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

Thursday, December 4, 2014  
9:00 a.m.

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

Videoconferenced to Southern Nevada:  
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 (Carson City)  
Mark Zane (Las Vegas)  
James Colbert (Carson City)

Also: Kevin Ingram (Las Vegas)  
Executive Director

Raelene Palmer (Las Vegas)  
Deputy Attorney General  
Board Counsel

Colleen L. Platt (Carson City)  
Deputy Attorney General  
Board Counsel

Lori Irizarry (Las Vegas)  
Investigator

Bruce Yarborough (Las Vegas)  
Investigator

Jason Harris (Las Vegas)  
Investigator

Matthew Schmelzer (Carson City)  
Investigator

Mary Klemme (Carson City)  
Investigative Assistant

Other Participants:

Joe DuPuis (Carson City)  
HS Brands International

Luke Gardner (Las Vegas)  
Rogan Ison (Las Vegas)  
Yolanda Peters (Las Vegas)

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1 CARSON CITY, NEVADA, THURSDAY, DECEMBER 4, 2014,

2 9:00 A.M.

3 -oOo-

4 BOARD CHAIRMAN SPENCER: This is the time and  
5 the place set for the second day of the fourth quarter  
6 meeting of the Private Investigators Licensing Board in  
7 the State of Nevada.

8 Kevin, could I get a roll call for the Board  
9 members?

10 MR. INGRAM: Absolutely.  
11 Chairman Spencer?

12 BOARD CHAIRMAN SPENCER: Here.

13 MR. INGRAM: Board Member Colbert?

14 BOARD MEMBER COLBERT: Here.

15 MR. INGRAM: Board Member Nadeau?

16 BOARD MEMBER NADEAU: Here.

17 MR. INGRAM: Board Member Zane?

18 BOARD MEMBER ZANE: Here.

19 MR. INGRAM: And for the record, Robert  
20 Uithoven's term expired, and he did not seek an  
21 additional term. So we have one vacancy at this time.

22 BOARD CHAIRMAN SPENCER: I'll open it up for  
23 any public comment at either location, either in Carson  
24 City or here, to anyone who wants to speak to any  
25 issues.

1 BOARD MEMBER NADEAU: We have no one up here  
2 wishing to speak.

3 BOARD CHAIRMAN SPENCER: All right. No one  
4 here is dancing up and down. So I will move along.

5 MR. INGRAM: And, Mr. Chairman, I'm sorry.  
6 During roll call, I forgot to put on the record that our  
7 Board counsel today is Raelene Palmer, with support in  
8 the Carson City area, Colleen Platt.

9 BOARD CHAIRMAN SPENCER: All right. Okay. All  
10 applicants and witnesses will be sworn in.

11 Everyone who will give any testimony at all  
12 today will please rise and be sworn in by the attorney  
13 general.

14 MS. PALMER: Do you solemnly swear or affirm  
15 that the testimony that you give today before the  
16 Private Investigators Licensing Board will be the truth,  
17 the whole truth, and nothing but the truth?

18 (Potential witnesses were sworn/affirmed.)

19 BOARD CHAIRMAN SPENCER: Okay. All right. Do  
20 we have agenda items from December -- no, we don't have  
21 anything.

22 MR. INGRAM: We didn't have anything carried  
23 over, no, sir.

24 BOARD CHAIRMAN SPENCER: Nothing carried over.  
25 Okay. I guess, if I put my glasses on, I could

1 probably see it a lot better.

2 There we go. Luke Gardner.

3 MR. GARDNER: Here.

4 BOARD CHAIRMAN SPENCER: Would you like to come  
5 up and take a seat, please.

6 MR. GARDNER: Take a seat right here?

7 BOARD CHAIRMAN SPENCER: Yeah, that's fine,  
8 either one.

9 Mr. Gardner is an active Category III Peace  
10 Officer with the Nevada Department of Corrections. He's  
11 seeking an exemption pursuant to NAC 648.338 so that he  
12 may be able to work as a mystery shopper.

13 Do you want to give us a little bit of  
14 background on what it is you'd like to do?

15 MR. GARDNER: Well, I'd like to continue doing  
16 what I was doing since 2008.

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

18 MR. GARDNER: I was a mystery shopper with HS  
19 Brands and QSI for many years. I recently became a  
20 state employee and work for NDOC. I went through the  
21 academy. And after I graduated the academy, it was  
22 brought to my attention that it was a conflict of  
23 interest. I stopped mystery shopping.

24 My actions are transparent. I'm not trying to  
25 hide anything.

1 I got the warden, Warden Williams, to approve  
2 of this secondary employment. We have the paperwork for  
3 it. He sees no conflict of interest.

4 I have no access to any computer systems or  
5 anything that, you know, a normal police officer would  
6 have. I'm just a Category III. Very limited. My  
7 powers are only in the prison there. Outside, I have no  
8 jurisdiction.

9 I, of course, would not use any, you know, this  
10 information, if I would have access to it. You know,  
11 just I just want to be a mystery shopper.

12 As far as my licensing goes as a private  
13 investigator, that's all I'm interested in doing is  
14 mystery shopping. That could even be put into my  
15 license. You know, I have no further interest. It's  
16 just to continue mystery shopping. It is a perfect  
17 part-time job for me, doing what I'm doing. It  
18 supplements my income.

19 And the other point I'd like to make is there  
20 is another officer; I won't name him, but he was also  
21 given the ability to continue mystery shopping. So this  
22 is something that has happened in the past.

23 So I would just like the Board to please let me  
24 continue mystery shopping.

25 And thank you very much.

1 BOARD CHAIRMAN SPENCER: All right. Any Board  
2 members have any questions or --

3 BOARD MEMBER ZANE: I do.

4 BOARD CHAIRMAN SPENCER: Okay.

5 BOARD MEMBER ZANE: When did you start your  
6 employment at NDOC?

7 MR. GARDNER: The academy started July 7th.

8 BOARD MEMBER ZANE: 7th. So you were a mystery  
9 shopper before gaining your employment?

10 MR. GARDNER: Yes, since the summer of 2008.

11 BOARD MEMBER ZANE: Okay. And you're -- I'm  
12 sorry.

13 BOARD CHAIRMAN SPENCER: No, go ahead.

14 BOARD MEMBER ZANE: In the employment, what is  
15 the process, or would there be an occasion for you to  
16 need access to any type of criminal history information?

17 MR. GARDNER: No.

18 BOARD MEMBER ZANE: Okay. Thank you.

19 BOARD CHAIRMAN SPENCER: Okay. How does the  
20 statute read on that, as far as his -- as far as his  
21 inability to hold a job? Just because, you know, he's a  
22 peace officer within the confines of the state prison  
23 but is not outside in the free air.

24 MR. INGRAM: It's NAC 648.338. It says, upon a  
25 written request for exemption, the Board may grant an



1 exemption from the prohibitions set forth in  
2 subsection 1 if the Board finds that the private  
3 activities of an unlicensed person on behalf of the  
4 licensee would not create or tend to create a conflict  
5 of interest with his or her responsibilities to the  
6 public employer and his or her duty to discharge them,  
7 or the possibility of use of his or her position with  
8 the public employer for personal advantage in his or her  
9 private activities.

10 He is a peace officer as defined under NRS  
11 169.125. And, you know, I can, I can attest, by being a  
12 personnel officer for corrections, peace officers have  
13 absolutely no access to any of the criminal repository  
14 information, NCJIS, NCIC or anything of that nature.  
15 It's not used in their duties.

16 And I would like to point out to the  
17 Board, also, Mr. Gardner did state that he had approval  
18 from the warden, Warden Brian Williams. Not only does  
19 he have approval from Warden Brian Williams, he also  
20 gained the approval from the Deputy Director, E.K.  
21 McDaniel. And it's part of their internal process for  
22 secondary employment.

23 BOARD CHAIRMAN SPENCER: Okay. Any comments  
24 from the Board?

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

1 question, couple questions here. You said --

2 BOARD CHAIRMAN SPENCER: Please.

3 BOARD MEMBER NADEAU: Thank you.

4 You said -- was that July 7th of 2014?

5 MR. GARDNER: That I started with NDOC, yes.

6 BOARD MEMBER NADEAU: Thank you.

7 I think, counsel here has a question.

8 MS. PLATT: Okay. So my first question here,  
9 Raelene, so is Mr. Gardner a licensee?

10 MS. PALMER: He has a registration, right?

11 MR. INGRAM: Correct.

12 MS. PLATT: He has a registration card.

13 MR. INGRAM: He's applying for a registration  
14 card, not a license, correct.

15 MS. PLATT: Right. So the regulation, you  
16 know, we can get into this licensee. But --

17 MR. DuPUIS: Joe DuPuis.

18 MS. PLATT: So we have his employer here, who  
19 is a licensee holder.

20 MR. DuPUIS: Good morning, gentlemen.

21 MS. PLATT: The application should be from him,  
22 because he's going to hire. This is -- well, it's a  
23 little bit of a disconnect here with the way that this  
24 is going about, because it's supposed to be -- like in  
25 this situation, it probably should have been the

1 employer asking for this permission to hire him, even  
2 though he's getting that, their position.

3 Do you see what I'm saying, Raelene?

4 MS. PALMER: Well, there's two separate.  
5 You've got the registration, right?

6 MS. PLATT: Right.

7 MS. PALMER: Which the individuals themselves  
8 have the ability to appeal?

9 MS. PLATT: M-hm (affirmative).

10 MS. PALMER: I think, there's other people here  
11 that are here without their employer on their  
12 registration, right? That's what all these individuals  
13 are here for today?

14 MS. PLATT: M-hm (affirmative).

15 MS. PALMER: So I'm not sure that I -- I  
16 understand that the licensee may also have an interest.  
17 But in this case, he's not restricting it to this  
18 employer. He's just asking for the ability to be a  
19 mystery shopper.

20 MS. PLATT: Right, but the --

21 MS. PALMER: So, I think, it's more --

22 MS. PLATT: Yeah, the regulation says a  
23 licensee may not employ an unlicensed person who becomes  
24 employed as those. So who is he employing that's  
25 unlicensed? That's, that's where we're at here with

1 that.

2 MR. INGRAM: Well, historically, every single  
3 work card applicant was the person that came before the  
4 Board to request the exemption. Because the exemption's  
5 being granted for that individual applicant for the  
6 registration card on -- I mean they have to be granted  
7 the registration card before the employer can even  
8 consider them for employment.

9 MS. PLATT: I'm just throwing it out here.

10 BOARD MEMBER NADEAU: What's the citation  
11 number? What statute are we talking about, again? Or  
12 are we talking about a regulation?

13 MR. INGRAM: It's Nevada Administrative --  
14 yeah, Nevada Administrative Code 648.338, the employment  
15 of unlicensed persons, restrictions and exemptions.

16 BOARD MEMBER NADEAU: Thank you.

17 I have another question I'd like to follow up  
18 with, and that is, HS Brands International, is that a  
19 licensee?

20 MR. DuPUIS: Yes.

21 MR. INGRAM: Yes, sir.

22 BOARD MEMBER NADEAU: Was that licensed in  
23 11-82?

24 MR. DuPUIS: Yes.

25 BOARD MEMBER NADEAU: So that's you?

1 MR. DuPUIS: That's me.

2 BOARD MEMBER NADEAU: Okay.

3 MS. PALMER: So, Colleen, I don't think he's --  
4 at this point, he doesn't have an unlicensed person,  
5 because he doesn't have the registration, right? Or is  
6 that the issue; is it because he's still employed and  
7 doesn't have a registration at this point?

8 MS. PLATT: Yes. So the way that the  
9 regulation reads, the licensee is asking to hire someone  
10 who is or becomes employed as a person who -- I'm just  
11 trying to follow the regulation and what it says.  
12 That's all.

13 MR. INGRAM: Yeah. And so I'm confused,  
14 Colleen, because I understand what you're saying, but  
15 this gentleman doesn't even have a registration card  
16 right now. He stopped his employment. He's not  
17 employed with HS Brands. He has to get his work card  
18 before he can even request permission to hire.

19 MS. PLATT: Which is why this gentleman right  
20 here should be the one submitting the request. His  
21 employer should be submitting the request to hire this  
22 gentleman.

23 MS. PALMER: Well, only if he is not going to  
24 be registered. But at this point, we're considering the  
25 registration. So if he is registered, then the licensee

1 has no need to make any request, because he won't be  
2 unlicensed. Well, he's not --

3 MR. DuPUIS: Yeah. And actually --

4 MS. PALMER: He can be registered.

5 MR. DuPUIS: I'm sorry. I didn't mean to talk  
6 over you. But I was going to try and make that same  
7 point. I believe, if I understand this correctly, that  
8 he does have a registered work card, and he's seeking an  
9 exemption to the NAC so that he may continue in his  
10 employment.

11 Is that correct, sir?

12 MR. GARDNER: Yes.

13 MR. INGRAM: And, and, fortunately, I was aware  
14 of that. Yes, he does have a current work card. He  
15 just ended his employment with the employer.

16 MR. GARDNER: Yes.

17 MR. DuPUIS: Correct.

18 MS. PALMER: So, and that's my understanding of  
19 what we're doing and what we're here for today. If you  
20 think it's not that, Colleen, I'm not following.

21 MS. PLATT: That may be what we're doing. But  
22 my concern is that perhaps the regulation doesn't  
23 provide for that. He is a current work card holder who  
24 has now become employed where he participates in PERS.  
25 So this regulation doesn't apply to him if you take him

1 as a licensee.

2 BOARD MEMBER ZANE: Shouldn't the -- didn't the  
3 moment, didn't the moment in time that he gained state  
4 employment effectively cease his status as a registered  
5 employee for anybody, by the statute?

6 MR. INGRAM: Yes, inactive status.

7 BOARD MEMBER ZANE: So, that being the case, we  
8 would be dealing with somebody that either we needed to  
9 take a formal action in order to revoke the employee  
10 registration card, or we need to consider the exemption  
11 under this NAC for him individually.

12 MS. PALMER: But then I agree with Colleen that  
13 it's the licensee that has to make the request.

14 MS. PLATT: The employer --

15 MS. PALMER: Yes.

16 MS. PLATT: -- should be bringing that request.  
17 The way that the regulation reads is it's taking into  
18 account, Rae, if he becomes employed in the system with  
19 PERS, and if that, that triggers an event whereby his  
20 work card is --

21 MR. DuPUIS: It's inactive.

22 MS. PLATT: -- inactivated, he now is an  
23 unlicensed -- theoretically, let's just play this out.  
24 He's theoretically an unlicensed person. And if he's  
25 currently employed by a licensee, that licensee

1 immediately has to submit this exemption request.

