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TRANSCRIPT OF A MEETING
OF THE
STATE OF NEVADA
PRIVATE INVESTIGATOR'S LICENSING BOARD

Wednesday, April 5, 2017
9:00 a.m.

Northern Nevada Location:
Western Nevada College
2201 W. College Parkway
Donald W. Reynolds Center for Technology, Room 102
Carson City, Nevada 89703

Southern Nevada Location (Videoconferenced):
College of Southern Nevada
Cheyenne Campus
3200 E. Cheyenne Ave.
4505 Maryland Parkway
Main Building, Room 2638
North Las Vegas, Nevada 89030

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR
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A P P E A R A N C E S

Board Members Present:

Mark Zane, Chairman (North Las Vegas)
Jim Colbert (Carson City)
Raymond Flynn (North Las Vegas)
Charlotte Collins (North Las Vegas)
Jim Nadeau (Carson City)

Also: Kevin Ingram (North Las Vegas)
Executive Director

Rosalie Bordelove (North Las Vegas)
Deputy Attorney General
Board Counsel

Raelene K. Palmer, Esq. (North Las Vegas)
Attorney for the Board

Sarah Bradley (Carson City)
Senior Deputy Attorney General
Board Counsel

Mary Klemme (Carson City)
Investigative Assistant

Lacey Hix (Carson City)
Investigative Assistant

Lori Irizarry (North Las Vegas)
Chief of Operations

Vincent Saladino (North Las Vegas)
Investigator

Other Participants:

Richard G. Campbell, Jr., Esq. (Carson City)
Richard G. Campbell, Jr., Inc.
200 South Virginia Street, 8th Floor
Reno, Nevada 89501

Mahmoud Hendi (Carson City)

Kibbie Kochel (Carson City)

Jay Purves (North Las Vegas)

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EXHIBITS

(No exhibits were marked or admitted today.)

1 CARSON CITY, NEVADA, WEDNESDAY, APRIL 5, 2017, 9:02 A.M.

2 -oOo-

3 BOARD CHAIRMAN ZANE: Let's bring the meeting
4 to order. This is the April 5, 2017, meeting of the
5 Private Investigator's Licensing Board.

6 Can I have roll call of the Board members,
7 please?

8 MR. INGRAM: Yes, sir.

9 Board Member Colbert?

10 BOARD MEMBER COLBERT: Here.

11 MR. INGRAM: Board Member Collins?

12 BOARD MEMBER COLLINS: Here.

13 MR. INGRAM: Board Member Flynn?

14 BOARD MEMBER FLYNN: Here.

15 MR. INGRAM: Board Member Nadeau?

16 BOARD MEMBER NADEAU: Here.

17 MR. INGRAM: And Chairman Zane?

18 BOARD CHAIRMAN ZANE: Here.

19 Okay. Item number two is the disclosure
20 regarding public comment. This is the time when we'll
21 accept public comment from anyone from the public who
22 believes that they have information to pass on to the
23 Board, that's of interest to the Board, or that the
24 Board should have knowledge of. We'll have public
25 comment now, and we'll have public comment at the end of

1 the meeting.

2 The only other established item on the agenda
3 is item number three, which is adversarial, so we won't
4 accept public comment during that portion of the
5 meeting.

6 Any questions?

7 And is there any public comment in the north?

8 BOARD MEMBER COLBERT: No, sir.

9 BOARD CHAIRMAN ZANE: Any public comment in the
10 south?

11 Doesn't appear to be any right now.

12 So we'll move to item number three, PILB vs.
13 ESI Security Services.

14 Are there any preliminary matters that we need
15 to handle? From the PILB side?

16 MS. BORDELOVE: I don't think so.

17 BOARD CHAIRMAN ZANE: Mr. Campbell?

18 MR. CAMPBELL: No, no matters for us.

19 BOARD CHAIRMAN ZANE: Okay. Can you bring us
20 up-to-date on where we left off?

21 MR. CAMPBELL: I believe, it's my turn to do
22 redirect for Mr. Hendi.

23 BOARD CHAIRMAN ZANE: Thank you, sir. Proceed.

24 ///

25 ///

1 M A H M O U D H E N D I,
2 having been previously sworn/affirmed by the Reporter,
3 was examined and testified as follows:
4

5 REDIRECT EXAMINATION

6 BY MR. CAMPBELL:

7 Q. Mr. Hendi, you were in the hearing of just over
8 a year ago, on March 3rd of 2016, where the stipulation
9 to settle a previous complaint was put on the record,
10 correct?

11 A. Correct.

12 Q. And were you in the room when Ms. Palmer put
13 into the record about paying part of the attorney fees
14 and costs for the Board and where she said, quote,
15 "They'll pay one-half of the fines and fees assessed.
16 And the remaining half will be paid in 12 equal monthly
17 installments over the next year"?

18 A. Yes.

19 Q. Okay. And then you'd also at some point read
20 the stipulation prior to the hearing, right?

21 A. Correct.

22 Q. And in that stipulation you saw some certain
23 payments, due dates on when payments would be due and
24 owing?

25 A. Yes.

1 Q. As to these monthly payments, based on what you
2 heard in the hearing from Ms. Palmer and your reading of
3 the stipulation, what was your understanding of when the
4 monthly payments would be due?

