. BONILLA: Yes, sir, I graduated.

16 BOARD MEMBER ZANE: Do you have any previous
17 mental issues?

18 MR. BONILLA: Mental issues, no.

19 BOARD MEMBER ZANE: Have you ever had club card
20 issues?

21 MR. BONILLA: Yes, I have, for alcohol.

22 BOARD MEMBER ZANE: For alcohol?

23 MR. BONILLA: Yeah, it was alcohol.

24 BOARD MEMBER ZANE: At the Fantasy Club?

25 MR. BONILLA: No. I was depressed, drinking.

1 BOARD MEMBER ZANE: How long ago was that?

2 MR. BONILLA: That was like over -- I want to
3 say it was almost two years.

4 BOARD CHAIRMAN SPENCER: Elyse, do your records
5 indicate a felony?

6 MS. GRESNICK-SMITH: No. It's just there is a
7 citation listed. My biggest concern was his citation
8 for carrying a concealed weapon and discharging a
9 firearm. There were several arrests that weren't listed
10 on his application initially.

11 BOARD MEMBER ZANE: Can you tell us a little
12 bit about those?

13 MR. BONILLA: Concealed weapon, I don't
14 remember carrying a concealed weapon. Because that day,
15 yes, an officer pulled me over, and I did have a handgun
16 registered to me. And he only asked me if he could see
17 that. It's in the glove, you know. I don't know how
18 you can call that concealed. It's in the glove
19 compartment, you know.

20 I did, I did discharge a firearm. I was -- I
21 had the gun so long, and I was like I wonder what it
22 sounds like. I've never even fired it, you know. And I
23 fired it in city limits. And the officer goes, "You
24 can't fire a gun in city limits. It's got to be out and
25 towards the desert. You can't." And I didn't know.

1 And it was just ignorance, you know. And I didn't know.
2 I didn't fire at anybody, but I just blew it up in the
3 air, and that's it.

4 BOARD CHAIRMAN SPENCER: Didn't hurt anybody?

5 MR. BONILLA: No, I was just -- yeah, I don't,
6 some of those charges, I don't understand, you know.
7 Like why did he take my knife? It was a gift. And
8 discharging a firearm, I didn't know that you couldn't
9 fire an arm inside of the city. Well, city limits, that
10 is. I mean you could discharge a firearm out of the
11 city all you want. Because when I was young, my dad
12 used to take me shooting. He used to take me to the
13 range out there past -- I don't even remember, it's been
14 so long. But.

15 BOARD MEMBER ZANE: Do you understand the
16 importance of the type of career you're trying to go
17 into?

18 MR. BONILLA: Yes, I understand. I understand
19 how important, yes, sir.

20 BOARD CHAIRMAN SPENCER: Anybody in Carson City
21 have anything?

22 BOARD MEMBER NADEAU: No.

23 BOARD MEMBER UITHOVEN: No.

24 BOARD CHAIRMAN SPENCER: I'll entertain a
25 motion.

1 BOARD MEMBER ZANE: Mr. Chairman, I'd move
2 that -- that we uphold the denial for Ariel Bonilla.

3 BOARD MEMBER UITHOVEN: Second.

4 BOARD MEMBER NADEAU: Yeah.

5 BOARD CHAIRMAN SPENCER: Motion and a second.

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

7 (Board members said "aye.")

8 BOARD CHAIRMAN SPENCER: We can't give you your
9 license now, but you can come back in one year. And
10 stay clean. And put down on your -- on your application
11 all of your arrests.

12 Now, maybe you can help him out by giving him a
13 list of what he didn't list.

14 MS. GRESNICK-SMITH: It was in that letter that
15 was sent to you, the denial letter.

16 BOARD CHAIRMAN SPENCER: Do you still have it?

17 MR. BONILLA: No, I don't have it. I was kind
18 of upset that I got denied and...

19 MS. GRESNICK-SMITH: Well, I'll send you
20 another one.

21 BOARD CHAIRMAN SPENCER: Okay. Very good.

22 MR. BONILLA: Thank you.

23 BOARD CHAIRMAN SPENCER: You, too.

24 MR. BONILLA: You have a good day.

25 BOARD CHAIRMAN SPENCER: You do the same.

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AGENDA ITEM 25 (FROM YESTERDAY'S AGENDA)

RICHARD ASTLE

BOARD CHAIRMAN SPENCER: Mr. Astle, do you want to come on up?

In Carson City, are you aware of any information regarding this gentleman? Or lack thereof?

BOARD MEMBER NADEAU: I'm sorry. Mr. Chairman, could you repeat that?

BOARD CHAIRMAN SPENCER: Have you been informed about anything regarding Mr. Astle?

BOARD MEMBER NADEAU: Yes. We can have Investigator Dupuis come up.

BOARD CHAIRMAN SPENCER: Excuse me just one second.

Do you want a closed hearing?

MR. ASTLE: I don't, unless he's going to go into too much detail. If he just wants to say the results, that's fine.

BOARD CHAIRMAN SPENCER: It's still an open meeting, then, Joe.

MR. DUPUIS: Okay. There will be no details.

BOARD CHAIRMAN SPENCER: Yeah. What did you find?

1 MR. DUPUIS: Okay. As a result of our inquiry
2 yesterday and today, we discovered that because this
3 case occurred such an extended period of time ago, that
4 no records exist any longer. They have all been purged
5 as a part of the normal document destruction programs in
6 place at the various locations.

7 BOARD CHAIRMAN SPENCER: All right. That's
8 better than it could be. Any questions from anybody?

9 We'll take a motion.

10 BOARD MEMBER NADEAU: Mr. Chair, I'd move that
11 Richard Astle from Provo, Utah be granted an
12 investigator license, subject to all statutory and
13 regulatory requirements.