2 Because the individual that is subject to the PERS,  
3 under the way this reads, cannot make that request.

4 MS. PALMER: Well, but there is one thing that  
5 makes it a little bit confusing, because he is not going  
6 to be licensed either way. So we're talking about --

7 MS. PLATT: Right. Go back to the definition  
8 of license. That's in the statutes. And that's what we  
9 discussed the other day.

10 MS. PALMER: Yeah.

11 MS. PLATT: For all intents and purposes --

12 MS. PALMER: Well, that's under two thirty --

13 MS. PLATT: It's a registration. The person  
14 that's a registration work card holder would be a  
15 licensee for, theoretically, for purposes, to some  
16 extent.

17 MR. INGRAM: Well, if that's the case, and he's  
18 viewed as a licensee, then this would apply to him.

19 MS. PLATT: But who is he employing?

20 MS. PALMER: No, what she's saying is --

21 MS. PLATT: He is employing an unlicensed  
22 person. There is not a reg that allows him, himself, to  
23 come and ask for something for himself.

24 BOARD MEMBER NADEAU: I think, our confusion  
25 is -- if I may, Mr. Chair, is that we've had several



1 individuals come in over the years who have individually  
2 requested that exemption. If I'm understanding counsel,  
3 what she's saying is maybe we've been handling these  
4 incorrectly in the past. It's the licensee who wishes  
5 to hire that person that comes in and asks for the  
6 exemption to hire them.

7 MS. PLATT: Right. So in the summer, when we  
8 had the -- I believe, it was a CES gentleman or the  
9 people from the Daisy Carnival. The one that comes in  
10 for the jewelry show, that's a licensee who's asking to  
11 hire people from, I believe it was Colorado, current --

12 MR. SCHMELZER: Police officers.

13 MS. PLATT: -- police officers -- thank you --  
14 from Colorado to come in. But that was a current  
15 licensee asking for that exemption.

16 BOARD MEMBER NADEAU: Right, but --

17 MS. PLATT: That's different than what we have  
18 here.

19 BOARD MEMBER NADEAU: But, yes, counsel, I want  
20 you to understand. We've had several occasions where an  
21 individual has come before the Board, who are  
22 representing themselves, not the licensee representing  
23 them, who have come forward and asked for the exemption.

24 So, I think, what we're doing is we're finding  
25 that there's a nuance in the law that says that's not

1 the case. They can't come individually. It has to be  
2 the licensee. If I'm understanding correctly, the  
3 licensee has to come and say, "I want to hire that  
4 person. And, therefore, I'm requesting that exemption."

5 MS. PLATT: Right.

6 BOARD MEMBER NADEAU: Okay.

7 MS. PLATT: That's the way the regulation  
8 reads.

9 BOARD MEMBER NADEAU: Do you understand the  
10 nuance that she's talking about? So what she's saying  
11 is, basically, we've acted incorrectly in the past when  
12 we have approved or not approved an individual who is a  
13 peace officer the ability to go ahead and work. It has  
14 to be the licensee that comes and makes that request.

15 MS. PLATT: Under this specific.

16 BOARD MEMBER NADEAU: Under this specific.

17 MS. PLATT: Right.

18 BOARD MEMBER NADEAU: Is there another  
19 exemption that we have?

20 MS. PLATT: I don't know. We'd have to take  
21 a -- we'd have to look to see if there's any other.

22 BOARD CHAIRMAN SPENCER: Yeah.

23 MS. PLATT: Sorry.

24 MR. INGRAM: Colleen, we -- just the trouble  
25 I'm having, Colleen, is about, I'm going to say, six

1 months ago, we had an individual come before us with the  
2 same situation, and he was granted his work card for  
3 mystery shopping. That's been two, maybe three,  
4 actually probably more like three Board meetings ago,  
5 maybe four.

6 BOARD MEMBER NADEAU: And, I think, what she's  
7 saying is, in her opinion, looking at the statute, we  
8 acted inappropriately. Or we didn't act within our --  
9 the fact that it had to have been the licensee that had  
10 to come forward. I think, what she said is the way  
11 we've been doing it, we have not been doing it  
12 correctly.

13 MS. PALMER: The difficulty that I'm having is  
14 that I don't know what the status of the registration is  
15 at this point. Because is there anything in NRS that  
16 talks about the registration becoming invalid upon  
17 becoming a peace officer?

18 BOARD MEMBER NADEAU: No.

19 MS. PLATT: No.

20 MR. INGRAM: I don't think it's actually  
21 written that way.

22 MS. PALMER: And if he started employment, if  
23 you had just started employment somewhere, with your  
24 registration, it would be a provisional registration  
25 just by virtue of beginning new employment. So that

1 would start the process to review the registration.

2 BOARD MEMBER NADEAU: Counsel, I think, what  
3 the nuance here is, his registration hasn't been  
4 impacted. The nuance is that no one can employ him  
5 under the regulation.

6 MS. PALMER: Right.

7 MS. PLATT: Maybe they could. I mean I  
8 don't --

9 BOARD MEMBER NADEAU: But they could request an  
10 exemption.

11 MS. PLATT: But he's not unlicensed. I mean, I  
12 guess, we could go back to the definition of unlicensed.  
13 And he's not an unlicensed person. He holds a  
14 registration work card. So it doesn't trigger. I don't  
15 know. I don't. What I'm saying is he may not need an  
16 exemption under the current. I mean there's -- if  
17 there's nothing in the statutes or regs that triggers  
18 the inactivation of a work card simply because he's  
19 employed in the PERS system. It's different for a  
20 licensee, right? I think, there's --

21 BOARD MEMBER NADEAU: Yeah.

22 MS. PALMER: So the question --

23 MS. PLATT: My apologies for making this all  
24 into a nightmare.

25 MS. PALMER: No, it's -- I think, it's

1 important that we get this right, so that we don't have  
2 a problem in the future or here now.

3 But, so the question is how do we proceed  
4 today? If you have the licensee here, is this something  
5 we can proceed on today, or because it's agendaed  
6 differently? What do you think, Colleen?

7 MS. PLATT: Well, I think, but he's not  
8 unlicensed in the definition. When you go back to NAC  
9 648.334, I don't think he's unlicensed.

10 MS. PALMER: Well --

11 MS. PLATT: Which renders his application  
12 unnecessary. Right? Because he's not a licensee.

13 BOARD MEMBER NADEAU: That's correct.

14 MS. PALMER: He is not a licensee. So, I  
15 think, what we're doing is we're meshing 233B in the  
16 definition of a licensee and the definition of a  
17 licensee in 648. So if we used -- I think that the  
18 unlicensed person in 648 is referring to somebody who  
19 isn't --

20 MS. PLATT: Right. So when we go back --

21 MS. PALMER: -- isn't the licensee as we  
22 understand it.

23 MR. DuPUIS: It says you can't be a --

24 MS. PLATT: Kevin, where's the statute that  
25 says you can't be a police officer and a P.I., you have

1 to put it in abeyance, basically?

2 BOARD MEMBER COLBERT: 645.

3 MR. INGRAM: For a place that -- you're talking  
4 about for licensure?

5 MS. PLATT: Yeah.

6 MR. INGRAM: Okay.

7 MS. PLATT: Where's that? Let's go to that.

8 MR. INGRAM: Yeah.

9 MS. PLATT: Right.

10 MR. INGRAM: Do you have the Internet access?

11 BOARD MEMBER ZANE: Yes.

12 MR. INGRAM: Could you go to the NRS and do a  
13 control F and type in peace officer. And that'll search  
14 the entire document for anything related to peace  
15 officer.

16 MS. PLATT: 018, Kevin. Look at 018.

17 MR. INGRAM: 018? Okay.

18 MS. PLATT: I thought there was something else,  
19 but.

20 MR. INGRAM: No.

21 Control F, and then type in peace officer.

22 MS. IRIZARRY: Lori Irizarry, Investigator  
23 Irizarry.

24 You had mentioned previous agendas. I looked  
25 up for the last year and a half. There have been two

1 instances where peace officers were granted exemptions.  
2 But in both instances -- one was on September 12th, '13.  
3 And the last one would have been December 5th of '13 --  
4 the licensee had asked for the exemption for the  
5 individual peace officers.

6 MR. INGRAM: Not for the right employee.

7 MS. IRIZARRY: No, I'm talking about Ferrari  
8 Express and the one with John Theel.

9 MR. INGRAM: Right. But that's a little  
10 different situation. That's when they were bringing the  
11 out-of-state peace officers in for a specific event.

12 MS. IRIZARRY: Yes.

13 MR. INGRAM: Yeah, that's a little bit  
14 different. But thank you.

15 BOARD MEMBER ZANE: On the search, there  
16 isn't --

17 MR. INGRAM: Because I don't remember seeing  
18 peace officer. I don't remember seeing it. So it must  
19 be that. That's the way it's been. We need to get a  
20 laptop with Internet access.

21 BOARD MEMBER ZANE: Here, if you want to.

22 MS. PLATT: 330.

23 MR. INGRAM: Yeah, I just found it, 648.330.

24 MS. PLATT: NAC.

25 MR. INGRAM: Yeah, it's NAC, not NRS, correct.

1 MS. PLATT: It's NAC 648.330.

2 MR. INGRAM: So this is -- basically, it's  
3 saying very similar terminology there for the licensee.

4 MS. PLATT: M-hm (affirmative).

5 MR. INGRAM: In other words, that a current  
6 peace officer, somebody that hasn't retired yet, we've  
7 had a couple of those that were just coming before the  
8 Board. They were granted licensure because they were  
9 within six months of retirement. And the Board went  
10 ahead and granted their license and required that they  
11 place that license into abeyance until such time as they  
12 retired.

13 And then, once they provided documentation to  
14 Board staff of the actual retirement, then we activated  
15 the license. That was one instance under this  
16 regulation. The other one would be that they weren't  
17 going to be retiring soon, and the Board denied.

18 MS. PLATT: Is he a peace officer?

19 MR. DuPUIS: Yes.

20 MS. PLATT: Raelene, could you look at the NRS,  
21 169.125.

22 BOARD MEMBER COLBERT: That's the one.

23 MS. PALMER: No, I think, that's just the  
24 definition of a peace officer.

25 MS. PLATT: Does he fall within that?



1 MS. PALMER: Kevin said that he did.

2 MS. PLATT: Okay.

3 MR. INGRAM: Yes, he is considered a peace  
4 officer.

5 MS. PLATT: Thanks.

6 MR. INGRAM: Category III, has no powers of  
7 arrest, only has powers within the confines of the  
8 prison or during a transportation of an inmate, and does  
9 not -- the main difference between a Category III and a  
10 Category II or I, they do not have immediate access to  
11 any criminal justice software, any databases. They are  
12 strictly a -- for lack of a better term, they're  
13 guarding the safety and security of the institution and  
14 the individuals that are housed there.

15 MS. PLATT: And what's the status of his  
16 registration? Do we know that?

17 MS. PALMER: Colleen, I think, I can answer  
18 that. So if you look at it, the NAC 648.330, he must be  
19 a peace officer and the Board finds that his or her  
20 private activities create or would tend to create this  
21 conflict of interest.

22 MS. PLATT: Correct.

23 MS. PALMER: If the Board finds, if the Board  
24 find that they do not --

25 MS. PLATT: He doesn't have to put it in

1 abeyance.

2 MS. PALMER: -- then he wouldn't be an  
3 unlicensed person.

4 MS. PLATT: Correct. Or he wouldn't have his  
5 work card in abeyance.

6 MS. PALMER: Correct.

7 MR. INGRAM: Correct. Right now, it's in an  
8 inactive status, Colleen. Because once he found out  
9 that "Now I'm a peace officer, I can no longer do  
10 mystery shopping," we put it in an inactive status until  
11 he could go before the Board to get approval.

12 MS. PLATT: Okay.

13 MR. INGRAM: He just was told don't work.

14 MS. PLATT: So, right now, let's look at  
15 whether or not his activities create a conflict of  
16 interest or use his position for personal advantage in  
17 his private activities. I think, this is the statute,  
18 this is the regulation we need to look at.

19 BOARD MEMBER NADEAU: Mr. Chairman, may I ask a  
20 question?

21 BOARD CHAIRMAN SPENCER: Please.

22 BOARD MEMBER NADEAU: Is licensee and register,  
23 registry, are those interchangeable?

24 MS. PLATT: Yes. Yes.

25 BOARD MEMBER NADEAU: Okay. Because that's --

1 MS. PALMER: They are under 233B.

2 MS. PLATT: It is for -- yes.

3 BOARD MEMBER NADEAU: I'm sorry. What?

4 MS. PALMER: Under 233B, a license includes a  
5 registration.

6 BOARD MEMBER NADEAU: Okay. Thank you.

7 MS. PALMER: Or certificate and a lot of other  
8 things. So the definition of license under 648 -- let  
9 me make sure that it is defined.

10 It is. Does not include registration. They  
11 separate, they distinguish between license and  
12 registration. But 233B is also applicable to the  
13 Private Investigators Licensing Board, and that does  
14 include registrations. So there's a conflict between  
15 the two chapters.

16 BOARD MEMBER NADEAU: Okay.

17 MS. PLATT: So, I think, it's sloppy drafting  
18 when you guys took over the registrations, of that term,  
19 that means a license or certificate issued.

20 BOARD MEMBER NADEAU: But.

21 MS. PLATT: You don't issue a certificate.

22 BOARD CHAIRMAN SPENCER: What are we going to  
23 do to get this gentleman on his way?

24 MS. PALMER: I'm sorry. I'll talk louder.

25 I think, what needs to happen is, if this can

1 happen as it's agendaed -- and, Colleen, I'd like your  
2 opinion on that. Sorry to put you on the spot.

3           If the Board determines that there is no  
4 conflict, looking at 648.030, his registration would not  
5 be in abeyance, and it's possible that no action needs  
6 to be taken.

7           I mean I don't even know if the Board needs to  
8 consider this now if -- it wouldn't even be before the  
9 Board if the Board never recognized that there was a  
10 concern.

11           MS. PLATT: So there's a slew of things that we  
12 could talk about off-line regarding what happened here.  
13 But, I think, for the purposes here, since it's -- his  
14 work card is in an inactive status, I think, we can --  
15 he's seeking an exemption pursuant to that NAC section,  
16 but that is an incorrect NAC section. Because he is not  
17 the one that is the proper person to be seeking that  
18 exemption under that particular regulation.