5 A. Starting 60 days the effective date.

6 Q. And what was your understanding of the
7 effective date?

8 A. Once we received the actual executed contract.

9 Q. Okay. When you say "starting," were you
10 starting on a certain date or starting in a month?

11 A. Oh, well, it says starting 60 days from that
12 due date. So it's anytime that month. There was no
13 date certain or exact date that we'll have to follow.

14 Q. Okay. Were you at all confused as to when
15 those monthly payments would start?

16 A. No.

17 Q. Okay. It was clear in your mind that it was in
18 the month 60 days after the effective date?

19 A. Correct.

20 Q. Okay. If anyone had told you from the PILB
21 staff, the PILB counsel or your counsel that those
22 monthly payments were due on a date certain, would you
23 have paid that on the date certain?

24 A. Absolutely. It would have made it a lot easier
25 for us to follow.

1 Q. And why would you have made sure that you paid
2 it on a date certain?

3 A. Well, we really want to be in compliance. The
4 last thing we want to do is to -- doing business is hard
5 enough. To add more stress to it is -- it's not worth
6 it.

7 Q. Okay. And you understood about when the first
8 payment was due under the stipulation, right?

9 A. Correct.

10 Q. And that was, I believe was within 30 days of
11 the date of the order approving, right?

12 A. Yes, and we paid it within a week, actually
13 like five or six days.

14 Q. So you paid that one early?

15 A. Correct.

16 Q. So you didn't have any intent, on any of these
17 payments that you had to make to the Board, to slow-roll
18 the payments, to not make them timely?

19 A. Absolutely not.

20 MR. CAMPBELL: That's all I have on redirect.

21 BOARD CHAIRMAN ZANE: Thank you, sir.

22 MS. BORDELOVE: Okay. Then, I think, I only
23 have a couple questions.

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RECROSS-EXAMINATION

BY MS. BORDELOVE:

Q. Mr. Hendi, with respect to what you just testified to, that, am I correct, your understanding of the monthly payments was that they were sometime within the month, and it didn't matter when within the month each payment was made?

A. It was the language stated 60 days, starting 60 days from the effective date and didn't have a specific date to follow. So within that month. Monthly payments.

Q. And have you ever had a car loan or rent payments or any other installment agreement of that type that did not have a specific due date, it was just within the month?

A. Sure.

Q. And what was that?

A. Normally, they state payment due date at this time. In case of a car payment, they'll send you the voucher, and they give you the exact date when it's due. But it's never with open language like it was in the stipulation.

Q. Well, with those car payments, there is a specific, and it's due the same time every month?

A. They'll send you a voucher stating the exact

1 date, correct.

2 Q. What about rent payments; do you receive a
3 voucher before you make -- have you ever made rent
4 payments before?

5 A. In the contract it states that it will be due
6 the 2nd or the 3rd or the first week of the month. But
7 I've never had anything that say just payment due or
8 rent due.

9 Q. So when this contract, this agreement didn't
10 state a specific day that it was due, you were not
11 confused at all as to which date, you assumed that it
12 didn't matter?

13 A. Well, it mattered that it's paid during that
14 month, but it did not matter if it's the first part of
15 the month, end part of the month. And because it's such
16 an ambiguous term, we tried to make it in the middle of
17 the month, to make sure that we covered both sides.

18 Q. So you considered the term ambiguous at that
19 time?

20 A. Well, it didn't give me exact date, so I tried
21 my best to make sure I'm in compliance.

22 Q. Okay. And you -- did you ever make any
23 attempts, since you considered it ambiguous, did you
24 make any attempts to clarify what date?

25 A. No, as long as it was within that month, I

1 thought that I'm very safe, I didn't have to go to the
2 end of the month or beginning of the month. I thought I
3 was very safe of doing it the way I did it.

4 Q. Okay. Did you receive any guidance after April
5 from your attorney as to when to make payments?

6 A. Not the exact date, just says, "The PILB claims
7 that your payment is late." And, actually, that check
8 was cut on the 10th, and then we immediately sent it
9 out.

10 Q. And he didn't give any clarification as to when
11 payments were due going forward?

12 A. No.

13 Q. And you were not made aware of the
14 communications from the PILB's counsel, or were you?

15 A. Just that phone call. And then the next
16 communication I received was August 1st.

17 Q. And did you question at all, when told the
18 April payment was late, when you should make them to be
19 on time?

20 A. When I received the phone call, I was surprised
21 at the claim. And we said, "Okay, we'll send it out
22 right away." So I didn't question anything else,
23 because we're in compliance according to my
24 understanding of the agreement.

25 MS. BORDELOVE: Okay. I think, that's all I

1 have.