14 BOARD MEMBER ZANE: Second.

15 MR. ASTLE: And --

16 BOARD MEMBER NADEAU: I'm sorry. And private
17 investigator and process server. I apologize.

18 MR. ASTLE: Definitely don't want to come back.

19 BOARD MEMBER ZANE: Second.

20 BOARD CHAIRMAN SPENCER: All in favor, signify
21 by saying "aye."

22 (Board members said "aye.")

23 BOARD CHAIRMAN SPENCER: Opposed?

24 Hearing none, it was worth the stay.

25 MR. ASTLE: It was. It was. I appreciate all

1 you guys did. Thank you much.

2 BOARD CHAIRMAN SPENCER: What's the Board's
3 feeling? We have one, two, three, four, five, six,
4 seven. We've got seven people who have requested an
5 appeal hearing who have not shown up.

6 BOARD MEMBER NADEAU: Would you accept a
7 motion?

8 BOARD CHAIRMAN SPENCER: Okay.

9 BOARD MEMBER NADEAU: I'd move that --

10 BOARD CHAIRMAN SPENCER: Go ahead.

11 BOARD MEMBER NADEAU: Hello? I'm sorry. Go
12 ahead.

13

14 AGENDA ITEMS 15 AND 18

15 DOUGLAS GREEN AND SEAN BELDING

16

17 MS. RAY: I was just going to -- just don't
18 include item number 15. That one was removed.

19 MS. WHATLEY: Mechele, number 18 should have
20 been removed, too, correct?

21 MS. RAY: Pardon me?

22 MS. WHATLEY: Number 18, he should have been
23 removed as well?

24 MS. RAY: Okay. Was it withdrawn or just --

25 MS. WHATLEY: That's the one that --

1 MS. RAY: Okay.

2 MS. WHATLEY: -- the letter didn't go out in
3 time.

4 MS. RAY: Okay.

5

6 AGENDA ITEMS 9, 11, 12, 14 AND 17

7 YOHANNES FARAH, IAN GRAY, LEONARDO HERNANDEZ,

8 DERRICK FISHER AND JASON MALDONADO

9

10 BOARD CHAIRMAN SPENCER: Take it away.

11 BOARD MEMBER NADEAU: I'd move that Yohannes
12 Farah, Ian Gray, the appeals from Yohannes Farah, Ian
13 Gray, Leonardo Hernandez, Derrick Fisher and Jason
14 Maldonado all be upheld, that the denials be upheld.

15 BOARD MEMBER ZANE: Second.

16 BOARD CHAIRMAN SPENCER: All in favor, signify
17 by saying "aye."

18 (Board members said "aye.")

19 BOARD CHAIRMAN SPENCER: Opposed?

20 It carries. All right.

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AGENDA ITEM 19

1 RESTAURANT EVALUATORS, INC.

2

3 BOARD CHAIRMAN SPENCER: Again, number 19, we
4 have the one side here, and the other people have not
5 shown. Do you have a flavor for extending it to the
6 next meeting? How many times have we done this?

7 MS. RAY: This is the first time.

8 BOARD CHAIRMAN SPENCER: This is the first one.
9 Yeah, go ahead.

10 MS. RAY: And I haven't received confirmation
11 that they received it.

12 BOARD CHAIRMAN SPENCER: So we haven't even
13 received confirmation that they even know about it.
14 Do you want to go for one more?

15 BOARD MEMBER ZANE: Mr. Chairman, I move that
16 we continue item number 19, Restaurant Evaluators, Inc.
17 from Chicago, Illinois.

18 BOARD CHAIRMAN SPENCER: Okay. I have a
19 motion.

20 BOARD MEMBER UITHOVEN: Second.

21 BOARD MEMBER NADEAU: Discussion.

22 BOARD CHAIRMAN SPENCER: Discussion. Okay.

23 BOARD MEMBER NADEAU: I'm not going to support
24 the motion. They're the ones that made the request. If
25 I'm understanding this correctly, they made the request

1 for the appeal. And I would expect that there would be
2 a certain amount of responsibility on their part to make
3 sure when their appeal is going to be heard. So I'm
4 going to oppose the motion.

5 MR. TOWLER: If I could add something, it's my
6 understanding that we have a requirement of how much
7 notice to give them. And we were right on the time line
8 for giving them an appropriate amount of notice. But
9 without receipt of that green card, we really don't know
10 if we were late or not. So that's something.

11 BOARD MEMBER NADEAU: Okay. So. So if I'm
12 understanding correctly, they don't have any
13 responsibility to show without having --

14 MR. TOWLER: Right.

15 BOARD MEMBER NADEAU: -- without us having
16 appropriate documentation?

17 MR. TOWLER: Well, I'm just explaining that the
18 requirement is that we have to give them a specified
19 amount of notice of when and where the hearing will be.
20 And I'm not -- you know, Mechele can verify that, but I
21 think what I understood her to say is that we're not
22 sure, because we haven't received the return card from
23 the certified mail to see if we did give them proper
24 notice. And we were close enough to the time line that
25 it's possible it didn't get delivered to them.

1 And so I understand what you're saying, that
2 they should know, should be here, no matter how much
3 notice. But just for the record. And.

4 BOARD MEMBER NADEAU: Okay. Okay. Thank you,
5 Mr. Chairman.

6 BOARD CHAIRMAN SPENCER: All in favor, signify
7 by saying "aye."

8 (Board members said "aye.")