19           We have his employer here. We could  
20 theoretically do it that way. But, I think, we need to  
21 first take care of the inactive status of this  
22 gentleman's work card registration.

23           So because we have 648.330, when the staff has  
24 put it on inactive status, I think, we -- I think, we  
25 can go ahead and deal with it under this agenda item

1 because of how it's phrased and what he's doing. And  
2 it's perhaps we didn't include another citation to the  
3 right NAC section. But, I think, we can take care of  
4 it.

5           So, I think, what should happen is we should  
6 have an action by the Board making findings on whether  
7 or not his work card registration should be held in  
8 abeyance, first. And then make a decision that if there  
9 are no conflicts, and it shouldn't be held in abeyance,  
10 and he's a valid work card holder, and there is no  
11 exemption needed.

12           Would you agree with that?

13           MS. PALMER: I do.

14           MS. PLATT: Okay. Kevin, do you agree?

15           MR. INGRAM: Yes.

16           MS. PLATT: Okay.

17           MR. INGRAM: Absolutely. It makes total sense  
18 now.

19           MS. PLATT: Okay.

20           MR. INGRAM: Thank you.

21           MS. PLATT: Sure. Note to self, revise the  
22 NAC.

23           BOARD CHAIRMAN SPENCER: So what do we need to  
24 do?

25           MS. PALMER: The Board at this point needs to

1 deliberate and make findings as to whether or not they  
2 find that there's a conflict under 648.330, which  
3 requires that if the Board already determined that he is  
4 employed --

5 MS. PLATT: Or that he'll use his position.

6 Sorry. Or that he'll --

7 MS. PALMER: That he is a peace officer. So  
8 then the question is whether the Board would find that  
9 his or her private activities as a registered bona fide  
10 employee of a licensee would create or tend to create a  
11 conflict of interest with his or her responsibilities to  
12 the public employer and his or her duty to discharge  
13 them, or the possibility of the use of his or her  
14 position with the public employer for personal advantage  
15 in the private activities.

16 If the Board determines that either of those  
17 two things are met, then the license, the registration  
18 in this case, would be held, would have to be held in  
19 abeyance as long as Mr. Gardner continued to be a peace  
20 officer or these conditions continued to apply.

21 MS. PLATT: Or he contributes to PERS.

22 MS. PALMER: Correct.

23 MS. PLATT: Right. It's not solely that he's a  
24 peace officer, but there is -- if he decides to go on to  
25 another job, and contributes to PERS, there's a few

1 things that trigger this section. So.

2 So, right now, the Board needs to determine  
3 whether or not his activities at the correctional  
4 facility will -- he will use that in a way that that  
5 mystery shopping, it'll benefit him in mystery shopping.

6 MS. PALMER: Well, let me just say, I don't  
7 think you can limit it to mystery shopping, because his  
8 registration isn't limited to that.

9 MS. PLATT: Right. But we have had testimony.  
10 He's currently employed under this gentleman for mystery  
11 shopping. You're correct. But we've had testimony  
12 today that he's strictly limited to --

13 Is that all he does for you?

14 MR. DuPUIS: Yes. That's all we do.

15 MS. PLATT: That's all you do?

16 MR. DuPUIS: Correct.

17 MS. PLATT: But once he's no longer employed by  
18 this gentleman, Kevin can tell you what happens to the  
19 work card.

20 MS. PALMER: Well, each time he changes  
21 employment, this would be a new consideration for the  
22 Board.

23 MS. PLATT: Correct, yes.

24 MS. PALMER: If the Board chose to put it on  
25 the agenda and make it an issue, if the Board didn't

1 find any concern anytime he moved employment, nothing  
2 need be done.

3 MS. PLATT: Yeah. Good.

4 MR. INGRAM: But the Board, meaning the Board  
5 members, not Board staff. So, therefore, every time he  
6 changed employment, it would have to be agendized to  
7 come before the actual Board and not Board staff. Okay.  
8 I'm following.

9 MS. PLATT: Unless the Board staff, or the  
10 Board gave you direction to take on this duty to make  
11 that determination. And then, in questionable  
12 situations, clearly you could bring it back. But,  
13 again, I defer --

14 MR. INGRAM: And that falls --

15 MS. PLATT: -- on to the Board.

16 MR. INGRAM: Okay. And that falls under what  
17 we discussed where you were saying the Board does  
18 include me, but those specific directions would have to  
19 come from the Board to me --

20 MS. PLATT: Correct.

21 MR. INGRAM: -- to make those determinations.

22 Okay.

23 MS. PLATT: Correct.

24 MR. INGRAM: I follow you. Thank you, Colleen.

25 BOARD MEMBER NADEAU: Mr. Chair?



1 BOARD CHAIRMAN SPENCER: Yes?

2 BOARD MEMBER NADEAU: May I kind of clear a  
3 thought in my mind, to make sure I understand?

4 So, in this particular case, with this  
5 particular employer, there may not be a conflict of  
6 interest under that statute, which is -- or the NAC,  
7 which is 648.330. But anytime he changes employers,  
8 then the Board needs -- the Board, PILB, not necessarily  
9 the sitting Board, but the PILB then must be notified  
10 that he's changed employers, which would trigger, then,  
11 a new consideration as to whether or not there's a  
12 conflict of interest.

13 And I just want to affirm. Anytime he changes  
14 employers, PILB has to be notified, regardless of his --  
15 just because of his registration, correct?

16 MS. PLATT: Kevin?

17 MS. PALMER: Yes.

18 MR. INGRAM: Based on what I've heard, I would  
19 say yes.

20 MS. PLATT: You know, does it --

21 BOARD MEMBER NADEAU: No, I'm talking about  
22 under NAC or under the statute. Anytime a registrant  
23 changes employers, PILB must be -- I'm not talking about  
24 him specifically. I'm talking generally.

25 MR. INGRAM: Generally.

1 BOARD MEMBER NADEAU: Anytime a registrant  
2 changes employers, the PILB is required to be noticed,  
3 correct?

4 MR. INGRAM: That's correct. That's correct.  
5 A licensee has, you know, three working days to get them  
6 onto the roster, to show that they're employed by them.

7 BOARD MEMBER NADEAU: Do we as the Board, does  
8 PILB as an organization and as our database, do we have  
9 a flag that would be able to flag him as a peace  
10 officer, which would trigger, then, that review?

11 MR. INGRAM: No, we do not have that ability  
12 under our current database.

13 MS. PALMER: But you can do it by name, right?  
14 You can find an individual by name?

15 MR. INGRAM: No.

16 MS. PALMER: Where you would --

17 MS. PLATT: You could have a list.

18 MR. INGRAM: No, we would have to go in and  
19 look them up, as it is, I mean we have to look on every  
20 page and look at it to see if he's been added to a  
21 roster or not. There's not a search.

22 MR. YARBOROUGH: Mr. Chairman?

23 BOARD CHAIRMAN SPENCER: Yes?

24 MR. YARBOROUGH: If he's a mystery shopper,  
25 he's not required to take the 30-question test that a

1 security guard takes.

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

3 MR. YARBOROUGH: And so if he was approved to  
4 be a mystery shopper, and he wanted to do something  
5 outside that area, then he would have to take the test.  
6 And if we could put notes in his folder, in our  
7 GL Suite, that he's restricted to mystery shopping only,  
8 so then, if he came in, or somebody sent in a test for  
9 him so that he could do other things with his work card,  
10 it would be flagged that way.

11 MR. INGRAM: Yeah, but that's just one  
12 incidence. I mean we wouldn't -- if he went from one  
13 mystery shopping company to another.

14 MR. YARBOROUGH: Why would we care if he did  
15 that?

16 BOARD MEMBER NADEAU: Mr. Chair?

17 MR. INGRAM: Well, the question was are we  
18 notified?

19 BOARD MEMBER NADEAU: Mr. Chairman? First off,  
20 we're not privy to that conversation that's going on.  
21 Shannon's not able to record it. And I was trying to  
22 continue with some questions that I had. But. So can  
23 we kind of rewind the tape and figure out what we were  
24 talking about here?

25 BOARD CHAIRMAN SPENCER: All right. Why don't

1 you continue, Jim.

2 BOARD MEMBER NADEAU: Okay. We have no  
3 ability, unless we create a -- we did a hand-search on  
4 all of our registrants as to whether or not they're a  
5 peace officer. We don't have a flag in our database.

6 The other question, and I did hear Bruce  
7 talking just a moment, but mystery shopper is not a  
8 separate category. So, therefore, he would be  
9 classified, if he went to work for any private  
10 investigator, he would be able to go. He's not limited  
11 to mystery shopping. That, that's the difficulty that  
12 we have encountered with the mystery shopping piece of  
13 this private investigator's license. And so, therefore,  
14 anybody that works for him is not limited to just  
15 mystery shopping.

16 So, I guess, what I'm saying is if we exempt  
17 him, he is exempted for all public, private  
18 investigating work, unless -- because we -- I don't know  
19 that we have the ability under the statute to limit what  
20 he does.

21 MS. PLATT: If I may. What you could do, and  
22 this -- because your system does not currently, your  
23 computerized system does not currently have certain  
24 capabilities, what you could do is, for people that  
25 receive this type of exemption, you could start a list.

1 His name would be on the list.

2           Each time you -- and I know this is a lot. But  
3 until you have a computer system where you can do this,  
4 you could, when the licensee turns over a new roster,  
5 you can just -- at this point, there's probably not a  
6 whole lot of exemptions like this. So you could look at  
7 the list, see if that, the new roster, contains one of  
8 their names. And then, and then it's triggered, it's  
9 flagged. And then you will go and say, "Okay. What are  
10 you doing for this new, what are you doing now for this  
11 licensee?" Until such time as you have a computer  
12 system where you can do this.

13           MR. INGRAM: Right. Well, and even to add to  
14 Board Member Nadeau's comment, once he receives a  
15 registration card, not only can he work for any private  
16 investigator, he can work for any current licensee in  
17 all categories of licenses that we oversee. The work  
18 card allows them to work for any category of licensee.

19           MS. PALMER: But it's my understanding that  
20 some of those things require that they could take  
21 additional examinations, but.

22           MR. INGRAM: Security only. Yeah, security  
23 only. So he could go to work for a canine handler, he  
24 could go to work for a process server, without us even  
25 being notified. Security-specific, yes, he would be

1 required to take another exam.

2 MS. PALMER: So this is what I think that the  
3 Board should do. Anytime you're aware of a registered  
4 person who becomes a peace officer, that the Board would  
5 want to conduct some type of an inquiry to assure itself  
6 that there's no conflict.

7 As long as the Board is looking at that, and  
8 there is no conflict -- because this requires that you  
9 take affirmative action if there -- if you decide that  
10 there is a conflict. You don't have to do anything if  
11 there isn't. So you just want to make sure that you are  
12 looking at that at some point in the process. And if at  
13 anytime the Board decides that there is a conflict, then  
14 you need to bring that individual before you to make  
15 those considerations.

16 BOARD CHAIRMAN SPENCER: So where do we stand  
17 with regard to this individual?

18 MS. PALMER: Well, I -- I don't know if Deputy  
19 Attorney General Platt is still there. Did she leave,  
20 or is she just out of the camera?

21 MR. SCHMELZER: She stepped out a little while  
22 ago.

23 BOARD MEMBER NADEAU: She stepped out for a  
24 minute.

25 BOARD MEMBER COLBERT: She's just in the

1 hallway.

2 MS. PALMER: I think, what we decided to do,  
3 because this applicant is here and because his  
4 prospective employer is here, that the Board would have  
5 a discussion and determine whether or not you believe  
6 there is any kind of a conflict at this point.

7 If there isn't a conflict, I don't think the  
8 Board needs to take any action. Because the  
9 registration would not be in abeyance. You would have  
10 to put it into abeyance.

11 MS. PLATT: Well, currently, his work card is  
12 inactive. So, I think, we do need an action to make it  
13 active.

14 MS. PALMER: Well, he is inactive because he's  
15 not employed. But if it weren't for this peace officer  
16 status --

17 MS. PLATT: He's employed.

18 MS. PALMER: -- all he would have to do is just  
19 start employment, and then his registration would be in  
20 a provisional status.

21 So didn't we discuss earlier that the Board  
22 should consider whether or not they think there's any  
23 conflicts at this point, since it's on the agenda and  
24 that's what we're here for? Was that --

25 MS. PLATT: Is he in your employment?

1 MR. DuPUIS: Yes.

2 MS. PALMER: Was that what you had agreed with,  
3 Colleen?

4 MS. PLATT: He is currently employed.

5 MR. DuPUIS: He is a registered employee of the  
6 company, but he's not actively doing any work for the  
7 company.

8 MS. PLATT: Right. Right. Because he is in an  
9 inactive status.

10 MR. DuPUIS: Correct.

11 MS. PLATT: He is employed. And the Board  
12 inactivated his license.

13 MR. INGRAM: No, he was told he cannot actively  
14 work. He still has his registration work card. He's  
15 just inactive in --

16 MS. PLATT: That's what I'm saying, he's  
17 inactive.

18 MR. INGRAM: In an inactive status. In an  
19 inactive status, with the agreement with the individual,  
20 prior to coming before the Board, he could not work for  
21 an employer.

22 As you and I have discussed, we, we the staff,  
23 Colleen, do not have the authority to revoke --

24 MS. PLATT: Right.

25 MR. INGRAM: -- suspend --



1 MS. PLATT: Right.

2 MR. INGRAM: -- or whatever.

3 MS. PLATT: Right.

4 MR. INGRAM: So, with agreement with  
5 Mr. Gardner when he contacted us, I told him he could  
6 not work for that employer until he came before the  
7 Board and that he needed to remain inactive. That's,  
8 that's what I meant by my statement inactive status.

9 MS. PLATT: Oh, okay.

10 MR. INGRAM: I apologize if you thought I --

11 MS. PLATT: Oh.

12 MR. INGRAM: -- revoked it or suspended it.

13 That's not the case.

14 MS. PLATT: Okay. That's not, that's not what  
15 I understood. So. What I do think we need --

16 MR. INGRAM: Okay. No. I apologize for that.

17 MS. PLATT: The Board needs to make a finding,  
18 yea or nay, on those issues. That's it.

19 MR. INGRAM: No, he has a work card. He is  
20 just inactive. He's not working for any employer right  
21 now, just with the Department of Corrections.