2 BOARD CHAIRMAN ZANE: Thank you.

3 MR. CAMPBELL: Just a couple follow-up
4 questions, Chair, if I could.

5 BOARD CHAIRMAN ZANE: Please, Mr. Campbell.

6

7 FURTHER REDIRECT EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Mr. Hendi, you were just talking about the
10 April payment. The April payment provision in the
11 stipulation is different than the monthly payment
12 provision, right?

13 A. Correct.

14 Q. One of them says within 30 days from the
15 effective date of the agreement, and the other one says
16 beginning 30 days from the effective date of the
17 agreement, right?

18 A. Correct.

19 Q. Let me ask you this. Ms. Bordelove asked you
20 whether you ever had a set payment where like your
21 mortgage payment or a car payment is due on a certain
22 date of the month. And, I think, your answer was, yes,
23 you'd get a statement says it's due September 1st; let's
24 pick a date. Have you ever had a late payment where the
25 car company or the auto finance company sends you a

1 notice and says your payment is late?

2 A. I never have. But, you know, I guess, it could
3 happen that way, yes.

4 Q. Okay. Are you familiar with any friends or
5 acquaintances that have received a late notice on a
6 payment?

7 A. Yes.

8 Q. Okay. You never received any late notices on
9 any payments to the PILB, right?

10 A. Correct.

11 MR. CAMPBELL: That's all I have.

12 BOARD CHAIRMAN ZANE: Thank you, sir.

13 Anything further?

14 MS. BORDELOVE: I think, just one or two more.

15

16 FURTHER RECROSS-EXAMINATION

17 BY MS. BORDELOVE:

18 Q. Mr. Hendi, you just...

19 The court's indulgence. Let me find the
20 provision here. I may have to look at the agreement.

21 Which exhibit number...

22 Just so you know, we're looking for the
23 stipulated agreement so I can ask you a question
24 referring to a specific paragraph, but I'm not positive
25 what exhibit number it is.

1 MS. BRADLEY: I think, it would be included, if
2 you're looking for the agreement, it's included in
3 Exhibit 3.

4 MS. BORDELOVE: That order, I think, it is.

5 MS. BRADLEY: Yes, it's an exhibit to the
6 order.

7 BY MS. BORDELOVE:

8 Q. Okay. So if I can have you look, please,
9 Mr. Hendi, at Exhibit 3. On page -- here we go. It's
10 page 12 of the agreement. It's PILB 089 is the Bates.

11 MR. CAMPBELL: And just for the record, I
12 think, we've marked these as Exhibit C-3.

13 MS. BRADLEY: C-3, yes. I apologize.

14 MS. BORDELOVE: I think, that's correct, C-3.

15 MR. CAMPBELL: Counsel, I believe, you said
16 page 89?

17 MS. BORDELOVE: Yes.

18 BY MS. BORDELOVE:

19 Q. So in paragraph nine on that page, I think,
20 it's the provision that Mr. Campbell was recently
21 referring you to. Can you read for me the -- I guess,
22 it's only one sentence, but starting with "the remaining
23 costs and fees" about halfway through the paragraph?

24 A. Okay. Would you like me to read it out loud,
25 or?

1 Q. That's fine. I can just mention, you see where
2 it says "12 equal, monthly installments beginning 60
3 days from the effective date"?

4 A. Yes, I see that.

5 Q. So, reading that, what was your understanding
6 of "beginning 60 days," when that first payment was due?

7 A. So 60 days from the date we received the
8 stipulation, the executed stipulation, 60 days from that
9 date to start making, beginning that, to start making
10 the monthly payments monthly.

11 Q. So equal monthly installments, would that mean
12 you could -- that first date, you said, you had a more
13 clear date because it is 60 days, regardless of whether
14 that date was the 9th or the 12th or which date. Would
15 you consider it regular monthly installments if your
16 first payment was on that 60 days, and the next payment
17 wasn't until 45 days later?

18 MR. CAMPBELL: Objection. I think, that
19 mischaracterizes his testimony. He didn't testify that
20 he thought the first monthly payment was due on a date
21 certain. I believe, his testimony was he testified that
22 it was dates in that month, starting 60 days.

23 BY MS. BORDELOVE:

24 Q. Okay. Isn't it true that you were able to
25 calculate a date that was 60 days based off of your

1 receiving the agreement? And for purposes of this
2 question, we can assume that that date was -- I'm not
3 looking for you to give me that specific date, because I
4 know we have differing opinions on which date that was.
5 But is it true that you were able to calculate a date in
6 April that you believed it was due?

7 A. A starting date after that part, yes.

8 Q. Okay. So --

9 MR. CAMPBELL: Well, counsel, just so we don't
10 confuse the record, did you mean May? Because the April
11 date was not a monthly payment.

12 (There was a discussion off the record between
13 Ms. Bordelove and Ms. Palmer.)

14 MS. BORDELOVE: No, I believe that would be
15 April would be the first, but.

16 MR. CAMPBELL: Okay. That's not a monthly
17 payment. I believe that it was a different provision
18 under paragraph seven.

19 (There was a discussion off the record between
20 Ms. Bordelove and Ms. Palmer.)