9 BOARD CHAIRMAN SPENCER: Opposed?

10 BOARD MEMBER NADEAU: Nay.

11 BOARD CHAIRMAN SPENCER: Robert?

12 BOARD MEMBER UITHOVEN: I was an aye. Aye as
13 in Uithoven ("AYE-TOVE-N").

14 BOARD CHAIRMAN SPENCER: We have a slight
15 problem, then.

16 BOARD MEMBER NADEAU: Well, you have -- we
17 have --

18 BOARD CHAIRMAN SPENCER: We're tied.

19 BOARD MEMBER UITHOVEN: No, I'm an "aye." Jim
20 is a nay. So isn't it three-one? How did you vote?

21 BOARD CHAIRMAN SPENCER: I don't remember.

22 MS. RAY: I'll do roll call. Board Member
23 Zane.

24 BOARD MEMBER ZANE: I voted aye.

25 MS. RAY: Chairman Spencer.

1 BOARD CHAIRMAN SPENCER: Aye.

2 MS. RAY: Board Member Uithoven.

3 BOARD MEMBER UITHOVEN: Aye.

4 MS. RAY: Board Member Nadeau.

5 BOARD MEMBER NADEAU: Nay.

6 MS. RAY: Okay. Thank you.

7 BOARD CHAIRMAN SPENCER: Okay to get the
8 recount.

9

10 AGENDA ITEM 20

11 WACKENHUT SERVICES, INC.

12

13 BOARD CHAIRMAN SPENCER: All right.

14 Administrative business. Wackenhut Services, please
15 come up, and lay it on us.

16 MR. BRADLEY: Thank you. I'll introduce myself
17 to the Board. I'm David C. Bradley, B-R-A-D-L-E-Y. I
18 am currently the Senior Vice President and General
19 Manager of WSI Nevada Operations. We are a government
20 contractor solely to the Department of Energy
21 specifically here in Nevada, working with Nevada
22 National.

23 The appearance in front of the Board or the
24 issue in front of the Board is the relevance of
25 primarily a contractor supporting a federal entity

1 meeting federal law in order to provide an arms secured
2 service and its -- whether it's necessary for this
3 company to meet the state licensing requirements.

4 So you should have received a letter from the
5 National Energy Security Administration and General
6 Counsel posing that question, that they believe that
7 there is preemption at hand, that the requirements for
8 the security police officers providing this armed
9 service exclusively to the Department of Energy should
10 negate the necessity of being licensed by the state.

11 BOARD CHAIRMAN SPENCER: Okay.

12 MS. RAY: Mr. Chairman, just to give some
13 background, I've had some correspondence with an
14 employee from WSI. And my position was, since we took
15 over the work cards, it goes hand in hand with the
16 registration. And I simply -- if federal preemption is
17 applicable, then it's across the board, there's no
18 registration date to comply with the registration card
19 process, and then they don't maintain their license.
20 But if they want to maintain their license but don't
21 want to follow the procedures for the registration work
22 card process, I don't think we can have it both ways.

23 So we just want it on the record as to whether
24 or not federal preemption exists, and if it does, then
25 they're not required to be licensed, essentially, is

1 where we're at.

2 MR. BRADLEY: Now, there is a slight twist to
3 this request in that I am the serving qualifying agent
4 for my corporation in the state of Nevada. The
5 gentlemen behind me are my colleagues from a separate
6 WSI contract to the federal government, Department of
7 Energy, in Tonopah. However, their work requirements
8 meet the state requirements versus the federal
9 requirements. So what we did want to present was the
10 cessation of the qualifying agent status under me, and
11 then end up with my colleagues from Tonopah being out of
12 compliance. So in this case, Mr. Garcia would then
13 activate his license out of abeyance in order to comply
14 with the state, state laws.

15 BOARD MEMBER ZANE: So you would take over as
16 the QA under the same company license?

17 MR. BRADLEY: Yes, sir.

18 BOARD MEMBER ZANE: You would lead that
19 position?

20 MR. BRADLEY: That's right.

21 BOARD MEMBER ZANE: Because the contractor
22 requires a certain level of activity that comes under
23 state jurisdiction.

24 MR. BRADLEY: That's correct.

25 BOARD CHAIRMAN SPENCER: Questions from the

1 Board? Observations?

2 BOARD MEMBER ZANE: This has got quite a bit of
3 historical background, as I recall. Because at one
4 time, WSI wasn't required to be licensed at all in order
5 to perform a function on a federal facility. But it's
6 been morphed into, overall, many different companies,
7 entities, types of service offered, and it was a
8 segregation of the one company to provide the government
9 services.

10 MR. BRADLEY: Correct.

11 MS. RAY: The entity that we are talking about
12 today is license number 19 and 19A. So it doesn't have
13 anything to do with all the other changes that have
14 occurred.

15 BOARD MEMBER ZANE: And I did the background
16 check, and I saw in the contract wording itself.

17 MR. BRADLEY: Right.

18 BOARD MEMBER ZANE: I saw that there was a
19 reference that WSI be in compliance with the state,
20 federal regulations.

21 MR. BRADLEY: That's correct.

22 BOARD MEMBER ZANE: But the interpretations
23 that have come along is that your -- the scope of your
24 charge is such that you don't do anything off the
25 federal property.

1 MR. BRADLEY: Correct.

2 BOARD MEMBER ZANE: So, therefore, they should
3 have gone over that.

4 MR. BRADLEY: That's correct.

5 BOARD CHAIRMAN SPENCER: Well, there's a
6 statement that they want to do it the same as having
7 the -- or having the right to do it the same as. I'm
8 just asking that, because I don't know.