22 MS. PLATT: So if I --

23 MS. PALMER: So is it --

24 MS. PLATT: If you looked him up today in the  
25 system, what does it say as to the status of his work

1 card?

2 MR. INGRAM: Registered, active.

3 MS. PLATT: Okay. That's, I just wanted that.

4 MS. PALMER: So does the Board need to do  
5 anything?

6 MS. PLATT: Yes. They need to make a finding  
7 of whether or not his activities, if any of these things  
8 are met, yea or nay. They need to have a Board finding.

9 MS. PALMER: Because it's on the agenda?

10 MS. PLATT: Because that's what it says in the  
11 reg.

12 MS. PALMER: Well, actually, it's only if the  
13 Board finds that he does meet these requirements --

14 MS. PLATT: Right.

15 MS. PALMER: -- must they do something.

16 MS. PLATT: Right. But there has to be a  
17 determination of whether they're finding them or not.

18 Staff has not been given the ability to make  
19 that determination for the Board. Right now, they have  
20 before them, theoretically, a person who has -- is a  
21 peace officer and contributes to PERS. To that part,  
22 the first part of the regulation is triggered. Now they  
23 have to decide whether or not it will be held in  
24 abeyance. And in order to say yea or nay on that, they  
25 have to make a determination whether there's a conflict

1 of interest or he will be able to use his position at  
2 the DOC to further his private activities. There has to  
3 be a yea or nay on those things.

4 BOARD CHAIRMAN SPENCER: All right. Does it  
5 have to be a motion?

6 MS. PLATT: Yes.

7 BOARD CHAIRMAN SPENCER: Board Member Nadeau.

8 BOARD MEMBER NADEAU: Mr. Chair.

9 BOARD CHAIRMAN SPENCER: Do you see a conflict  
10 of interest?

11 BOARD MEMBER NADEAU: After all of this  
12 discussion, my concern is, with this particular  
13 employer, I do not see a conflict of interest, but I  
14 don't see that there's any -- but I see the  
15 classification that we're allowing him to work under,  
16 the exemption that we're allowing him does not limit him  
17 strictly to this employer. Which, in turn, could  
18 ultimately -- he could go to work for another employer,  
19 have access to information, that would then qualify  
20 under -- as a conflict of interest and the possibility  
21 to use his or her position for personal advantage in  
22 private activities.

23 So what I'm saying is by allowing that  
24 exemption, by allowing him to continue, I would be able  
25 to find that he would be under -- he would -- there's

1 potential he could be under both one and two.

2 So that's my concern.

3 MS. PALMER: Board Member Nadeau, those are not  
4 the facts before you today. That would be a  
5 consideration for another day.

6 MS. PLATT: Okay. So time out. Time out.  
7 What you can do is you can direct this person. We will  
8 give you -- you can find that under the current  
9 employment with the current employer, he does not have a  
10 conflict of interest and he's not going to use his  
11 position to his advantage in his private activities.  
12 But should you go somewhere else, you need to notify the  
13 Board. You need to put it on them, get direction from  
14 the Board, and then a review will be in place at that  
15 point.

16 BOARD CHAIRMAN SPENCER: Yeah, I think, we're  
17 talking about the sole facts in front of us today as to  
18 the employment that he has and the employment that he  
19 wishes to have.

20 MS. PLATT: Right.

21 BOARD CHAIRMAN SPENCER: Keeping those facts in  
22 mind, does anyone, the Board members, see a problem, a  
23 conflict of interest?

24 BOARD MEMBER ZANE: The only issue I have of  
25 we're tending toward the literal here, is whether or not

1 it's agendized properly.

2 BOARD CHAIRMAN SPENCER: Yeah.

3 MS. PLATT: We're -- we are okay.

4 BOARD MEMBER ZANE: If it's required that the  
5 licensee make the request for exemption, clearly it's  
6 not agendized properly, if that's a legal position. If  
7 it's not, and we have some wiggle room, then let us  
8 know.

9 MS. PLATT: I think, I think, we're okay.

10 BOARD CHAIRMAN SPENCER: Jim, do you see a  
11 problem?

12 BOARD MEMBER NADEAU: I do.

13 MS. PLATT: Okay.

14 BOARD MEMBER NADEAU: The discussion today  
15 is -- I do see a problem. I see a problem inasmuch  
16 as -- and I understand counsel said this is not what  
17 we're discussing. But I see a problem as far as we  
18 don't have a mechanism in place that allows us to track  
19 these types of things. So, therefore, that's my biggest  
20 concern.

21 So that's --

22 MS. PALMER: Mr. Nadeau, I think that you have,  
23 you would have to find that as the facts are before you  
24 today, that there is a conflict. If you don't find  
25 that, then there is no need or reason to put his

1 registration in abeyance. So if you don't have that  
2 situation before you, I don't think you can make a  
3 finding based on what might happen in the future.

4 And the provision that you have before you is  
5 that the licensee is required to notify you within five  
6 business days anytime a registered individual changes  
7 employment, begins employment. And that allows the  
8 Board to do an investigation at that point.

9 So the problem is an internal one with the  
10 procedure. So you merely need to establish a procedure,  
11 and, I think, Deputy Attorney General Platt came up with  
12 a good one, whereby you list people's names that  
13 potentially could have a concern, and you need to be  
14 checking for that name. So it's a computer  
15 technological problem. It's not a problem with the  
16 applicant before you.

17 BOARD MEMBER NADEAU: Thank you for that  
18 clarification.

19 BOARD CHAIRMAN SPENCER: What I'm trying to get  
20 to is, is if on the basic facts that we have in front of  
21 us now, as regarding his employment and his wanting --  
22 his employment that he wants to have, do you see any  
23 conflict problem?

24 BOARD MEMBER NADEAU: Do I? Are you asking me  
25 directly?

1 BOARD CHAIRMAN SPENCER: Yes.

2 BOARD MEMBER NADEAU: No, I don't.

3 BOARD CHAIRMAN SPENCER: Okay. Mr. Colbert,  
4 how about you?

5 BOARD MEMBER COLBERT: Under those conditions,  
6 no.

7 BOARD CHAIRMAN SPENCER: Okay. Mark?

8 BOARD MEMBER ZANE: No, I don't have any  
9 issues. I'm prepared to make a motion.

10 BOARD CHAIRMAN SPENCER: All right. We'll take  
11 a motion.

12 BOARD MEMBER ZANE: Mr. Chairman, I would move  
13 that Luke Gardner's application, and by virtue of it,  
14 the application of his employer also, for an exemption  
15 to the provisions of NAC 648.338 --

16 MS. PALMER: No, there's no exemption  
17 necessary. You're just going to make findings as to  
18 whether or not you find that there's a conflict.  
19 Because then we -- that exemption only applies to a  
20 licensee.

21 So I'm not even sure if it requires any action.  
22 I think, the fact that you put on the record that nobody  
23 sees a problem is sufficient and that no action need be  
24 taken.

25 Do you disagree, Deputy Attorney General Platt?

1 MS. PLATT: I think, there needs to be a  
2 finding. So, in order to have a finding, you need a  
3 motion. I mean that's what, that's what --

4 MS. PALMER: So the motion is the finding. So  
5 the pole that was taken should come after the motion.

6 MS. PLATT: Well, no. It's fine. The motion  
7 would be to either find a conflict of interest or not  
8 find a conflict of interest, given what he's testified  
9 to today, or to -- I think, we're really concerned about  
10 the conflict of interest piece or to -- if you think  
11 he's going to use that position for personal advantage  
12 in his private activities, yea or nay on that.

13 I think, there needs to be a finding. Because  
14 you need to -- because you put it in abeyance if you  
15 find that those things are met. So you keep it out of  
16 abeyance by saying that, no, those are not met.

17 BOARD MEMBER NADEAU: Mark, if you want, I'll  
18 take a shot at it.

19 BOARD MEMBER ZANE: Let me, let me try one more  
20 time.

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

22 BOARD CHAIRMAN SPENCER: Please.

23 BOARD MEMBER ZANE: That we find that a  
24 conflict of interest with this particular registrant  
25 does not exist in accordance with the terms of



1 subsection 2 of NAC 648.338 --

2 MS. PLATT: No.

3 BOARD MEMBER ZANE: -- and there appears --

4 MS. PLATT: Wrong NAC section. We're at 330.

5 BOARD MEMBER ZANE: No, I --

6 MS. PALMER: 648.330, NAC.

7 MS. PLATT: You don't need to cite to the

8 section.

9 BOARD MEMBER ZANE: Jim, do you want to give it  
10 a shot?

11 BOARD MEMBER NADEAU: Sure.

12 My motion is that in regards to the exemption  
13 requested by Luke Gardner, that the determination of the  
14 Board is in regards to NAC 648.330, subsection 4,  
15 subsection (c), that there is no conflict of interest,  
16 and it's determined there does not appear to be any  
17 possibility to use his or her position with the public  
18 employer for personal advantage for private activities.

19 BOARD MEMBER ZANE: I'll second it for the  
20 discussion.

21 BOARD CHAIRMAN SPENCER: Second for discussion.  
22 Further discussion?

23 BOARD MEMBER ZANE: The provisions of NAC  
24 648.330 have to do specifically with a licensee. I  
25 understand that there's a -- some issue under 233B. But

1 the definitions, as proscribed in NRS and NAC 648,  
2 clearly hold that that only applies to a licensee, not a  
3 registrant.

4 BOARD MEMBER NADEAU: Okay. My mistake. I'm  
5 sorry. 648.330, subsection 1. Okay. So I just, I  
6 cited the wrong NAC, but it's 648.330, subsection 1.

7 BOARD MEMBER ZANE: I still have the same. I  
8 think, 330 only applies to a licensee.

9 MS. PLATT: And so for purposes of --

10 BOARD MEMBER ZANE: The entire, the entire  
11 statute.

12 BOARD MEMBER NADEAU: But under Chapter 233B,  
13 the citation is that licensee -- and licensee means the  
14 whole or part of any agency permit, certificate,  
15 approval, registration, charter or similar form of  
16 permission required by law. So licensee in this, under  
17 233B.034, would make him applicable to our --

18 BOARD MEMBER ZANE: Doesn't -- I'm sorry, Jim.

19 BOARD MEMBER NADEAU: No, I think --

20 BOARD MEMBER ZANE: Wouldn't that only come  
21 into play in an administrative proceeding that's  
22 adversarial?

23 MS. PLATT: Yeah, I think, there is some  
24 argument to be made there. But you can go back to the  
25 definition of licensee in your statute; 648.010, I

1 believe, is the statute, which says that a license --  
2 0069, excuse me, means a license or certificate issued  
3 pursuant to the provisions of this chapter, or any  
4 person -- and then 007 is a licensee, any person who  
5 holds a license or certificate issued.

6           You don't issue certificates. You issue work  
7 registration. So, I think, there's a slight disconnect  
8 in the statutes from when it was changed in 2009 when  
9 you guys took over those registrations. So it should --  
10 you can read into this that registrations is part of  
11 that.

12           BOARD MEMBER ZANE: I don't mean to be picky  
13 here, but I seem to recall many, many times where  
14 somebody has come in and defended themselves by thinking  
15 that their registration entitled them to licensure and a  
16 licensure-type activity. And I'm afraid that if we walk  
17 down this route, it will amplify that misunderstanding  
18 that a registrant has licensee authority.

19           MS. PALMER: I share those concerns.

20           MS. PLATT: So you could craft a regulation  
21 that says -- you can amendize this later. But you can  
22 craft a regulation that says for the purposes of that  
23 statute. Or you could add the term registration to  
24 these particular provisions as well, if you are -- but  
25 that's, you know, that's a regulation process. That

1 takes a bit of time.

2 BOARD MEMBER ZANE: Could we take a five-minute  
3 break, please.

4 MS. PLATT: Sure.

5 BOARD CHAIRMAN SPENCER: Take a break.

6 \* \* \* \* \*

7 (A break was taken, 9:59 to 10:12 a.m.)

8 \* \* \* \* \*

9 BOARD MEMBER ZANE: Mr. Chairman, I have one  
10 more question.

11 BOARD CHAIRMAN SPENCER: Okay.

12 BOARD MEMBER ZANE: What's the employer's name  
13 again?

14 MR. DuPUIS: HS Brands International. Joe  
15 DuPuis. License number is 1182.

16 BOARD MEMBER ZANE: And, Mr. Gardner, that is  
17 the only --

18 MR. GARDNER: QSI also.

19 BOARD MEMBER ZANE: QSI also.

20 I'm -- if I can make a motion.

21 BOARD CHAIRMAN SPENCER: All right.

22 MS. PLATT: There is a motion on the table, is  
23 there not?

24 BOARD MEMBER ZANE: Oh, I'm sorry. Member  
25 Nadeau's motion.

1 MS. PLATT: Yeah.

2 BOARD MEMBER ZANE: Seconded for the  
3 discussion.

4 MS. PLATT: Yeah.

5 BOARD MEMBER NADEAU: I made the motion. We  
6 have a motion on the table and up for discussion. You  
7 seconded it for discussion.

8 BOARD MEMBER ZANE: Thank you.

9 BOARD CHAIRMAN SPENCER: Could you refresh our  
10 memory as to what the motion was.

11 (The Court Reporter read back the motion made  
12 by Board Member Nadeau; see page 49, lines 12-18  
13 herein.)

14 BOARD MEMBER NADEAU: And I amended the motion  
15 to cite the appropriate NAC, and that was 648.330,  
16 subsection 1.

17 BOARD CHAIRMAN SPENCER: All right. How does  
18 that stack up against your motion?

19 MS. PALMER: I need to add something to the  
20 discussion. If you look at NAC 648.3385, that's  
21 referring to registered employees. And by definition, a  
22 registered employee is an unlicensed person.

23 So if you now look at 648.338 and read  
24 employment of registered person, it says a licensee may  
25 not employ a registered person who is or becomes

1 employed as a peace officer, unless there's an  
2 exemption.

3           So, I think, we're back to the licensee in this  
4 case needs to request an exemption to hire Mr. Gardner,  
5 because he's a peace officer, because he's employed in  
6 the PERS system, works for the state. I think, that's  
7 where we're at.

8           If you read that section, the NAC 648.3385, in  
9 conjunction with 648.338, I think, that clarifies the  
10 position that we're in. So the question is whether or  
11 not the Board can act on this today, because the actual  
12 licensee is here, if he wants to request that exemption.