21 BY MS. BORDELOVE:

22 Q. Okay. So, yes, I'll clarify to May. Calculate
23 a date in May when you believed it was due, 60 days
24 after the order?

25 A. Sixty days, beginning 60 days, kind of like

1 exactly what it states over here in paragraph nine,
2 beginning 60 days from the effective date, and that's
3 how I calculate it. So once we hit that mark of 60
4 days, we made it into that month, that the first monthly
5 payment was in May. It's kind of like the thing that
6 really we were after, if we didn't receive the agreement
7 till, let's say, April, then our payment won't be till
8 June. So that's how I calculated that part, that we
9 needed --

10 Q. Okay.

11 A. -- beginning in May, payment.

12 Q. Wouldn't you then need to pay the next monthly
13 payment one month later?

14 A. Are you talking about May and then June, is
15 that --

16 Q. Yes.

17 A. You're referring now to June payment? We paid
18 it in June.

19 Q. Right. But you paid it...

20 (There was a discussion off the record between
21 Ms. Bordelove and Ms. Palmer.)

22 BY MS. BORDELOVE:

23 Q. So your understanding, it could be more than a
24 month, though?

25 A. It's kind of like we went back to the exact

1 language. It says monthly, equal, monthly payments.
2 And we made sure we divided it up. We actually overpaid
3 every single time to make sure we paid it sooner. But
4 we stuck with the monthly payment, period.

5 MS. BORDELOVE: I think, I'm -- that's all.

6 MR. CAMPBELL: I have nothing further.

7 BOARD CHAIRMAN ZANE: Okay. Thank you.

8 Mr. Campbell, do you have any other witnesses
9 to call?

10 MR. CAMPBELL: We do not.

11 MS. BRADLEY: Did the Board have questions for
12 Mr. Hendi based on these most recent questions or even,
13 I suppose, anything that they have had?

14 BOARD CHAIRMAN ZANE: Okay. Could we start in
15 the north. Do you have any Board questions of
16 Mr. Hendi?

17 BOARD MEMBER COLBERT: I have one, Mr. Chair.

18 BOARD CHAIRMAN ZANE: Please.

19 BOARD MEMBER COLBERT: When you say you paid
20 your monthly payments, you overpaid them, what kind of
21 an amount do you recall overpaying it?

22 THE WITNESS: It was about, I want to say like
23 1,500 or 1,700, and we paid \$2,000.

24 BOARD MEMBER COLBERT: Okay.

25 Thank you. I have no more questions.

1 BOARD CHAIRMAN ZANE: Thank you, sir.

2 Mr. Nadeau?

3 BOARD MEMBER NADEAU: No, I have no questions.

4 BOARD CHAIRMAN ZANE: Okay.

5 MS. BRADLEY: We don't seem to have any other
6 Board questions here.

7 BOARD CHAIRMAN ZANE: Mr. Flynn?

8 BOARD MEMBER FLYNN: No, sir.

9 BOARD CHAIRMAN ZANE: Ms. Collins?

10 BOARD MEMBER COLLINS: No, sir.

11 BOARD CHAIRMAN ZANE: Okay. I've got a couple.

12 With regard to your testimony regarding the payment of
13 the amounts and how you determined what needed to be
14 paid at the time, was any of that done in consultation,
15 direct consultation with your legal counsel at the time?

16 THE WITNESS: No.

17 BOARD CHAIRMAN ZANE: Or did you just determine
18 that based upon your reading and understanding?

19 THE WITNESS: It was determined on my reading
20 and understanding.

21 BOARD CHAIRMAN ZANE: Okay. During this period
22 of time, did you ever get a notice from your legal
23 counsel that there were issues or problems that needed
24 immediate attention, otherwise there was going to be
25 problems for you with the Board?

1 THE WITNESS: No, other than the phone call in
2 April, no other communication till August 1st.

3 BOARD CHAIRMAN ZANE: You've given some
4 testimony, when we were meeting here before, regarding
5 the opinion or the feeling that you were targeted, that
6 you were being targeted by the PILB. Do you recall that
7 testimony?

8 THE WITNESS: Yes, sir.

9 BOARD CHAIRMAN ZANE: Okay. You had made some
10 comments that you had spoken to clients or
11 representatives of clients that indicated that they
12 might not use your services in the future because you
13 were under investigation?

14 THE WITNESS: Not because I was under
15 investigation. Because they were told that we're losing
16 our license. And that it's not they might not use our
17 service. They did not use our service. Period. They
18 either terminated a contract, or we didn't even get a
19 shot into the bidding process, or they actually used a
20 different vendor for the event already.

21 BOARD CHAIRMAN ZANE: And do you know off the
22 top of your head how many clients that was?

23 THE WITNESS: I would say close to 10.

24 BOARD CHAIRMAN ZANE: 10?

25 THE WITNESS: Yes.

1 BOARD CHAIRMAN ZANE: Can you name them?

2 THE WITNESS: Not all of them off the top of my
3 head. As I mentioned before, the University of Nevada,
4 Reno; Carson-Tahoe; A Night in the Country; the Lucas
5 Oil cross, motocross. That's kind of like what I
6 remember right off the top of my head.