9 MS. RAY: Well, it's a federal contract.

10 BOARD MEMBER NADEAU: I can't hear.

11 MS. RAY: That may be a question for Board
12 counsel.

13 BOARD MEMBER NADEAU: I didn't hear Dave's
14 question.

15 BOARD CHAIRMAN SPENCER: The question was
16 simply, you know, what if one says that the request
17 is -- what makes it right; in other words, where is the
18 authority? Something, a letter from this lady? Or a
19 set of circumstances that fall under a category? You
20 know, what makes it, so to speak?

21 MS. RAY: Well, Mr. Chairman, just some
22 additional history, when we had the original process for
23 registration, when we filled in, you know, they sent in
24 paper to register employees, Wackenhut would send the
25 registration form in, and their work card does say not

1 applicable. And that with our data base system, we were
2 able to maintain that. Now the registration and the
3 work card process is one and the same, and it doesn't
4 operate that way. And with the firearms, because -- and
5 this goes back. I don't know the date those old letters
6 are, but it goes back many, many years. In fact, I
7 haven't ever seen those original letters until
8 Mr. Wilson provided copies to me, and we started having
9 this dialogue.

10 So that's kind of where we're at. And they're
11 right. There's two sides, the one side that operates
12 strictly on the federal property, and then we have the
13 other side that would fall under state requirements.

14 BOARD CHAIRMAN SPENCER: Counsel, how do you
15 feel about taking this under advisement and seeing,
16 working something up as far as your opinion on this?

17 MR. TOWLER: Well, that's the interesting
18 thing. I think that's what you're getting at. So
19 yesterday we had a person come in, and I think the
20 correct thing is, you know, asking them to go forward
21 and saying "Show us why you're exempt. Make a claim why
22 you're exempt." And today we have someone who's making
23 that claim. And I think what your question is, are they
24 making a valid claim for exemption?

25 You know, the best way to do that is through a

1 legal opinion, you know. The Board can rely on that and
2 say, "Well, if the DOE, you know, thinks that they are
3 exempt, then they are." But, you know, a one-line
4 e-mail probably wouldn't be good enough. If you want to
5 get an AGO, an Attorney General Opinion, that could be
6 requested from Mechele Ray, and that would be specific
7 to the DOE. But what it all comes down to is it's a
8 legal opinion whether this letter is good enough,
9 basically, whether these individuals claim that they are
10 exempt, with the federal preemption, if that's adequate.
11 I can tell, by looking at it, they make valid points,
12 and the DOE is a valid entity that deals with this all
13 the time.

14 But, yes, definitely, if you want to order an
15 AGO, I think this would be the next step. But it's
16 going to be a case-by-case. The only true resolution
17 would be in court, figuring it out for sure.

18 BOARD CHAIRMAN SPENCER: I'm not sure it's
19 worth that.

20 BOARD MEMBER NADEAU: Mr. Chair?

21 BOARD CHAIRMAN SPENCER: Yes?

22 BOARD MEMBER NADEAU: So I was trying to kind
23 of follow the string along. But if I understand
24 correctly, what we're saying is that Wackenhut Services,
25 Incorporated has a contract with DOE that indicates an

1 exemption from state requirements. But Wackenhut, WSI,
2 has other contracts that require state certification or
3 registration. My question is -- we're talking about
4 license 19 and 19A. Do all of these come under these
5 two licenses, or are the other ones under a different
6 license?

7 BOARD CHAIRMAN SPENCER: You say they're all
8 the same.

9 MR. BRADLEY: Right.

10 BOARD MEMBER NADEAU: And so to -- how do we
11 track, then, from Wackenhut, which employees are working
12 for DEA -- DEO -- DOE, which are working for DOE? In
13 other words, it would seem to me that they are able to
14 interchange, because they're under the same contract,
15 excuse me, under the same license, that they can move
16 employees around. And that's pretty -- that may not --
17 that may not be practical in the jobs. But from our
18 position, it's tracking, it's tracking security people.

19 And so, therefore, I find -- to me, there's a
20 real -- a blurring of -- it's all one company,
21 regardless of where they are putting employees to
22 fulfill a particular contract.

23 BOARD CHAIRMAN SPENCER: Okay.

24 BOARD MEMBER NADEAU: Which would --

25 MR. BRADLEY: May I respond?

1 BOARD MEMBER NADEAU: So, there are -- I guess,
2 the bottom line is they all should, they all should be
3 registered. They should all have the --

4 BOARD CHAIRMAN SPENCER: The letter is totally
5 confusing. Please respond.

6 MR. BRADLEY: If I may respond to the
7 observation that was posed, we are complying with the
8 state law, as it's written, that it only allows one
9 qualifying agent. I would certainly offer that a
10 resolution of this, to ensure each entity does, in fact,
11 reflect itself and stand on its own feet, so to speak,
12 would be to allow that entity to be its own qualifying
13 agent.

14 I fully understand there's a bureaucracy with
15 that. But because of the nature of the work that we do,
16 and in particular, for my company, it's solely based
17 upon enforcing federal law and the federal act of
18 Section 161k of the 1954 Atomic Energy Act. Okay. We
19 can't move folks around between our different entities
20 as though they're set pieces. They are not.

21 As you notice in the letter, there are C.F.R.
22 requirements for my employees to meet, starting from not
23 just your basic background investigation, but these
24 folks go all the way up through a counterintelligence
25 polygraph. And they are subject to a random polygraph

1 any given year, notwithstanding random drug tests,
2 notwithstanding that C.F.R. also sets a qualification
3 standard for physical and weapons qualification. No two
4 contracts are alike. And our contract here in support
5 of the national security site, and my colleagues behind
6 me, in Tonopah, are night and day. So there's no
7 interchanging the folks there.