13           MS. PLATT: I would just turn your attention to  
14 648.334, which defines nonlicensed person and person.  
15 And so, I think, when it's talking about employment of  
16 an unlicensed person, I think, you kind of need to tie  
17 back that definition. And so that, I think, what it's  
18 saying is that that person needs to be registered as  
19 well.

20           MS. PALMER: Well, that definition only applies  
21 to 648.060.

22           MS. PLATT: Okay.

23           MS. PALMER: And, I think, 648.3385 makes it  
24 clear, because the title is Employment of unlicensed  
25 persons: registrations requirements. So it's clear that

1 the registration requirements relate to people that are  
2 not licensed. So, I think, that's --

3 MS. PLATT: So then it has to be the licensee  
4 which requests the exemption.

5 MS. PALMER: Which is how we started this day.  
6 And that's absolutely correct. So the question is, can  
7 we act on that today?

8 MS. PLATT: Not the way it's currently written.

9 BOARD MEMBER NADEAU: Mr. Chair, I withdraw my  
10 motion.

11 BOARD MEMBER ZANE: I withdraw my second.

12 BOARD CHAIRMAN SPENCER: All right.

13 BOARD MEMBER ZANE: Mr. Chairman, I would like  
14 to make a motion.

15 BOARD CHAIRMAN SPENCER: All right.

16 BOARD MEMBER ZANE: Mr. Chairman, I'd move that  
17 this matter be continued to the next quarterly meeting  
18 of the Board for proper presentation at that time.

19 BOARD MEMBER NADEAU: Second.

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

22 (Board members said "aye.")

23 BOARD CHAIRMAN SPENCER: Opposed?

24 Hearing none.

25 We're going to have to postpone it till the

1 next quarterly meeting to get this done the proper way.

2 I'm sorry about that.

3 MR. GARDNER: Three months from now?

4 BOARD CHAIRMAN SPENCER: Yeah.

5 MS. PALMER: And to clarify, he is still

6 registered, but he's not employed by anybody.

7 BOARD CHAIRMAN SPENCER: Right.

8 MS. PLATT: He's employed.

9 MS. PALMER: And the moment you became employed  
10 with anybody, it would be a provisional registration.

11 MR. GARDNER: Okay.

12 BOARD CHAIRMAN SPENCER: All right. Thank you.

13 MR. DuPUIS: We'll be in touch, Mr. Gardner.

14 MR. GARDNER: Thank you.

15 I can leave now, right?

16 MR. INGRAM: Yes.

17 BOARD CHAIRMAN SPENCER: Number six, Rogan

18 Ison.

19 MR. ISON: Present.

20 BOARD CHAIRMAN SPENCER: Who has this case?

21 MR. YARBOROUGH: This is mine.

22 BOARD CHAIRMAN SPENCER: All right.

23 MR. YARBOROUGH: Investigator Yarborough.

24 BOARD CHAIRMAN SPENCER: All right. Can you

25 explain it to me, Bruce?



1 MR. YARBOROUGH: He applied for a registration  
2 for a work card. And his SCOPE and local court records  
3 show that he was arrested on April 1st, 2010, for luring  
4 a child with the use of technology for sexual conduct.  
5 And he pled to a felony on October 4th of 2010 and was  
6 found guilty of luring children or mentally ill persons  
7 with the use of technology with the intent to engage in  
8 sexual conduct.

9 I talked to Sergeant Brian Zana, Nevada Parole  
10 and Probation, sex offender unit. He told me that  
11 Mr. Ison was caught by the Henderson P.D. in an  
12 undercover operation to identify potential sex  
13 offenders. He was communicating with whom he thought  
14 was a 15-year-old female, and he offered her a hundred  
15 dollars to set up a meeting, a one-on-one, for adult  
16 fun. She told him that she was only 15 and asked him if  
17 he had any concerns about that. And he said, no, he  
18 didn't. And she asked him if it would be safe. And he  
19 said, yes, it'll be safe. She asked him if he had  
20 condoms, and he said, yes, and the adult fun would be  
21 safe. So they set up a meeting. And he did a drive-by  
22 and looked at a young woman that was there, but didn't  
23 stop or talk to her and went home. So Henderson police  
24 contacted him again on the Internet, set up another  
25 meeting. And when he drove into the area, he was

1 arrested.

2 He was placed on probation with two pages of  
3 conditions. And on January 13th of 2014, he went back  
4 to court, and the felony adjudication was withdrawn, and  
5 he pled guilty to a gross misdemeanor of conspiracy to  
6 commit battery. And that was on January 13th of 2014.

7 So even now the felony has been withdrawn. And  
8 in my letter I told him that I was denying his card  
9 because he was convicted of the felony. Mr. Zana from  
10 probation said that he is not considered a felon and  
11 he's not required to register as a sex offender. But he  
12 does have a gross misdemeanor conviction in January,  
13 which, I think, clearly falls under moral turpitude  
14 because of the circumstances.

15 So I feel justified in denying his work card.

16 BOARD CHAIRMAN SPENCER: Okay. Mr. Ison, would  
17 you like to respond to that?

18 MR. ISON: Yes. I know I did make a mistake  
19 back in the day, you know, but I was going through a lot  
20 back then. I was a police -- approved for the Las Vegas  
21 Metro Police Department. I was in the police academy.  
22 I ended up shattering my ankle. Since then, I had seven  
23 surgeries since then to get it fixed, and the last one  
24 being just last May, which I had an ankle fusion done on  
25 the ankle and stuff.

1           During that time, I was going through a  
2 severely hard time. Financially, I lost my house. I  
3 lost my fiance' at the time. But now she is my wife  
4 now. And then I am, I'm losing my son. My son had to  
5 go back to live with his mother because I can no longer  
6 financially support him. I was in a deadbeat time  
7 during that time.

8           Since then, I got another house. Me and my  
9 fiance' got back together, we got married. I went back  
10 to court, and I got custody of my son. And he is going  
11 to live with us and go to Foothill High School, where  
12 he'll be coming back, reside at my house, which I  
13 currently reside at now.

14           Yes, I made a mistake back in the day. But  
15 I've come a long way since then. And I totally changed  
16 my life back around. I got a college degree in criminal  
17 justice, which I really want to use. And I'm just  
18 trying to get my life back on track.

19           BOARD CHAIRMAN SPENCER: Board questions?

20           BOARD MEMBER NADEAU: Mr. Chair?

21           BOARD CHAIRMAN SPENCER: Yes?

22           BOARD MEMBER NADEAU: Was this disclosed on his  
23 application?

24           MR. YARBOROUGH: Yes.

25           BOARD MEMBER NADEAU: Thank you, Mr. Chair.

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

2 Any further Board questions?

3 MR. ISON: I'd like to make a note. I have  
4 seen -- I went through two years of counseling, too, for  
5 this, and I -- with Marsha Lee. She's appointed by the  
6 state. And I've seen her for about two years. And  
7 that's been completed for court and everything as far as  
8 that goes.

9 BOARD CHAIRMAN SPENCER: Yes?

10 BOARD MEMBER ZANE: Did you -- were you  
11 represented by counsel?

12 MR. ISON: What do you mean?

13 BOARD MEMBER ZANE: Did you have a lawyer?

14 MR. ISON: For the -- you mean back when all  
15 this happened?

16 BOARD MEMBER ZANE: Yes.

17 MR. ISON: Yes. My lawyer was Mr. Farrentine.

18 BOARD MEMBER ZANE: Okay. Did he do a decent  
19 job for you?

20 MR. ISON: I think, he did, yes. I mean I --  
21 you know, he is the one that convinced me to take the  
22 plea bargain and stuff like that, so.

23 BOARD MEMBER ZANE: Okay.

24 MR. ISON: You know, I just kind of -- you  
25 know, when you have someone representing you, you kind

1 of put your faith in them. So I just kind of did what  
2 he told me to do, basically.

3 BOARD MEMBER ZANE: But at sentencing, the  
4 judge canvassed you, and you understood everything and  
5 decided it was in your best interest to plead guilty to  
6 what -- the plea?

7 MR. ISON: Under what my attorney was telling  
8 me --

9 BOARD MEMBER ZANE: Yes.

10 MR. ISON: -- I thought it was in my best  
11 interest to accept, you know, to plead to what they  
12 wanted me to plead to. And --

13 BOARD MEMBER ZANE: Okay. The facts of the  
14 case, substantially, were they correct?

15 MR. ISON: No. No. A lot of the things, like  
16 some of the things that he -- I kind of wish I would  
17 have brought the transcript with me. But since all my  
18 charges have been dropped, and I kind of got this behind  
19 me, I, you know, no longer have them, from the  
20 transcript, that he read, were incorrect.

21 During that time, all that was happening, and  
22 to totally be honest, and I even told this into the  
23 court, you know, I figured out that it was an undercover  
24 officer that was -- you know, that I was talking to.  
25 And then it became kind of like a back-and-forth thing

1 to see how far I could push it. Like I said, at that  
2 time, I was in a rock bottom in my life, and I didn't  
3 care about anything. I wasn't concerned about what was  
4 going to happen in the future or with the consequences  
5 of the mistake what I was making. So then it just  
6 became like, you know -- you know, I was so depressed.  
7 And that's the only thing that kind of like added  
8 excitement during that time was to see how far I could  
9 push this issue.

10 I mean the whole issue, the thing is, when it  
11 said I did a drive-by and stuff, that's kind of  
12 incorrect. I parked across the school right next to the  
13 undercover officer and looked right at him. I know, I  
14 knew at that time that it was them. So then it became a  
15 game to see how far I, you know, could push it during  
16 that time.

17 Like I said, that was back a long time ago and  
18 stuff, and I got most of that behind me. And all I'm  
19 trying to do is move forward with my life and get on  
20 with it.

21 BOARD MEMBER ZANE: All right. What, and you  
22 say you were in the academy during that period?

23 MR. ISON: No, I -- I had -- before this, when  
24 I shattered my ankle and stuff. I couldn't be accepted  
25 back in the academy.

1 BOARD MEMBER ZANE: Okay. So when were you in  
2 the academy?

3 MR. ISON: Back in the end of '06.

4 BOARD MEMBER ZANE: '06. And this occurred  
5 when?

6 MR. ISON: This happened in, I think --

7 MR. YARBOROUGH: April of 2010.

8 MR. ISON: No, it happened before that,  
9 because --

10 MR. YARBOROUGH: That's when you were arrested.

11 MR. ISON: Well, that's the date that they --  
12 that they, you know, did the charges and stuff. It  
13 happened like a year before that. And my lawyer and  
14 stuff was going back and forth. And I don't know the  
15 legal stuff that they do, but it just took about a year  
16 for it, you know, to convict, the conviction and stuff  
17 and the plea bargaining and all that stuff.

18 BOARD MEMBER ZANE: Okay.

19 MR. ISON: What happened back in '06, when I  
20 shattered my ankle, I couldn't walk for about a year and  
21 a half. And then, when I tried to get back in the  
22 police force, I was denied because of what my doctor  
23 said, physical limitations on me and stuff.

24 BOARD MEMBER ZANE: Okay. Now, what level  
25 were -- how long had you been in the academy?

1 MR. ISON: I was in the academy for about a  
2 month.

3 BOARD MEMBER ZANE: A month?

4 MR. ISON: Yeah. And then I was going over --  
5 during field training one day, I went over a six-foot  
6 wall.

7 BOARD MEMBER ZANE: Okay.

8 MR. ISON: And I fell off the top of it.

9 BOARD MEMBER ZANE: Okay.

10 BOARD MEMBER NADEAU: Mr. Chair?

11 BOARD CHAIRMAN SPENCER: Yes?

12 BOARD MEMBER NADEAU: I do have a follow-up  
13 question, and that is, maybe I heard maybe -- sir, maybe  
14 you mentioned this, but I didn't hear it. What was the  
15 motivation to go back before the court in January; how  
16 did you end up back in court where the ultimate  
17 conviction was reduced down to -- was it a gross  
18 misdemeanor or a misdemeanor?

19 MR. ISON: It ended up being -- is he talking  
20 to me? It ended up being the charges were dropped down  
21 to a gross misdemeanor.

22 BOARD MEMBER NADEAU: What got you back into  
23 the court to -- for that consideration?

24 MR. ISON: That was part of the plea bargain  
25 that my lawyer had agreed with, with them, back when



1 the -- when he first did the first conviction. As long  
2 as I successfully completed probation and stuff like  
3 that, that they would drop the charges down to a gross  
4 misdemeanor, and I wouldn't have to be -- you know, I  
5 wouldn't have to register or anything like that anymore.

6 MR. YARBOROUGH: The court records show he  
7 didn't go back in court; his attorney came back and did  
8 it for him.

9 MR. ISON: Yes, my attorney went back.

10 BOARD MEMBER NADEAU: Okay. And as I'm  
11 understanding, you've completed all probation. You have  
12 no suspended sentence or anything of that nature?

13 MR. ISON: No, sir. I have all the documents  
14 right here if you'd like to see it.

15 BOARD MEMBER NADEAU: I just -- no, I don't  
16 need to see anything. I just want to clarify that you  
17 are no longer under the charge of the court, regardless  
18 of whether it's probation or suspended sentence or  
19 anything of that nature?

20 MR. ISON: No, sir. All that's been completed,  
21 and it's all been dropped down to a gross misdemeanor,  
22 conspiracy to commit battery.

23 BOARD MEMBER NADEAU: With time served?

24 MR. YARBOROUGH: I concur with that. It's  
25 over.

1 BOARD MEMBER NADEAU: Thank you, Bruce.

2 Thank you, Mr. Chair.

3 BOARD CHAIRMAN SPENCER: All right. I'll  
4 entertain a motion.

5 What job are you attempting to get now?

6 MR. ISON: I'm wanting to get a security job,  
7 something I can use my college degree for. I was  
8 employed at the Hard Rock, and I want to kind of go back  
9 there and maybe be a security officer there or something  
10 like that.

11 BOARD CHAIRMAN SPENCER: All right. If there's  
12 no further questions from the Board, I will entertain a  
13 motion.

14 BOARD MEMBER NADEAU: Just let me -- Mr. Chair,  
15 if I may clarify? For him to work --

16 BOARD CHAIRMAN SPENCER: Certainly.

17 BOARD MEMBER NADEAU: -- at the Hard Rock or  
18 any other casino, he is not, he's not required to have a  
19 work card, is he, from us?