7 BOARD CHAIRMAN ZANE: Okay. Did you have any
8 other conversations with any of those particular clients
9 prior to these events where they indicated that they had
10 some unhappiness with your service or needed to do
11 something in order for you to stay a top-tier service
12 provider for them?

13 THE WITNESS: No.

14 BOARD CHAIRMAN ZANE: Okay. That's all the
15 questions I have.

16 BOARD MEMBER NADEAU: Mr. Chair?

17 BOARD CHAIRMAN ZANE: Yes, Mr. Nadeau.

18 BOARD MEMBER NADEAU: Thank you, Mr. Chair.
19 Actually, your questions spurred a couple questions, if
20 I may.

21 Okay. When you said, you mentioned UNR,
22 Carson-Tahoe, Night in the Country, Lucas Oil, which of
23 those did you have contracts, or which of those
24 terminated contracts based on what your testimony was?

25 THE WITNESS: All of them.

1 BOARD MEMBER NADEAU: All of them terminated
2 contracts?

3 THE WITNESS: Right.

4 BOARD MEMBER NADEAU: So you had existing
5 contracts with them?

6 THE WITNESS: Correct. Or let me correct.

7 BOARD MEMBER NADEAU: Okay.

8 THE WITNESS: Either did not renew the contract
9 or they actually terminated a contract.

10 BOARD MEMBER NADEAU: Early termination?

11 THE WITNESS: Yes.

12 BOARD MEMBER NADEAU: Okay. Were any of these
13 long-time clients, in other words, where you'd have
14 continuing relationships with them?

15 THE WITNESS: Some of them over 20 years.

16 BOARD MEMBER NADEAU: The other question I have
17 is the comment's been made that you did not have any
18 interaction with your attorney from April until August.

19 THE WITNESS: To be specific, regarding these
20 issues.

21 BOARD MEMBER NADEAU: Regarding this issue?

22 THE WITNESS: Yes.

23 BOARD MEMBER NADEAU: And just to be clear, he
24 never indicated to you that there was, after April that
25 there was any follow-up, between April and August, that

1 there was any notification or anything from PILB as far
2 as regards to late payments or any follow-up on that?

3 THE WITNESS: No.

4 BOARD MEMBER NADEAU: By the way, Mr. Chair, I
5 failed to do this at the beginning of the meeting, but I
6 need to do this, put this on the record.

7 BOARD CHAIRMAN ZANE: Please.

8 BOARD MEMBER NADEAU: Mr. Chair, on the advice
9 of counsel and NRS Chapter 281A requires me to make a
10 disclosure. In March 2016, I spoke with Mr. Hendi at a
11 social function hosted by a social club of which he and
12 I are members. During this conversation, Mr. Hendi
13 mentioned at the time, mentioned at the time the ongoing
14 interactions he was having with the PILB. Though we
15 engaged in that conversation, nothing specific was
16 discussed. Subsequent to that conversation, he and I
17 have encountered each other at other social events.

18 Mr. Hendi do not have a social relationship or
19 any relationship other than our membership in this over
20 600-member club. I do not believe that this
21 relationship precludes me from deciding this matter in
22 an unbiased manner, and I will not abstain from voting
23 on the matter.

24 BOARD CHAIRMAN ZANE: Thank you, sir.

25 MS. BRADLEY: Are there any other Board

1 questions? No? For Mr. Hendi?

2 BOARD CHAIRMAN ZANE: None here.

3 MS. BRADLEY: Do either of the attorneys have
4 follow-up questions based on the Board questions?

5 MR. CAMPBELL: I do not.

6 MS. BRADLEY: Okay.

7 MS. BORDELOVE: I don't think so.

8 MS. BRADLEY: Okay. And you don't have any
9 more witnesses?

10 MR. CAMPBELL: That's it.

11 MS. BRADLEY: Okay. So, I think, the parties,
12 then, are done presenting their evidence. So it would
13 be time for closing arguments.

14 BOARD CHAIRMAN ZANE: Okay. Would you like to
15 proceed?

16 MS. BORDELOVE: Sure. If I could have just a
17 minute.

18 BOARD CHAIRMAN ZANE: Sure.

19 Okay. I think, I'm ready, then.

20 BOARD CHAIRMAN ZANE: Thank you. Go ahead.

21 MS. BORDELOVE: The Board members are here
22 today to determine whether ESI Security Services
23 breached the terms of the stipulated agreement entered
24 into by them and the PILB in March of 2016.

25 I'm going to ask you to look at multiple

1 provisions contained within the stipulated agreement,
2 and to determine not only whether they were breached,
3 but what the consequences of that breach will be.

4 First, paragraph 11 of the stipulated agreement
5 states that if it is determined that ESI engaged in any
6 act that constitutes grounds for discipline or otherwise
7 failed to comply with the terms of the agreement during
8 its 18-month period of probation, the stay of revocation
9 will be lifted, and ESI's license will be revoked.