8 But I understand the observation that was
9 posed. How do you know, as a board, that we're not, and
10 this is for sake of discussion, moving folks around
11 surreptitiously and violating the law? First, I'll go
12 on record and say absolutely not. Okay.

13 BOARD CHAIRMAN SPENCER: You said it.

14 MR. BRADLEY: Right. Second is that this is
15 narrowly applied to my contract. Mr. Garcia, as I said,
16 would resurrect or activate his license out of abeyance,
17 and that would then conform with the state law that the
18 Tonopah contract would provide the qualifying agent, and
19 they are meeting the state requirements. My contract,
20 WSI, under 19 and 19A, will cease. And we are not
21 married, so to speak, any further. Because I would be
22 excluded by this preemption request from state
23 licensing.

24 BOARD CHAIRMAN SPENCER: But --

25 BOARD MEMBER NADEAU: But it's still the same

1 corporation.

2 MR. BRADLEY: It's still the same corporation,
3 yes, sir. But if you want to take that and -- and apply
4 it as an umbrella requirement, remember, we're meeting
5 state law. We're meeting the state law that says the
6 corporation can only have one qualifying agent. But we
7 are two distinct contracts providing a service under
8 that same umbrella.

9 We can't have my license terminated and then
10 have Tonopah fall out of compliance. And they will.

11 BOARD CHAIRMAN SPENCER: I see.

12 BOARD MEMBER NADEAU: And I hope you understand
13 I'm not -- I understand Wackenhut, and I'm certainly not
14 making any, any accusations that you're doing anything
15 surreptitiously, illegally or anything of that nature.

16 MR. BRADLEY: Not taken what way, sir.

17 BOARD MEMBER NADEAU: Okay. I just wanted to
18 make sure. Because I kind of got a feeling that you
19 were thinking, you were suggesting that I was suggesting
20 that.

21 MR. BRADLEY: Not at all.

22 BOARD MEMBER NADEAU: But my -- but the guards
23 need to be registered with us. The license goes to the
24 qualifying agent. But all of the guards that work need
25 to be licensed.

1 BOARD CHAIRMAN SPENCER: Do you --

2 BOARD MEMBER NADEAU: Am I missing something
3 there?

4 BOARD CHAIRMAN SPENCER: Well --

5 MR. BRADLEY: And this --

6 BOARD CHAIRMAN SPENCER: Could you speak
7 directly to him and explain?

8 MR. BRADLEY: Sure. In this instance, in this
9 request for preemption, for my license, 19 and 19A,
10 first, meeting the state requirement that a corporation
11 can only have one QA, which would be me. I'm also the
12 senior leader for a contract that supports exclusively
13 the daily operations here in the state of Nevada where
14 it applies to Section 161k of the Atomic Energy Act.

15 The department general counsel for DOE, through
16 Mary Henry, the signatory on this letter, who is my
17 contracting officer, says they believe there's grounds
18 for preemption of solely my contract to meet state
19 security guard licensing requirements. And I agree with
20 that. Because we are purely 100 percent in support of a
21 federal operation on federal land.

22 However, to give -- to approve my request and
23 then allow Mr. Garcia to activate his license and become
24 the qualifying agent for Wackenhut, and he works at
25 Tonopah, which does have state requirements, but then to

1 turn around and say my guards have to be licensed under
2 Mr. Garcia, we're just moving the responsibility from
3 one QA to another. And that's not what this request is.
4 This request is very narrowly applied to my contract.
5 So we would be exclusively 100 percent not required to
6 meet this state licensure requirement. But Mr. Garcia's
7 contract would.

8 BOARD CHAIRMAN SPENCER: That'll explain.

9 All right. Any other questions?

10 BOARD MEMBER NADEAU: No, not from me.

11 BOARD MEMBER UITHOVEN: No.

12 BOARD MEMBER ZANE: Well, the way -- the way I
13 view it, I sense that part of the issue would be how do
14 we administratively enforce who is under the
15 jurisdiction of the Board? So if you want to --

16 MR. BRADLEY: Right.

17 BOARD MEMBER ZANE: Nobody supplying a contract
18 would be providing the public services off-site of the
19 federal property. So, therefore, if we showed up, do we
20 have the ability to cite somebody for unregistered
21 activity?

22 BOARD CHAIRMAN SPENCER: If we can even get in
23 the gate.

24 BOARD MEMBER ZANE: But if you were in Tonopah,
25 and they elected to provide for a security guard to go

1 to the bank and pick up, or cashing chips, or whatever
2 the case might be, that individual would need to be a
3 registered security guard under us, because he's
4 off-site.

5 BOARD CHAIRMAN SPENCER: Okay. I understand
6 that issue, registered.

7 BOARD MEMBER ZANE: Well, the issue for me is
8 how is this supported?

9 MR. BRADLEY: May I offer a recommendation?

10 BOARD CHAIRMAN SPENCER: Yes.

11 MR. BRADLEY: Then, allow me, and part of the
12 request is not to, for lack of a better way of
13 expressing it, fade in the black and we just disappear.
14 We are doing work in the state of Nevada. We respect
15 that. Then, I would offer that I provide a binding list
16 of my security force employees to Mr. Garcia as the
17 qualifying agent, and directly to Mechele, if -- if
18 required, that says these names, and I attest to it by
19 my signatures, are associated with my contract and not
20 to be confused with the licensure requirements under
21 Mr. Garcia's license.