20 MR. INGRAM: No.

21 MR. YARBOROUGH: That's correct, he is not.  
22 Gaming's a different industry. They have different  
23 regulations.

24 BOARD MEMBER NADEAU: No, that's what I  
25 thought. So, sir, when you mentioned that you want to

1 go to the Hard Rock or something like that, you don't  
2 need a card, a registration card from PILB for that.

3 MR. ISON: Well, for other like security  
4 companies and stuff like that and like construction  
5 sites and stuff, you know, I was --

6 BOARD MEMBER NADEAU: No, I understand.

7 MR. ISON: I was looking through like the --  
8 you know, I was looking through like the newspaper and  
9 stuff like that, and there are jobs that do require  
10 that. When I read them, it says you need a work card or  
11 a guard card from the P.I. department and stuff. And I  
12 want to apply with them, but I can't until I get this  
13 resolved. I'm not specifically limited to the Hard Rock  
14 or a casino. I'd just like to, you know, maybe get into  
15 some kind of line like security.

16 BOARD MEMBER NADEAU: Mr. Chair, I would make a  
17 motion if you would accept it.

18 BOARD CHAIRMAN SPENCER: Please.

19 BOARD MEMBER NADEAU: Mr. Chair, I'd make the  
20 motion, in regards to Rogan Ison, that we sustain the  
21 denial of the work card.

22 BOARD MEMBER ZANE: Second.

23 BOARD CHAIRMAN SPENCER: I have a motion and a  
24 second to sustain. All in favor, signify by saying  
25 "aye."

1 (Board members said "aye.")

2 BOARD CHAIRMAN SPENCER: Okay. Opposed?

3 Hearing none.

4 I'm sorry, but we're going to have to deny at  
5 this point.

6 BOARD MEMBER NADEAU: Mr. Chair, if I may.

7 BOARD CHAIRMAN SPENCER: Yes.

8 BOARD MEMBER NADEAU: I should have, I should  
9 have mentioned this during the discussion piece, but  
10 we've already voted on it. As early as January of this  
11 year, Mr. Ison was convicted of grand larceny, or not  
12 grand larceny, but a gross misdemeanor. I feel that  
13 that --

14 BOARD CHAIRMAN SPENCER: Yes.

15 BOARD MEMBER NADEAU: -- applies as far as the  
16 criteria within our jurisdiction for denial of the work  
17 card, particularly with the associated related charges.

18 And I -- Mr. Ison, I hope that you can keep  
19 moving forward. But you need time to --

20 MR. ISON: I need to, I try to move forward,  
21 but I keep getting rejected. Every time I try to take a  
22 step forward, I'm knocked two steps backwards. And it's  
23 not fair.

24 BOARD MEMBER NADEAU: I understand.

25 MR. ISON: If there was something wrong with

1 me, I wouldn't be here today in front of you guys to  
2 take the embarrassment that you guys give me for this.  
3 All I want to do is get my life back on track and for my  
4 family. And people like you sit here, and you judge me  
5 for something I made a mistake for, and we're all  
6 hearing. And you sit there and you judge me. And you  
7 forget about me. And, you know, you go home to your  
8 house and family.

9 That's all I want to do is work and get a job  
10 and support my wife and my son. That's all I want. And  
11 everybody can stand here and point fingers. It's not  
12 fair.

13 Have a good day.

14 BOARD MEMBER ZANE: Thank you for coming.

15 BOARD CHAIRMAN SPENCER: I hope he doesn't have  
16 anything in the car.

17 Deanna Boyd? I don't see a Deanna Boyd.

18 MS. IRIZARRY: She's not here.

19 BOARD CHAIRMAN SPENCER: Not here. I'll  
20 entertain a motion on her.

21 BOARD MEMBER ZANE: Could we trail it?

22 BOARD CHAIRMAN SPENCER: We can trail it to --  
23 to the end of today, you mean?

24 BOARD MEMBER ZANE: Yes, please.

25 BOARD CHAIRMAN SPENCER: All right. Let's

1 trail it to the end of the day, then.

2 Yolanda Peters.

3 MS. PETERS: Yes, sir.

4 BOARD CHAIRMAN SPENCER: Hi. Come on up and  
5 have a chair.

6 MS. PETERS: Good morning, Board.

7 BOARD CHAIRMAN SPENCER: Good morning.

8 And who has this one?

9 MR. YARBOROUGH: This is mine. Investigator  
10 Yarborough.

11 BOARD CHAIRMAN SPENCER: Can you give us a  
12 little bit of background, then?

13 MR. YARBOROUGH: Ms. Peters was first issued a  
14 guard card by Metro in December of 2003. It was renewed  
15 again in 2009, to expire April 10th of 2014. She did  
16 not reply, or apply for a timely renewal. So when she  
17 did apply in August, it was like a new application.

18 She completed the application. And when it  
19 came to the arrest history part, she furnished her  
20 complete arrest history from California, which shows a  
21 battery conviction prior to an arrest for possession of  
22 a firearm. She was sentenced to 60 days in jail, three  
23 to six months probation.

24 And then she came back into court. This was  
25 in -- I'm trying to find the date. Anyway, she came back

1 into court in Lompoc. And the charge was dismissed  
2 under the California Penal Code, Section 1203.4. And  
3 this is a copy of the dismissal here. And there's a  
4 paragraph right under the dismissal part that says "This  
5 order does not release Yolanda Peters of her obligation  
6 to disclose a conviction in response to any criminal  
7 question contained in any questionnaire or application  
8 for public office for licensure by any state or local  
9 agency for contracting within the California state  
10 lottery."

11 We have had probably hundreds of people come  
12 through our processing who have had their charge --  
13 usually it's a youthful drug offender that gets their  
14 charge dismissed under this California Penal Code  
15 1203.4.

16 So we asked DAG Platt to review that for us.  
17 And she concluded that even though it's dismissed, it's  
18 not sealed, it's not expunged, the history is still  
19 there, it could still be used in a three-strike  
20 computation and for other purposes and for licensure.  
21 And it was her conclusion that if the charge was a  
22 charge for which the guard card would be denied, that  
23 even though it was dismissed under 1203.4, we were still  
24 obligated by Nevada law to deny the card. So that's  
25 what I did.

1           And I sent an e-mail to Ms. Peters first. I  
2 sent her a registered letter. It came back. She told  
3 me I had the wrong address. I sent it to the address  
4 that she corrected. It still came back. And she  
5 finally came in the office to talk to us. And I handed  
6 her the letter. So she finally got what we had tried to  
7 send to her much sooner.

8           And she -- it was explained to her that this  
9 was the way Nevada law operated and that the Board was  
10 prohibited from issuing her a guard card with the  
11 arrest. She wanted to appeal it. And so here she is  
12 today.

13           BOARD CHAIRMAN SPENCER: Okay. Ms. Peters,  
14 would you like to tell us something about the situation.

15           MS. PETERS: Yes, sir. I was a federal  
16 correctional officer over 10 years ago. I had been  
17 threatened by families of inmates. And as I lived  
18 alone, I decided to buy a gun, which was registered.

19           I was not, never, ever given any jail time  
20 whatsoever or put on probation. I was told the  
21 situation was dismissed. I have never tried to hide the  
22 situation that I was arrested, I mean that I was a -- I  
23 was -- the offense was possession of a firearm, never  
24 tried to hide it. All the years that I've been here,  
25 I've always let the sheriff's department know this, as I



1 did with this application.

2           That's why I couldn't understand why he put  
3 down the denial was because I did not put down the  
4 offense, which I knew I did. I also made copies and put  
5 the copies in there. So I don't know why he had stated  
6 that I did not put the offense down, when I did.

7           Because I have never not done it. Because I  
8 want the work. I keep work. And I've never had, had  
9 had no offenses since that. I follow the law. I've  
10 always been able to work. And this is impeding me from  
11 working. I've had numerous offers of employment. But  
12 because of this situation, I'm unable to. I'm in the  
13 process of losing my home, becoming homeless because of  
14 this.

15           So I do not know why I was told that I did not  
16 put the information down or, for that matter, I did  
17 probation and jail time, when none of that ever  
18 happened, sir.

19           I was a federal correctional officer, like I  
20 said, for over 10 years. I went into court. I never  
21 pled. My weapon, like I said, was registered. That's  
22 why it wasn't put down illegal. Because it wasn't. And  
23 it's never been used in any crime. I just used it for  
24 protection. I had it for protection, but never had it  
25 been fired for any reason in a crime or whatsoever. I

1 just had it.

2 And all I want to do is go back to work. I  
3 don't want to become homeless. I'd like to have dental  
4 work done probably. But I just want to go back to work.  
5 And I have not done anything since that, never have been  
6 denied any of my cards from the sheriff's department,  
7 and always in my paperwork put down the arrest.

8 MR. YARBOROUGH: The reason for that is that  
9 you guys changed the law in 1999 to prohibit to issuing  
10 the people who are convicted of an offense using a  
11 dangerous weapon, felony or misdemeanor, any level. So  
12 when she got the card from the sheriff's department,  
13 that wasn't the situation. In 1999, the law changed.  
14 And she comes in, in 2014, with this conviction for the  
15 firearm, and we can't issue the work card.

16 MS. PETERS: Excuse me, sir. But wouldn't a  
17 person hitting a -- a person with a car, couldn't that  
18 be considered a dangerous weapon? Would you deny them  
19 if a person stepped out in front on the road and  
20 actually got hit by the car? A car can be considered a  
21 dangerous weapon. Any weapon can be considered a  
22 dangerous weapon. I did not use this weapon in any way  
23 for any offense.

24 MR. YARBOROUGH: Which was dismissed.

25 MS. PETERS: And I just -- just for protection.

1 Yes. And it was a misdemeanor and later dismissed. Not  
2 only that, the gun laws in Nevada state it is not  
3 against the law to possess a weapon. So how am I being,  
4 you know, stopped from getting a card when it's not even  
5 against the law here in Vegas to possess a weapon?

6 MR. YARBOROUGH: Well, that's your  
7 interpretation.

8 MS. PETERS: Well, that's what the gun law  
9 says.

10 MR. YARBOROUGH: That's not.

11 BOARD CHAIRMAN SPENCER: Board questions?

12 BOARD MEMBER ZANE: Was there disclosed -- I'm  
13 sorry.

14 BOARD MEMBER NADEAU: No.

15 BOARD MEMBER ZANE: Was there a disclosure of  
16 the violation on the application?

17 MR. YARBOROUGH: Yeah. She gave me a printout  
18 of her arrest history from California. And she gave me  
19 a copy of the 1203.4 dismissal, which was dated in 2003.  
20 And I was trying to find out when the original gun  
21 charge was. But that's way back in 2000. So it took  
22 her three years before she went back and actually got it  
23 dismissed, which is not unusual.

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

25 MR. YARBOROUGH: And even though she says she

1 didn't do any time, the sentence was still for six  
2 months, and it was suspended. And, I think, the records  
3 indicate that she had three years probation. Whether  
4 she checked in with the probation officer or not, the  
5 court thought she was on probation.

6 BOARD CHAIRMAN SPENCER: Hm. Any further Board  
7 questions?

8 BOARD MEMBER NADEAU: May I, Mr. Chair?

9 BOARD CHAIRMAN SPENCER: Yes.

10 BOARD MEMBER NADEAU: Thank you.  
11 When did this conviction occur?

12 MS. PETERS: Fourteen years ago, sir.

13 MR. YARBOROUGH: 2000.

14 BOARD MEMBER NADEAU: What year? 2000?

15 MR. YARBOROUGH: Yes.

16 BOARD MEMBER NADEAU: Mr. Chair, we have  
17 encountered this before, since we took over the  
18 licensure or the registration in, what, 2009, I think it  
19 was, where we've encountered where a law enforcement  
20 agency has issued a work card to someone who conceivably  
21 did not meet our qualifications, and they ignored those  
22 and just issued a work card. This seems to be one of  
23 those circumstances.

24 And, Bruce, if I'm understanding correctly, she  
25 was initially issued a work card in 2003, a renewal in

1 2009, and then she came to our attention in 2014. Am I  
2 correct?

3 MR. YARBOROUGH: That's correct.

4 BOARD MEMBER NADEAU: The timeline's correct?

5 MR. YARBOROUGH: Yes.

6 BOARD MEMBER NADEAU: Thank you.

7 Well, this, this is a tough situation for us.  
8 Because she's been working for 10 years. And if it  
9 wasn't for our taking over the registrations, she'd  
10 probably still be licensed. You know, this is a tough  
11 situation for us.

12 From my perspective, as one member, the fact  
13 that -- I understood that it was a conviction, but  
14 ultimately it was dismissed. And understanding what  
15 Bruce said about the statute, 1203.4 still allows it to  
16 be used for consideration on applications.

17 But this is, this is where -- you know, this,  
18 we have a real conflict here.

19 BOARD CHAIRMAN SPENCER: Yeah.

20 MS. PETERS: I also became armed in 2004 out  
21 here.

22 BOARD CHAIRMAN SPENCER: I think, something  
23 should just be noted that for the entire time that she  
24 has been working, she has -- you've not been in any kind  
25 of trouble?

1 MS. PETERS: No.

2 BOARD MEMBER ZANE: Mr. Chairman, I would defer  
3 to -- and I don't know that we have any legal option if  
4 counsel has directed that the denial follows the  
5 statute. I don't know that there's -- I mean I disagree  
6 as well, and this is one of those statutes that, I  
7 think, we need to address in the Legislature. Because  
8 although Investigator Yarborough blamed us, it was the  
9 Legislature that created it.

10 MR. YARBOROUGH: The Legislature.

11 BOARD MEMBER ZANE: Yeah, if it's a legal  
12 determination about the conviction and whether or not  
13 that's prohibitive, end of story. That's one thing. If  
14 we have discretion to consider the appeal and take  
15 evidence and information and make some sort of  
16 alternative finding, that's another issue. But.

17 MS. PLATT: Are you asking me?

18 BOARD MEMBER ZANE: Investigator -- well, I'm  
19 trying to get there, yeah. Yes.

20 MS. PLATT: We counsel you on what the statute  
21 says. And so I have counseled them in regards to what,  
22 when someone brings in that, that's a dismissal under  
23 that section, because it clearly states that they have  
24 to disclose, and you can use it.

25 You have -- you can listen to our counsel if

1 you like. I could opine on that. But this is a unique  
2 situation, most definitely. Because, I think, if she  
3 had applied for the renewal in the appropriate time, you  
4 likely would not be sitting here addressing this.