10 Despite what ESI's prior counsel may have
11 testified to at our last hearing, the term "will" is a
12 mandatory term. It's written this way because, in
13 entering into the agreement, ESI and the PILB agreed
14 that ESI's license would be revoked. However, they also
15 agreed that the revocation would be stayed pending the
16 completion of the conditions contained within the
17 agreement.

18 A violation of NRS 648.060 is specifically
19 included in the agreement as grounds for discipline,
20 under paragraph 3.

21 A violation of 648.060 was upheld by this Board
22 in December. This means that the Board must lift the
23 stay of revocation under paragraph 11 as in a finding
24 that an exception applies.

25 Now, Mr. Campbell is going to argue that

1 there's an exception to paragraph 11 contained in the
2 following paragraph. Paragraph 12 states that for
3 purposes of this agreement, only those facts giving rise
4 to a notice of violation that occur after the
5 stipulation is entered into will be considered.

6 Mr. Campbell may tell you that because
7 Ms. Haslip was performing the same functions for ESI
8 prior to the stipulated agreement as she was after, any
9 violation based on her conduct cannot be considered for
10 purposes of breach of the agreement.

11 It is undisputed that the facts giving rise to
12 the violation regarding Ms. Haslip occurred prior to the
13 agreement as well as after the agreement was entered
14 into.

15 ESI's argument, essentially, is that the
16 stipulated agreement makes ESI immune from continuing
17 violations so long as they can show that they committed
18 a violation at least once prior to the stipulated
19 agreement.

20 That's not what the agreement provides. The
21 agreement only requires that the facts giving rise to
22 the violation occur after the agreement. Ms. Haslip
23 functioned as an employee of ESI after it was entered
24 into. Thus, the violation arising from her activity
25 must be considered under the agreement.

1 And let's not forget that Ms. Haslip is not the
2 only individual that was mentioned in that violation.
3 Mr. Magri was hired by Events Services and functioned,
4 worked as an employee of ESI in April, after the
5 agreement was entered into. All the facts considering
6 his conduct occurred after the agreement was entered
7 into.

8 Mr. Campbell may also argue that counsel for
9 the PILB did not communicate as required under
10 paragraph 14. Paragraph 14 requires counsel to
11 communicate to obtain clarification or opinion on any
12 matter within the scope of the agreement. This
13 provision does not put a duty on the PILB to run any
14 potential violation by ESI's counsel prior to issuing a
15 citation. That would not be clarification. That would
16 be an option to cure the violation, before a citation.

17 No other licensee is offered that courtesy of
18 being able to cure violations before citations are
19 issued. That's not what the provision was intended to
20 do. It simply requires counsel to communicate with each
21 other to the extent that they feel confused or unclear
22 about the terms of the agreement.

23 The inquiry before, under paragraph 11, is
24 whether the violation you upheld in December counts as a
25 breach of ESI's probationary period. And if it does,

1 then you must find that if the stay of revocation is
2 lifted and ESI's license is revoked, that revocation
3 won't become effective until ESI has exhausted its
4 appeals regarding the violation.

5 However, if you don't find that that December
6 violation was a breach of the probation, which I would
7 say is contrary to the evidence presented, then I'll ask
8 you to determine whether there was a breach of the
9 agreement under paragraph 19.

10 Paragraph 19 states that if the legal costs and
11 fees are not paid within the time allowed under the
12 agreement, or if any requirement specified in paragraphs
13 two through nine is not timely completed, the Board may
14 rescind the agreement and proceed with the matter on the
15 original complaint.

16 As I previously mentioned, the violation upheld
17 in December is contained in paragraphs two through nine,
18 as are the payment provisions.

19 In addition, ESI did not make the payments as
20 required under the agreement. So we have both the
21 violation and the payments being considered under
22 paragraph 19.

23 You've heard a lot of testimony in our past
24 hearings regarding the calculation of due dates,
25 evidence rules regarding dates for mailing, and the

1 definition of an effective date. The bottom line is
2 that Mr. Hendi made no efforts to pay on time and is now
3 making up reasons why he calculated the days differently
4 from the PILB.

5 It was a typo in the stipulated agreement that
6 led to one payment provision saying the date of the
7 PILB's order and one saying the effective date of the
8 order.

9 MR. CAMPBELL: I'm going to object. There's no
10 record, anything in the record about a typo. So I think
11 that it's improper to put in closing argument about a
12 typo in the stipulation.

13 MS. BORDELOVE: Okay. I can say that one
14 provision says the date of the PILB's order and one says
15 effective date. There has been no evidence presented
16 that counsel for either side intended the payment
17 provisions to differ in that way. And the difference in
18 wording doesn't change their meaning.

19 We're not in district court. And added dates
20 for mailing contained in the Nevada Rules of Civil
21 Procedure, specifically Rule 6(e) that's been brought up
22 by opposing counsel, does not change the payment dates
23 and payment obligations under the agreement. The
24 Board's order became effective upon approval by the
25 Board.