22 BOARD CHAIRMAN SPENCER: The alternative is to
23 have us go ahead and acknowledge the preemption.

24 MR. BRADLEY: But I'm willing to offer that
25 even with -- and, hopefully, the approval of the Board,

1 to grant that preemption request, to even give you
2 further confidence, back to the gentleman's question of
3 how do we know, this is one corporation, and they have
4 employees in the state, I'll provide that list to
5 Mr. Garcia. He can then forward it to the Board, to
6 Mechele, that says these are the folks that must meet
7 licensure requirements, and these are the WSI folks that
8 do not.

9 And I believe that is full and open and allows
10 an audit trail by the state.

11 BOARD CHAIRMAN SPENCER: All right. Any
12 comments on his offer, Mr. Bradley's offer?

13 MS. RAY: It's not a big turnover, very little
14 turn over, as I recall.

15 MR. BRADLEY: Less than one percent.

16 MS. RAY: Yes. Those names have not changed.

17 MR. BRADLEY: That's right.

18 MS. RAY: So I just would like to offer that
19 comment.

20 MR. BRADLEY: And my recommendation was to
21 further reinforce that if the preemption request is
22 approved, then I would provide a by-name list through
23 Mr. Garcia to ensure the state knew which employees were
24 associated with that preemption request or approval.

25 MS. RAY: And I think we have a pretty good

1 idea at this time, also, because they have gone through
2 the process, all of the employees they have that are
3 working at the Tonopah site have complied with the
4 registration and work card requirements.

5 MR. BRADLEY: Right.

6 MS. RAY: So, you know, they have done that.

7 BOARD MEMBER ZANE: But the catalyst that
8 created this was simply when we brought up the work
9 cards. Otherwise, you're not really changing anything.
10 But they're attempting to comply.

11 MS. RAY: And that's why we're here, you know,
12 one half is complying, and one half isn't.

13 MR. BRADLEY: Right.

14 MS. RAY: So that is why we're here, because
15 you know, they felt that they didn't need to. And, you
16 know, the requirements do far away exceed ours.

17 BOARD CHAIRMAN SPENCER: I will certainly -- I
18 think that maybe we ought to just go ahead and grant a
19 preemption.

20 MS. RAY: Preemption.

21 BOARD MEMBER ZANE: But I don't think it's up
22 to us to grant a preemption. I think it's up to us to
23 accept the preemption.

24 BOARD CHAIRMAN SPENCER: Acknowledge it.

25 BOARD MEMBER ZANE: Acknowledge it.

1 BOARD CHAIRMAN SPENCER: Yeah.

2 BOARD MEMBER ZANE: Because, on the one hand,
3 we got legal that go out the door and down the hall
4 about the granting. But they're asserting that we're
5 accepting it. And then, administratively, I would
6 assume we -- simply, a QA would come up, and we'd have
7 to just approve it at the next meeting.

8 MS. RAY: It'll be on a future agenda, yes.

9 BOARD MEMBER ZANE: Okay. So if --
10 Mr. Chairman, if you'd like, I'd move that item 20,
11 Wackenhut, license number 19 and 19A, be -- that their
12 position of a federal preemption to one of their
13 contracts be accepted, and that at the next meeting or
14 as soon as possible, that the qualifying agent for that
15 portion of their company that falls within state
16 jurisdiction be allowed to take the necessary steps to
17 become the qualifying agent under license number 19 and
18 19A.

19 BOARD CHAIRMAN SPENCER: Sound right to you?

20 MR. BRADLEY: Sounds great.

21 BOARD CHAIRMAN SPENCER: Second?

22 I'll second it.

23 BOARD MEMBER NADEAU: Discussion?

24 BOARD CHAIRMAN SPENCER: Huh?

25 BOARD MEMBER NADEAU: Discussion?

1 BOARD CHAIRMAN SPENCER: Please. Go ahead.

2 BOARD MEMBER NADEAU: I guess, I'm not -- I
3 mean that's -- it's up to Wackenhut to -- that is a
4 business decision on their part. But my approval or
5 disapproval isn't based on changing the qualifying
6 agent. You know, I think we're fine having the
7 qualifying agents as they are. That's -- to me, that's
8 not the issue.

9 The issue is just that those, those personnel
10 that are working under that federal contract, with that
11 federal preexemption, that they're not required to
12 register with us. And so, I guess, I don't see that as
13 being a necessary element of our action. But, you know,
14 I'm not opposed to it. I'm just saying that I don't
15 know that that's necessary.

16 BOARD MEMBER ZANE: Well, my impression of it
17 is that if -- if we have one individual who's currently
18 the QA, who works in a function, that does not fall
19 within our jurisdiction. He's not currently the QA on
20 behalf of the corporation. So, if we have no
21 jurisdiction over the contract or him, and what they're
22 attempting to do is bring a more applicable QA under the
23 umbrella to be responsible for the corporate activity
24 the state does have jurisdiction over, I think it almost
25 just constitutes housekeeping.

1 BOARD MEMBER NADEAU: I guess, by the fact that
2 he is the qualifying agent, then he does come under our
3 jurisdiction in regards to responsibility for what goes
4 on with Wackenhut. And, so, therefore, he ultimately is
5 going to be held responsible for anything that happens
6 within WSI within the state. Because that's his
7 responsibility as QA.

8 Now, as far as -- and if they have a business
9 decision that they want someone else responsible for
10 that, that's -- you know, that's their decision. I
11 guess, I just feel like we're stepping into -- he's
12 responsible just by the mere fact that he's the QA. He
13 can't exempt himself out of that. He can exempt
14 everybody else that works for him under that particular
15 contract. They may not have to register. But he can't
16 exempt himself from responsibilities as QA for the
17 corporation in Nevada.