5 So, Raelene?

6 MS. PALMER: No, I understand and agree with  
7 what you've said. Although we would have the ability to  
8 look at it, because any time somebody comes up for  
9 renewal, it's a provisional registration.

10 MS. PLATT: 648.1493 is the statute.

11 MS. PALMER: As far as what are you directing  
12 me to?

13 MS. PLATT: So the reason why she was denied  
14 was because the applicant had been convicted of or  
15 entered a plea of nolo contendere to a felony or a crime  
16 involving moral turpitude or the illegal use or  
17 possession of a dangerous weapon. That's why she was  
18 denied, because she has a conviction for the  
19 possession -- was it possession?

20 MS. PETERS: Yes. Misdemeanor.

21 MS. PLATT: Correct. Yeah, it refers to crime,  
22 and so it doesn't -- the felony piece is not attached to  
23 that particular aspect.

24 MR. INGRAM: And it actually states the same  
25 thing in NRS 648.060.

1 MS. PLATT: M-hm (affirmative).

2 MR. INGRAM: So we have two different statutes  
3 that say the same thing.

4 MS. PLATT: Correct.

5 MS. PALMER: Colleen?

6 MS. PLATT: Yes?

7 MS. PALMER: So the statute says that they must  
8 do it if you meet these requirements. It's silent on  
9 the Board's discretion if you don't meet the  
10 requirements.

11 MS. PLATT: Right. So if you don't meet them,  
12 you could -- well, we could talk off-line about what  
13 that means. But I have counseled them that if they  
14 don't meet them, it's a denial. But they clearly have  
15 the ability to ignore our counsel and put on the record  
16 why they're deviating.

17 MR. INGRAM: That would help rewrite history.

18 BOARD MEMBER ZANE: With that in mind, I'd be  
19 prepared to make a motion.

20 BOARD CHAIRMAN SPENCER: All right.

21 MS. PLATT: If you do --

22 BOARD MEMBER ZANE: Mr. Chairman, I move that  
23 Yolanda Peters, who applied for registration, was  
24 denied, that that denial be overturned and she be issued  
25 a work card based upon the finding that we're not



1 absolutely barred, and we have discretion in the matter,  
2 notwithstanding previous denials for the same offense.

3 MS. PLATT: I want you to know --

4 BOARD MEMBER ZANE: That's the motion.

5 MS. PLATT: -- it's not that we're saying you  
6 have discretion. You have discretion to either listen  
7 to our counsel or not. But when you go down this path,  
8 you open the door to other types of situations like  
9 this.

10 MS. PALMER: Can we take a break?

11 MS. PLATT: Sure.

12 BOARD CHAIRMAN SPENCER: Let's take a break.

13 \* \* \* \* \*

14 (A break was taken, 10:53 to 11:29 p.m.)

15 \* \* \* \* \*

16 BOARD CHAIRMAN SPENCER: I think, we were on a  
17 motion, the discussion on the motion.

18 MS. PLATT: You have no second.

19 BOARD MEMBER NADEAU: I don't think we had a  
20 second, Mr. Chair.

21 BOARD CHAIRMAN SPENCER: Okay.

22 BOARD MEMBER ZANE: I'll withdraw my motion.

23 BOARD CHAIRMAN SPENCER: All right. All right.  
24 Any questions from the Board?

25 BOARD MEMBER NADEAU: I'm sorry. Mark, did you

1 withdraw your motion?

2 BOARD MEMBER ZANE: I did.

3 BOARD MEMBER NADEAU: You withdrew your motion?

4 BOARD MEMBER ZANE: Yes, sir.

5 If I could, I'd like to ask the applicant a  
6 couple more.

7 MS. PLATT: Sure.

8 BOARD MEMBER ZANE: Ma'am, can you explain or  
9 talk to me a little bit about the original charge, how,  
10 what happened there, how did that happen?

11 MS. PETERS: The possession of the weapon?

12 BOARD MEMBER ZANE: Yes.

13 MS. PETERS: Yes. I was coming home from work,  
14 got stopped, asked could he check my car. I said,  
15 "Yes." He said, "Do you have any weapons?" I said,  
16 "Yes." Because I did not know that you were supposed to  
17 have a concealed weapon ID for a concealed weapon.  
18 That's what happened. I was not arrested.

19 BOARD MEMBER ZANE: What was the reason for the  
20 stop?

21 MS. PETERS: I was going a little bit too fast.

22 BOARD MEMBER ZANE: So it was speeding?

23 MS. PETERS: Yes, sir. But I didn't get a  
24 speeding ticket. But, yeah, but that's the reason that  
25 he stated.

1 BOARD MEMBER ZANE: Okay.

2 MS. PALMER: Mr. Yarborough, what was the  
3 original charge?

4 MR. YARBOROUGH: According to her FBI rap sheet  
5 in California, the court documents that she furnished,  
6 she was charged with an assault with a firearm on a  
7 person. And then it was reduced, when she went to muni  
8 court, to 12021(c)(1), which prohibits a person from  
9 being armed if they had another conviction within the  
10 last 10 years. And she had a battery conviction in  
11 1997, three years before that. So that's the section  
12 under which she was convicted of a misdemeanor.

13 MS. PALMER: But the original charge was?

14 MR. YARBOROUGH: Assault with a firearm on a  
15 person. It's in here in the California records. It's  
16 in here in the FBI rap sheet. That's what the arrest  
17 was.

18 MS. PETERS: But it was never -- I never  
19 assaulted anyone.

20 BOARD MEMBER ZANE: Pardon?

21 MS. PETERS: I never assaulted anyone.

22 BOARD MEMBER ZANE: Well, would you agree that  
23 was the original charge?

24 MS. PETERS: When they first stated, that is  
25 why I denied. I said there was no assault on anybody.

1 I would not assault anybody. I was a federal correction  
2 officer, but I did not assault anybody. That's why I  
3 did not plead it, because I did not assault. So the  
4 next thing I know, I was called in, and they're saying  
5 it was a possession of a firearm. And that's what I --

6 MR. YARBOROUGH: You should have then pled not  
7 guilty.

8 MS. PETERS: I didn't even plead.

9 MR. YARBOROUGH: Okay. And it was dismissed.  
10 And the other charge was made.

11 MS. PETERS: I did not plead.

12 BOARD MEMBER ZANE: Now, what, what's your work  
13 history been?

14 MS. PETERS: Yes, sir. The first time I ever  
15 worked out here was over two years. The last company  
16 was like nine, 10 years, over 10 years, was Morrison  
17 Security. And all of them have been like two years,  
18 because one would -- I had more money or more options,  
19 options to move up. So Securitas would have been two  
20 years.

21 But I've always had a great work history. I  
22 was a federal correctional officer for over 10. I was  
23 in the military for over three.

24 BOARD MEMBER ZANE: And your private security  
25 work here in Nevada, what does that consist of?

1 MS. PETERS: I'm sorry. The last company was  
2 Securitas.

3 BOARD MEMBER ZANE: Okay. How long were you  
4 with them?

5 MS. PETERS: Two years. And before that, I was  
6 with Morrison. The longest company was Morrison. I  
7 think, it was over, over seven years.

8 BOARD MEMBER ZANE: Seven?

9 MS. PETERS: Yes, sir.

10 BOARD MEMBER ZANE: All right. Do you have  
11 armed guard status?

12 MS. PETERS: The company that I became armed  
13 for, the position failed. But I did get qualified with  
14 the weapons, but the position failed.

15 BOARD MEMBER ZANE: Okay.

16 MS. PALMER: Mr. Chairman and Board members, so  
17 the regulation that we're looking at right now is the  
18 registration regulation, 648.1493. I'm sorry. Not  
19 regulation. Statute, the statute. And so that statute  
20 is silent as far as your discretion when somebody  
21 doesn't meet the criteria.

22 The potential problem with that is in the  
23 drafting of the regulations. Under 648.060, and that's  
24 NRS, the licensee does not have discretion.

25 So although I would agree that you have

1 discretion whether or not to issue the work card in this  
2 case, or not the work card, but the registration, the  
3 licensee would be in violation if they then employed the  
4 individual, because of the having been convicted of a  
5 felony involving moral turpitude or the illegal use or  
6 possession of a dangerous weapon.

7 I mean, unfortunately, you're stuck with the  
8 regulations as they are. But the problem with  
9 exercising that discretion is that you could find  
10 yourself in a situation where, although it may be  
11 unlikely, somebody could file a writ of mandamus if you  
12 then, in fact, issued the registration and then didn't  
13 act upon the licensee who hired her.

14 So I understand why the interpretation has been  
15 that if they don't meet the criteria, then you must  
16 deny. And it's because of the conflict in the statutes.

17 BOARD CHAIRMAN SPENCER: That's about as clear  
18 as mud.

19 MS. PALMER: Deputy Attorney General Platt?

20 BOARD MEMBER NADEAU: Mr. Chair?

21 BOARD CHAIRMAN SPENCER: Yes?

22 BOARD MEMBER NADEAU: Regretfully, I'm prepared  
23 to make a motion.

24 BOARD CHAIRMAN SPENCER: All right.

25 BOARD MEMBER NADEAU: Mr. Chair, I would move

1 that in regards to the registration of Yolanda Peters,  
2 that the denial be sustained, with discussion.

3 BOARD MEMBER ZANE: Second.

4 BOARD MEMBER NADEAU: Mr. Chair, on behalf of  
5 my motion, we are placed in a situation that is  
6 unfortunate for Ms. Peters, but a situation that we've  
7 been confronted in the past, where a local government  
8 agency issued a permit or a registration or a work card  
9 when they didn't have the legal authority to do that.  
10 And she's been caught up in a situation that was not  
11 of -- she didn't cause it.

12 But the statute, from what I -- I'm not an  
13 attorney. But from what the statute says, under  
14 648.1493, section 3, subsection (b)(4), no, (b)(2), we  
15 are not given discretion as to whether or not. It says  
16 "except in circumstances as otherwise provided."

17 If she did not have this, then we would be  
18 mandated to issue a permit. But we're not allowed,  
19 we're not given discretion. And it says "has not been  
20 convicted of or entered a plea of nolo contendere to a  
21 felony or a crime involving moral turpitude or illegal  
22 use or possession of a dangerous weapon."

23 I think, our counsel has told us that maybe we  
24 have discretion. But if we go contrary to this statute,  
25 then, then, I think, we're stepping outside the bounds

1 of our authority.

2 As I mentioned when I offered to make the  
3 motion, this is regretful. It's of no -- though she was  
4 the one that was arrested and that, and convicted, this  
5 is not of her making. But it's -- I don't see where we  
6 have the authority or the discretion to go in a  
7 different direction.

8 MS. PETERS: But what -- excuse me, sir. But  
9 what I don't understand, I never did any time, never  
10 paid any fine. I never, ever assaulted anyone. I never  
11 even pled. And the next thing you know, I was called  
12 into court, I was told it was dismissed. Because I  
13 never did this. I have been a federal correctional  
14 officer for over 10 years. I've never had any problems.

15 BOARD MEMBER ZANE: Mr. Chairman, point of  
16 order.

17 MS. PETERS: I'm sorry, sir.

18 BOARD MEMBER ZANE: This is for Board  
19 discussion only.

20 MS. PETERS: I'm sorry. I'm sorry. I did not  
21 know.

22 BOARD CHAIRMAN SPENCER: Any further  
23 discussion?

24 BOARD MEMBER NADEAU: I've stated my position,  
25 my rationale for the motion.



1 BOARD CHAIRMAN SPENCER: Any further discussion  
2 on the motion?

3 We have a motion and a second. All in favor,  
4 signify by saying "aye."

5 (Board members said "aye.")

6 MS. PLATT: All those opposed?

7 BOARD MEMBER ZANE: Aye.

8 MS. PLATT: Do you want to say "oppose"?

9 BOARD MEMBER NADEAU: I'm sorry, Mr. Chair.  
10 You just said "aye." I only saw two ayes.  
11 And, I guess, there's an opposed.

12 BOARD CHAIRMAN SPENCER: Yeah, all those  
13 opposed?

14 BOARD MEMBER ZANE: Oh, I thought -- I oppose.

15 BOARD CHAIRMAN SPENCER: Aye.

16 BOARD MEMBER NADEAU: Well, it's two-two.

17 MS. PLATT: Motion failed.

18 BOARD MEMBER NADEAU: Okay. So the motion  
19 failed. Okay.

20 BOARD CHAIRMAN SPENCER: Ms. Peters, I'm sorry  
21 about this. You know, it's --

22 BOARD MEMBER NADEAU: Mr. Chair?

23 BOARD CHAIRMAN SPENCER: I don't understand.  
24 Yes?

25 BOARD MEMBER NADEAU: The alternative is to

1 defer the appeal to our next Board meeting when we will  
2 have five members, hopefully, and we can reconsider  
3 this. But it would be my -- it's my understanding she  
4 would have to request that the appeal be deferred to our  
5 next meeting. Unless somebody wants to change their  
6 vote. But, you know.

7 MS. PETERS: Change the vote, please.

8 BOARD MEMBER ZANE: Would you be in agreement  
9 for a continuance to come back at the next quarterly  
10 meeting?

11 MS. PETERS: Yes, sir.

12 BOARD MEMBER ZANE: And readdress this matter?

13 MS. PETERS: Yes, sir.

14 BOARD CHAIRMAN SPENCER: Okay.

15 BOARD MEMBER ZANE: I'd be prepared to make a  
16 motion.

17 BOARD CHAIRMAN SPENCER: Please.

18 BOARD MEMBER ZANE: I'd move that we postpone  
19 this matter to the next regularly scheduled meeting of  
20 the Board.

21 BOARD MEMBER NADEAU: I'll second that.

22 BOARD CHAIRMAN SPENCER: We have a motion and a  
23 second. All in favor, signify by saying "aye."

24 (Board members said "aye.")

25 BOARD CHAIRMAN SPENCER: Opposed?

1           Hearing none.

2           We'll check with you again next time.

3           BOARD MEMBER NADEAU: Mr. Chair, should the  
4 motion be that we accept her request to continue it?  
5 Because it has to be based on her action, not ours.  
6 Just for clarification purposes.

7           BOARD MEMBER ZANE: I amend the motion.

8           BOARD MEMBER NADEAU: Yeah, I just -- we  
9 already voted on the motion, but I was just going to  
10 suggest maybe we amend the motion to add, you know, that  
11 we accept her request. Because, that way, we have it  
12 within the -- within our minutes that she made the  
13 request and we're just acting on her request.