1 After the April payment was late, Counsel for
2 the PILB specifically stated and communicated to ESI's
3 counsel that the PILB's understanding was that future
4 payments would be due on the 9th of each month. This is
5 where that communication provision actually comes in.
6 To the extent that ESI was confused about when payments
7 were due, counsel for ESI had an obligation to
8 communicate with counsel for the PILB.

9 Mr. Hendi, with today's testimony, seems to
10 want to use his counsel as the fall guy for failing to
11 communicate clearly to him what the PILB's understanding
12 was. But he seems to have had some confusion of when he
13 believed they were due. He did not ask his counsel to
14 clarify that. He did not ask his counsel exactly when
15 he should pay. Even after he was told that his April
16 payment was late, he did not go to his counsel and say,
17 "When should I pay to make sure I'm on time on the next
18 ones?" And his counsel did not clarify with counsel for
19 the PILB that he didn't believe they were due on the 9th
20 of the month. And he did testify that he received that
21 communication.

22 Mr. Campbell may argue that the communication
23 provision somehow gave counsel for the PILB a duty to
24 notify ESI's counsel when each payment was late. This
25 argument is simply another tactic to distract from the

1 fact that ESI made no attempts to ensure that each
2 payment was made on time.

3 Mr. Campbell may also argue that by cashing the
4 checks, the PILB waived any dispute as to the
5 timeliness. The fact that checks were late did not
6 negate the fact that the money was owed under the
7 agreement.

8 In addition, the fact that the PILB may have
9 considered filing a complaint for breach, prior to all
10 of the payments being made, does not negate the fact
11 that the money was still owed and performance was still
12 required under the agreement.

13 Under paragraph 19, if the Board finds that any
14 obligation of the stipulated agreement was not timely
15 completed, including both the probationary provisions
16 and the payment provisions, the Board may choose to
17 rescind the agreement and proceed to the original
18 complaint. If the Board so chooses, a new hearing will
19 be held on the eight notices of violation contained in
20 the original complaint.

21 All eight notices became final when they were
22 not timely appealed, prior to the original complaint in
23 this matter. What that means is that ESI can no longer
24 contest the facts underlying those complaints, but a new
25 hearing to determine disciplinary action would be

1 required.

2 And I also just want to briefly address some of
3 the allegations regarding targeting by the Board. These
4 hearings are public. What has gone on over the past
5 year, the stipulated agreement, are all public documents
6 available on line, that what the Board has been
7 conducting in the investigations and what has happened
8 in front of you has not been in any way hidden from the
9 public, and it's information that could have been found
10 by any of Mr. Hendi's clients by simply looking on line
11 or by calling the Board. If they were to ask Board
12 staff what's the status, there is nothing wrong with
13 Board staff directing to the website and all the
14 documents.

15 Mr. Hendi could have lost clients for any
16 number of reasons. And I just want to point out that,
17 you know, there's a difference between contracts being
18 terminated prematurely or contracts not being renewed,
19 and there could be a million reasons. It is something
20 that has not been really investigated. And I just want
21 to make sure that the Board takes that into
22 consideration with some of the allegations he's made
23 towards the end of the hearings.

24 Mr. Hendi's gone to great strides to circumvent
25 the Board's authority over the past several years. He's

1 shown no real desire to comply with the law or
2 regulation by the Board. Instead of treating the
3 stipulated agreement like the fresh start was intended
4 to be, he looked for ways around PILB registration by
5 moving people around in his companies and using his many
6 companies to try and avoid it.

7 You should find that he breached the stipulated
8 agreement by committing a violation of NRS 648.060 and
9 that his license stay is lift and revoked.

10 In the alternative, you may rescind the
11 agreement and proceed to disciplinary on the now nine
12 final notices of violations against ESI.

13 Thank you.

14 BOARD CHAIRMAN ZANE: Thank you.

15 Mr. Campbell.

16 MR. CAMPBELL: The Chair's indulgence just for
17 a couple seconds here.

18 BOARD CHAIRMAN ZANE: Sure.

19 MR. CAMPBELL: Mr. Chair and Board members, the
20 first thing I want to do is thank all of the Board
21 members for their patience over this lengthy hearing
22 process. This is an important matter for my client, and
23 all these issues that were brought up in the PILB's
24 complaint had to be addressed in specific detail so that
25 we'd have a full record and a full understanding of what

1 transpired in this case.

2 Mr. Hendi agreed to settle this previous case
3 with the PILB, and he entered into a binding stipulation
4 to do so. That stipulation is a contract, the same as
5 any other contract. And it imposes obligations on both
6 parties, not just Mr. Hendi, but on the PILB staff and
7 Board, also.

8 This case before you is about that contract.
9 It's not about that past complaint. It's about whether
10 this contract was breached. And the facts, the fact
11 that Ms. Palmer has repeatedly tried to bring up the
12 past indiscretions or past alleged indiscretions in this
13 case is a red herring, and I think she was intentionally
14 trying to taint this hearing with those past alleged
15 indiscretions.

16 The stipulation was very clear in that
17 Mr. Hendi and ESI did not concede to any of the
18 underlying violations. This is a very narrowly focused
19 hearing on whether that stipulation was breached.