18 BOARD MEMBER ZANE: But --

19 BOARD MEMBER NADEAU: I guess, I'm kind of, you
20 know -- maybe I'm, you know, kind of pulling a nuance
21 here. But that federal exemption isn't exempting him
22 from his responsibilities as QA for WSI.

23 BOARD MEMBER ZANE: But that's what he's
24 attempting to do, is get out from under it, because we
25 have no jurisdiction over him, so he's leaving as the

1 QA. We're going to have a new QA to be responsible for
2 the corporate activities as they apply to the areas that
3 we have jurisdiction over, as I understand it.

4 BOARD MEMBER NADEAU: Okay. I understand. I
5 understand that. I guess, what I -- okay. I accept. I
6 understand what you're saying.

7 BOARD CHAIRMAN SPENCER: Any more discussion on
8 the motion?

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

10 (Board members said "aye.")

11 All right. It is so.

12 MR. BRADLEY: I thank the Board.

13

14 AGENDA ITEM 40

15 (FROM 03-09-11)

16

17 MS. RAY: Mr. Chairman, we did have one item
18 continued from yesterday, or one that we didn't actually
19 deal with. And I need to try and reach the person. I
20 tried to send an e-mail asking him if he minded
21 continuing to the next meeting, but my e-mail is full.
22 So I can't send the e-mail.

23 It was item number 20 from yesterday. I don't
24 know if you want to just continue it or -- it's not 20.
25 I'm sorry. It was item number 40. This was the

1 individual that spoke at the last meeting during the
2 first public comment. And we put it on as an agenda
3 item. And I believe he's out of the country. And he
4 was going to call in for it. And I don't have any way
5 to reach him.

6 BOARD CHAIRMAN SPENCER: Do you want to
7 continue this?

8 BOARD MEMBER UITHOVEN: I'm okay with
9 continuing it. Do you need a motion?

10 BOARD CHAIRMAN SPENCER: Move that the matter
11 be continued to the next meeting.

12 BOARD MEMBER ZANE: Second.

13 BOARD MEMBER UITHOVEN: Was that a motion?

14 BOARD CHAIRMAN SPENCER: All in favor, signify
15 by saying "aye."

16 (Board members said "aye.")

17 BOARD CHAIRMAN SPENCER: So moved.

18

19 AGENDA ITEM 21

20 BOARD COMMENT AND DISCUSSION ONLY

21

22 BOARD CHAIRMAN SPENCER: All right. Board
23 discussion, comment and discussion only.

24 BOARD MEMBER ZANE: I haven't seen the
25 Governor's prohibition on the regulation. Is that

1 expired?

2 MS. RAY: I'll have to research that.

3 BOARD MEMBER ZANE: I think, some agencies, for
4 the licensing department, was going to make a regulation
5 change, and they were going to move them.

6 MS. RAY: Yeah, he was going to reappoint them.

7 MS. RAY: So if you would like me to research
8 that.

9 BOARD MEMBER ZANE: Okay.

10 BOARD MEMBER NADEAU: The executive?

11 MS. RAY: Yes.

12 BOARD MEMBER NADEAU: Okay. Fine. But I think
13 it was across the board to everyone.

14 MS. RAY: His question --

15 BOARD MEMBER NADEAU: It's the executive --

16 MS. RAY: His question was when it expired.

17 BOARD MEMBER NADEAU: Oh. Four years from now.

18 BOARD MEMBER UITHOVEN: Yeah.

19 BOARD MEMBER NADEAU: Or maybe eight. No, I
20 don't think he set it. He didn't set an expiration.

21 MS. RAY: Okay.

22 BOARD MEMBER NADEAU: He just put it
23 prohibition. But is there any appetite for the Board to
24 go to bat on some of these legislative issues?

25 It doesn't sound like it.

1 BOARD MEMBER ZANE: I know that there are some
2 concerns regarding the bill about the process servers.
3 But I would assume it's common sense, it will fall into
4 place somewhere along the legislative process. But I
5 mean a lot of what's being proposed there is a knee-jerk
6 reaction and response to a problem in Las Vegas. It's
7 kind of going overboard.

8 BOARD MEMBER NADEAU: I was just kind of
9 curious, and because it was agendized yesterday, can we
10 go ahead and discuss it under our comments today
11 regardless?

12 MR. TOWLER: Yeah, that was a general
13 discussion item. I think it would be smart not to go
14 over that, since we did move on, since the people --
15 because there were individuals here for that item
16 specifically, and they're not here today.

17 BOARD MEMBER NADEAU: Okay. Because I just
18 didn't feel that we gave -- maybe we didn't give Mechele
19 really --

20 MR. TOWLER: You can definitely give direction,
21 if that's what you're saying.

22 BOARD MEMBER NADEAU: Yeah. I don't know.
23 Maybe Mechele feels differently. And I haven't talked
24 to her. But I don't know that we gave a really good
25 direction on if there was any, anything that we had

1 concerns about on that. And maybe there --

2 MS. RAY: Board Member Nadeau, my -- what I
3 took from yesterday's meeting from Board Member
4 Uithoven's motion was that I am to -- first of all, the
5 Board's position is that they didn't support, nor did
6 they opposed A.B. 156. And I was to meet with the
7 sponsors of the bill and bring to them the concerns that
8 we received from those affected by the amendments to the
9 statute.

10 BOARD MEMBER NADEAU: Okay. I was good on
11 that. I was curious on 201. Or 21. Excuse me.

12 MS. RAY: I did get your concerns about
13 A.B. 21. And I have to -- I will take some time to -- I
14 don't know who sponsored the bill off the top of my
15 head. But. And I don't know what the intent is, and I
16 don't know if there's any way that we can find that out.
17 But that's from the Governor's Office, isn't it?