14           BOARD MEMBER ZANE: I amend the motion to  
15 reflect that.

16           BOARD MEMBER NADEAU: And the seconder agrees.

17           BOARD CHAIRMAN SPENCER: All right.

18           BOARD MEMBER ZANE: All in favor.

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

21           (Board members said "aye.")

22           BOARD CHAIRMAN SPENCER: Opposed?

23           Okay. We'll take it on again next time.

24           MS. PETERS: Yes, sir. Will I be notified?

25           MR. INGRAM: You'll get a copy of it.

1 MS. PETERS: Thank you so much.

2 BOARD CHAIRMAN SPENCER: Thank you.

3 MS. PETERS: Have a good day.

4 BOARD MEMBER ZANE: Thank you.

5 MS. PETERS: Thank you.

6 BOARD CHAIRMAN SPENCER: Any public comment?

7 BOARD MEMBER NADEAU: Mr. Chair, do we want to  
8 reconsider Dina Boyd? Deanna Boyd?

9 BOARD CHAIRMAN SPENCER: Yeah.

10 MR. INGRAM: That was trailed, yes.

11 BOARD CHAIRMAN SPENCER: Yeah, she's not here.  
12 Is she is there?

13 BOARD MEMBER COLBERT: No.

14 BOARD MEMBER NADEAU: No.

15 BOARD CHAIRMAN SPENCER: All right.

16 BOARD MEMBER NADEAU: Mr. Chair, I would move  
17 that by default we sustain the denial of her  
18 registration, for Deanna Boyd.

19 BOARD CHAIRMAN SPENCER: All right. I have a  
20 motion. Do I have a second?

21 BOARD MEMBER ZANE: Second.

22 BOARD CHAIRMAN SPENCER: All in favor, signify  
23 by saying "aye."

24 (Board members said "aye.")

25 BOARD CHAIRMAN SPENCER: Opposed?

1           Hearing none, it passes.

2           All right. Public comment, again. Anything?

3           BOARD MEMBER NADEAU: I'm sorry, Mr. Chair.

4 Board comment.

5           MR. INGRAM: Public comment.

6           BOARD CHAIRMAN SPENCER: Public.

7           MS. PLATT: Agenda number nine.

8           BOARD MEMBER NADEAU: Agenda item number nine.

9           MR. INGRAM: Oh, okay.

10          BOARD CHAIRMAN SPENCER: Any Board comment?

11          BOARD MEMBER NADEAU: Mr. Chair, I think, Mark  
12 recommended for future meetings that we do a statutory  
13 review and we also do a regulation review. Was that our  
14 plan, to move forward with that?

15          BOARD MEMBER ZANE: Well, mine was if we were  
16 going to consolidate and condense everything, be able to  
17 consolidate and condense, I was hoping we would use the  
18 second day as statutory consideration and regulatory  
19 issues, so that we can kind of get the ball rolling. If  
20 by chance we can't condense it, then, you know, it would  
21 have be special meetings and whatnot. I was just trying  
22 to make it so we had recordable action.

23          MR. INGRAM: I can definitely let you guys  
24 know, as far as the March Board meeting, what the  
25 numbers look like for licensee requests and,

1 additionally, the appeals or unlicensed activity  
2 citations, and determine whether or not we can, you  
3 know, place all of those on day one agenda and then use  
4 the second day for the reviews. Or we could, if it  
5 looks like it's going to carry over to day two, we could  
6 use the second portion of day two to review regulations  
7 and statutes as well.

8           So if you'd like me to take that on as a task,  
9 I can definitely keep you informed of that.

10           MS. PALMER: Deputy Attorney General Platt, you  
11 had some information as far as the timing of things if  
12 they wanted to get anything done in this legislative  
13 session. Are we beyond that?

14           MS. PLATT: In March, we will be. We've had  
15 this discussion in September regarding -- and even June,  
16 I believe, we had the discussion regarding statutory  
17 changes and the potential of getting someone to sponsor  
18 said bill. I believe, there was no sponsor from the  
19 context that Mr. Ingram had. And as a result, there  
20 would be no legislation moving forward at this time.

21           Regulatory --

22           MR. INGRAM: I think, based on -- I think, yes,  
23 that's correct. I think, based on the information  
24 that's been unveiled today, and over the conversation  
25 the last couple of days, there is enough contradiction

1 in the laws and regs that's come about beyond your and  
2 my discussion originally.

3 We could go forward and see if we could get a  
4 sponsor again. I'm willing to reach out again. Now  
5 that the elections have finalized, and individuals that  
6 were not willing to sponsor based on their potential  
7 election status, that's all kind of flushed out now. So  
8 they may take that opportunity to sponsor now.

9 MS. PLATT: If that -- perhaps you could reach  
10 out, and then we could have a special meeting over the  
11 phone to direct staff to craft something up, language  
12 that the Board would choose to entertain.

13 BOARD MEMBER NADEAU: Mr. Chair, we certainly  
14 could start regulatory review.

15 MS. PLATT: Absolutely.

16 BOARD MEMBER NADEAU: Because we won't be able  
17 to do any regulatory changes during the session, but we  
18 can at least start laying the groundwork for  
19 consideration of regulatory changes; again, at your  
20 pleasure.

21 BOARD MEMBER ZANE: I would like to get  
22 something so that we have more than just good  
23 intentions, to kind of force the process. Because we've  
24 had good intentions for quite some time.

25 MS. PLATT: So what would you like staff to do?

1 I mean we can clearly move on with regulatory changes.  
2 We can have that discussion and go through the regs and  
3 see what's -- what either needs to be added or cleaned  
4 up in the regulatory sections.

5 But with statutes, we likely -- we can't do it  
6 today, because it's not on the agenda. But you could  
7 direct staff to reach out to potential legislators,  
8 should the Board feel the need to potentially open up  
9 the statutes for some changes.

10 We would have to have --

11 BOARD MEMBER ZANE: Do you got any direction?

12 MS. PLATT: -- a special meeting for any sort  
13 of action to put forward a bill. But, I think, we need  
14 to see if there is perhaps someone to carry a bill.

15 BOARD MEMBER ZANE: Okay.

16 BOARD MEMBER NADEAU: If I may, Mr. Chair, the  
17 other option that's available is to at least identify  
18 some changes, specific legislative changes, where we see  
19 a need. And if legislation comes up dealing with the  
20 same statute, maybe.

21 MS. PLATT: We can't do that today, because  
22 it's not on the agenda.

23 BOARD MEMBER NADEAU: No, I understand that.

24 MS. PLATT: Yeah.

25 BOARD MEMBER NADEAU: I'm not saying today.



1 MS. PLATT: Yeah.

2 BOARD MEMBER NADEAU: I'm just saying that even  
3 under our partinee, if we were to identify certain  
4 legislative statutory changes, if we had those in the  
5 wings, and the bill did arise that dealt with that, our  
6 statutes or close to it, we might be able to at least,  
7 you know, propose some language changes or amendments.

8 MS. PLATT: Not in March, based on the  
9 legislative calendar.

10 BOARD MEMBER NADEAU: Well, I think, the --

11 MS. PLATT: Unless you're going to have it made  
12 into a bill.

13 BOARD MEMBER NADEAU: That's what I'm saying.

14 MS. PLATT: Because it's got to be out of  
15 committee.

16 BOARD MEMBER NADEAU: Right, that's what I'm  
17 saying, amend it into a bill. If there's a bill that  
18 meets the criteria where we could amend a bill to  
19 encompass some of our language, then that would be an  
20 option. It's not a -- I mean it's not very likely, but,  
21 because I can't imagine anything coming up that would be  
22 dealing with Chapter 648, but.

23 MS. PLATT: Yeah, I'm just thinking, first  
24 committee passage is going to be the second week of  
25 March. And then the first house passage will be a week

1 thereafter, or two, so.

2 BOARD MEMBER NADEAU: Right.

3 MS. PLATT: I mean you have the meeting on  
4 March 1st. You have not a very large window is all I'm  
5 saying.

6 BOARD MEMBER NADEAU: I'm not disagreeing with  
7 you.

8 MS. PLATT: Okay.

9 BOARD MEMBER NADEAU: What I'm saying is  
10 there's two houses, and it has to go through the process  
11 in two houses.

12 MS. PLATT: Right. No, I know. I'm just  
13 saying you're looking at first, your first committee  
14 passage, first house passage, that's March. So.

15 Sorry. Legislative talk.

16 MR. INGRAM: Yes, tight deadline.

17 MS. PLATT: Yes.

18 BOARD CHAIRMAN SPENCER: Motion?

19 MS. PLATT: No, no. No motion.

20 BOARD MEMBER ZANE: I have another issue.

21 BOARD CHAIRMAN SPENCER: All right.

22 BOARD MEMBER ZANE: I'd like to have an item  
23 placed on the next agenda regarding the possibility  
24 of -- regardless of where we're at in the regulatory  
25 changes, regarding our authority over license plate

1 recognition systems.

2 BOARD CHAIRMAN SPENCER: All right.

3 BOARD MEMBER ZANE: That's a national issue  
4 that's gaining attention and attraction. And there  
5 isn't any real clarity about who's responsible for such  
6 things. And there are currently licensees that utilize  
7 them. I'm one of them.

8 But there's national stuff going on where the  
9 Federal Trade Commission is getting involved and is  
10 proposing regulatory processes. Now the license plate  
11 recognition system is being fed to big data and becoming  
12 part of intelligence information that's being bought and  
13 sold by data brokers.

14 So, I think, we would want to have a discussion  
15 about can Harriet and Charlie, once they retire, throw  
16 the cameras on their car and hit the road and be paid  
17 for the collection of the data that's retrieved, or  
18 whether or not there must be some regulatory process,  
19 and you have to have a license as an investigator or  
20 security company or any number of things that could -- I  
21 just want to -- I'm just going on here so that I make  
22 sure it's clear enough about what the agenda item I want  
23 to encompass is.

24 But like security companies, for an example,  
25 might not have a need to use that system, outside of a

1 controlled HOA, for example, but they clearly would have  
2 the need for it inside to, you know, check the plates  
3 going in and out of their private property.

4 But, and my issue is probably more so the  
5 ultimate use of the information, not necessarily the  
6 collection of it. So if you're selling it, and it's  
7 going into a database that ultimately is going to be  
8 checked by law enforcement or private investigators, and  
9 you're going to use that information, do we want to have  
10 a physical restriction and regulatory system in place at  
11 the state level to say what criteria you have to have in  
12 order to be responsible for that type of equipment.

13 I liken it to somebody going down to the  
14 courthouse, reviewing the public court records, and then  
15 selling that information to TLO. That's pretty much the  
16 same exact thing, except for nobody's --

17 MR. INGRAM: AG.

18 BOARD MEMBER ZANE: Correct. Now, if they're  
19 going to figure out how to do it, each unit costs about  
20 23,000, so nobody's going to jump up and say, "I'll  
21 volunteer my time."

22 But, you know, without any regulation, I could  
23 see somebody walking in the door, have a full camera  
24 set, selling information, and us being able to say -- I  
25 mean I've had the conversation with high-ranking

1 Las Vegas Metro saying, "You're violating the law." And  
2 then I asked them to go find me the law, even if I  
3 wasn't a licensee. And we haven't ever had that  
4 conversation since.

5 But it's becoming a national conversation.  
6 There are bills in Arkansas, for example, it's outlawed;  
7 the legislature said nobody can do it for that purpose  
8 anymore.

9 And right now, the major thrust is how long do  
10 you keep the data. In California, there's a bill that  
11 just got introduced saying law enforcement can only keep  
12 that information for six months, and then not be able to  
13 get it again because they're afraid of -- let's take it,  
14 for example, in the repossession industry. If my car  
15 with that camera set goes by that apartment complex  
16 today, and your car is not up for repo for eight months,  
17 but as soon as car gets entered, it says we have a  
18 historical data on where that car was sitting, here's  
19 the longitude, here's the latitude, and here's a picture  
20 of the back of it, well, you could imagine how far we  
21 could take that extreme. And we can say that Bruce's  
22 car was at a young lady's house on three occasions. You  
23 know, I think, we want somebody having some credible  
24 background to share that information.

25 So, hopefully, I didn't drone on, but I'd like

1 the agenda to be precise enough that we could take  
2 whatever action that is deemed that we have authority to  
3 take to address it.

4 Thank you.

5 BOARD CHAIRMAN SPENCER: I'll entertain a  
6 motion.

7 MS. PLATT: No. Oh. Sorry.

8 MS. PALMER: Your turn.

9 BOARD CHAIRMAN SPENCER: What do you mean no?

10 MS. PLATT: What are you taking a motion on?  
11 His agenda item?

12 BOARD CHAIRMAN SPENCER: Adjournment.

13 BOARD MEMBER ZANE: Adjournment.

14 MS. PLATT: Wait, You have to do public  
15 comment.

16 MS. PALMER: Oh. Yes.

17 BOARD CHAIRMAN SPENCER: I already did public  
18 comment.

19 MS. PALMER: We have to do it again.

20 MS. PLATT: No, now we do public comment.

21 MR. INGRAM: It's the last thing before  
22 adjournment.

23 BOARD CHAIRMAN SPENCER: What?

24 MR. INGRAM: Just ask for public comment.

25 BOARD CHAIRMAN SPENCER: Any public comment?

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BOARD MEMBER NADEAU: None here.

Move to adjourn.

BOARD MEMBER ZANE: Second.

BOARD CHAIRMAN SPENCER: All in favor?

(Board members said "aye.")

BOARD CHAIRMAN SPENCER: All opposed?

Hearing none, we're adjourned.

\* \* \* \* \*

(The meeting adjourned at 11:55 p.m.)

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REPORTER'S CERTIFICATE

I, SHANNON L. TAYLOR, a Nevada Certified Court Reporter, Nevada CCR #322, do hereby certify:

That I was present at the Office of the Attorney General, 100 North Carson Street, Mock Court Room, Carson City, Nevada, on Thursday, December 4, 2014, at 9:00 a.m., and commencing at 9:00 a.m. took stenotype notes of a meeting of the State of Nevada, Private Investigators Licensing Board;

That I thereafter transcribed the aforementioned stenotype notes into typewriting as herein appears, and that the within transcript, consisting of pages 1 through 104, 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 15th day of December, 2014.

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SHANNON L. TAYLOR  
Nevada CCR #322, RMR