18 BOARD MEMBER NADEAU: Well, yeah, it was
19 introduced by Assembly Commerce and Labor, and it was
20 generated by the Governor's Office. And I think it came
21 in under Governor Gibbons, if I remember correctly. But
22 I may be mistaken on this.

23 MS. RAY: And the last I checked -- oh, I think
24 that it's going to be scheduled for a hearing on --
25 maybe next week. But nothing's happened up to this

1 point, if I remember correctly.

2 I do have notes about the concerns that you
3 mentioned, other, you know, the -- let's see if I can --

4 BOARD MEMBER NADEAU: I guess, rather -- you
5 don't have to go through each one. I just wanted to
6 make sure that you had adequate direction so that you
7 could feel comfortable in dealing with the legislature
8 on these issues.

9 MS. RAY: Yes, you're absolutely right. The
10 only one that you guys really gave any direction on was
11 A.B. 156. A.B. 21, you just expressed your specific
12 concerns with the bill. And I agree with you. I wasn't
13 looking at it as closely as you were, so, I guess, I
14 will want to watch it. And if anybody can also help
15 watch it. Or if you hear anything, keep me informed.

16 As far as the other two, the regulatory
17 changes, I haven't looked at that real close, either,
18 other than what I addressed.

19 So, no, I don't have a lot of direction other
20 than on A.B. 156 and the concerns that you mentioned
21 yesterday. So.

22 BOARD MEMBER NADEAU: I guess, on S.B. 56,
23 which deals with DoIt, that --

24 MS. RAY: Yes.

25 BOARD MEMBER NADEAU: -- we should have a

1 position that -- or we should -- I guess, my concern is,
2 if the legislature just arbitrarily says that everything
3 needs to come under DoIt, and we've already got an
4 existing contract and functioning process under GL
5 Suite, that could have significant financial
6 implications for us.

7 MS. RAY: Yes, it would.

8 BOARD MEMBER NADEAU: So I don't know.

9 MS. RAY: It would. And those concerns were
10 addressed at the hearing from other regulatory agencies.
11 I believe that the committee was very much aware of
12 those, and they wanted to hold a workshop, and they
13 directed DoIt to reach out to boards and commissions.
14 And as of this date, I haven't heard from anybody. And
15 I think that it would be worth sending some sort of
16 correspondence to that committee, letting them know that
17 we've had no contact with DoIt. So. Would you agree
18 with that?

19 BOARD MEMBER UITHOVEN: I would agree with
20 that. Send written notice to the committee chair of our
21 concerns.

22 BOARD MEMBER NADEAU: You haven't been
23 requested to do a fiscal impact, have you?

24 MS. RAY: I have not.

25 BOARD MEMBER NADEAU: Somebody would get beat

1 up pretty badly --

2 BOARD MEMBER UITHOVEN: Just so they have it
3 for their work session, Mechele, I think it would be
4 productive for the bill to send the letter over to the
5 committee chair and not wait for DoIt to knock on your
6 doors.

7 MS. RAY: I agree.

8 BOARD MEMBER NADEAU: Sounded like a motion.
9 Mechele, can we do a motion, or is that direction?

10 BOARD MEMBER UITHOVEN: Do we need a motion for
11 that?

12 BOARD MEMBER NADEAU: No, we can only give
13 direction.

14 BOARD MEMBER UITHOVEN: Oh, okay. Never mind.

15 MS. RAY: Any more discussion on those items?
16 Oh, sorry. That's your job.

17 BOARD CHAIRMAN SPENCER: No, that's fine. I
18 give.

19 BOARD MEMBER UITHOVEN: The chairman is still
20 recounting on that vote earlier.

21 BOARD CHAIRMAN SPENCER: That's it. I'll
22 entertain a motion.

23 MS. RAY: Oh, wait.

24 ///

25 AGENDA ITEM 23

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PUBLIC COMMENT AND DISCUSSION ONLY

BOARD CHAIRMAN SPENCER: Public.

MS. RAY: Public.

BOARD CHAIRMAN SPENCER: Public comment, yes.
Anybody? You've been remarkably -- you've kept yourself
till late.

BOARD MEMBER ZANE: I'd like to thank you guys
for sending some people down to help me out this year.

BOARD MEMBER NADEAU: You didn't have to feel
like the Lone Ranger, then.

BOARD CHAIRMAN SPENCER: No public comment.
I'll take a motion.

BOARD MEMBER NADEAU: So moved.

BOARD MEMBER ZANE: Adjourn.

BOARD CHAIRMAN SPENCER: So moved. All in
favor? I am.

(Board members said "aye.")

* * * * *

(The meeting adjourned at 2:13 p.m.)

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REPORTER'S CERTIFICATE

I, SHANNON L. TAYLOR, a Nevada Certified Court Reporter, Nevada CCR #322, do hereby certify:

That I was present at the Office of the Attorney General, 100 North Carson Street, Mock Court Room, Carson City, Nevada, on Thursday, March 10, 2011, at 9:00 a.m., and commencing at 9:10 a.m. took stenotype notes of a meeting of the State of Nevada, Private Investigators Licensing Board;

That I thereafter transcribed the aforementioned stenotype notes into typewriting as herein appears, and that the foregoing transcript, consisting of pages 1 through 195, is a full, true, and correct transcription of said stenotype notes of said meeting;

I further certify that I am not an attorney or counsel for any of the parties, not a relative or employee of any attorney or counsel connected with the actions, nor financially interested in the actions.

DATED: At Carson City, Nevada, this 25th day of May, 2011.

SHANNON L. TAYLOR
Nevada CCR #322, RMR