20 Mr. Hendi complied with his end of the bargain,
21 but the PILB staff did not. You have to look at a
22 contract and read it in whole, not in bits and pieces.

23 Mr. Hendi complied with his end of the bargain
24 with the payments. He timely paid over \$43,000 to the
25 PILB or to -- one of the matters was to the Labor

1 Commission. Those payments were cashed, were accepted,
2 cashed, and never given any notice that they were late.

3 Mr. Hendi understood that any potential notice
4 of violation, that he also understood that any potential
5 notices of violation that took -- he also understood
6 that any potential notices of violation had to be based
7 on facts that took place after the stipulation.

8 In order to accomplish that, as was required in
9 the stipulation, a meeting was set up with Mr. Ingram
10 who came to the ESI's actual office to address these
11 issues. I mean that was the whole reason for the
12 meeting, as it was stated in the hearing, is that
13 Mr. Hendi would be given a fresh start, and anything
14 forward would be grounds for a notice of violation or
15 rescission of the stipulation, but all the past facts
16 would not.

17 And it was the purpose of that meeting and an
18 ongoing obligation, I would argue, that those kinds of
19 issues had to be addressed by the parties. When we got
20 to that meeting in April, there was nothing about any
21 past indiscretions, especially as to the Haslip and
22 Magri matter.

23 So, basically, you know that this, this hearing
24 and this, what we're here about today, is based on two
25 issues, the Haslip and Magri not being licensed and

1 the -- or not being registered, and the late payment
2 provision.

3 Breaking down these two grounds, it's clear to
4 me that Mr. Hendi did not violate the stipulation. I
5 think, the facts are very clear, that are on the record,
6 that he didn't violate that part of the stipulation.

7 The timeline in this case is that the order
8 was -- the hearing and stipulation was signed on
9 March 3rd of 2016. The order was signed on March 10th
10 of 2016, and then it was mailed on March 11th of 2016.
11 The very first payment due under the paragraph of the
12 stipulation was pretty clear, one-half of the fines must
13 be paid within 30 days of the date of the agreement.
14 Not the effective date. The date of the agreement.
15 It's a really easy calculation for Mr. Hendi or anybody
16 to come up with. Count 30 days from the date of the
17 order. And Mr. Hendi made that payment. Not only did
18 he make it, he made it early, you know.

19 The argument that he, Mr. Hendi, was looking
20 for ways to dodge payment provisions and pay at the last
21 minute, that's ridiculous. He made these payments, the
22 first payment timely. Why would -- if he was looking to
23 dodge payments, why would he make that first payment
24 timely?

25 The second payment was due on a different

1 payment provision. And there's no evidence about there
2 was any typo or mistake in that. It was clear in the
3 language of the agreement, although the meaning of the
4 agreement is somewhat muddled, that the second payment
5 was due 30 days, due and payable within 30 days of the
6 effective date of the PILB order.

7 The effective date, as you heard, is an
8 undefined term, and that is a different payment
9 provision than paragraph eight.

10 Nevada agencies must follow the Nevada Rules of
11 Civil Procedure for administrative agencies and add
12 three-day mailing for timelines under NRCP 6. And the
13 cite on that case is Nyberg vs. Nevada Industrial
14 Commission. That is 100 Nevada 322, 683 Pac.2nd 3.

15 In that case, the court found, the Nevada
16 Supreme Court: We agree, however, with appellant's
17 position. In reaching the conclusion, we note that the
18 language of Nevada Rules of Civil Procedure does not
19 limit the application of these rules to district court
20 proceedings. In light of the rule of the liberal
21 construction, that they held that a three-day grace
22 period allowed by NRCP 6(e) applies to this particular
23 administrative provision.

24 So you have to count those three days on top of
25 the April -- or on top of the March 11th, which brings

1 us to March 14th. Or excuse me. April 14th.

2 Mr. Hendi made, or instructed his accounting
3 person to cut that check. And the record's clear that
4 the check was cut on April 10th. And it was received.
5 It was mailed on April 12th by -- I believe, that was
6 overnight mail.

7 Furthermore, under Nevada law, under NRS
8 238.100, any document or payment required by law or
9 regulation shall be deemed filed or paid at the date of
10 the postmark, if there's proof of the postmark. We have
11 proof that this payment was made on April 12th. His
12 payment was actually made on time, if not a day early.

13 So when staff was, or when counsel was telling
14 Mr. Smith that it was late, that was wrong. It was dead
15 wrong. They did not give him the adequate time to make
16 that payment. And, in fact, he made the payment,
17 instructed the payment to be made on the 10th, again
18 rebutting the inference somehow that Mr. Hendi was
19 slow-rolling these payments. He made that payment prior
20 to Mr. Smith even calling him, or at least he told his
21 assistant to cut the check on April 10th.

22 So that first payment, the April payment, was
23 not late under the terms of the law.

24 Now, the third payment, which we then talked
25 about the monthly payments that Mr. Hendi talked about

1 today and that he was cross-examined on again today.
2 Again, a different payment provision, no evidence in the
3 record whatsoever that there was a typo or a mistake or
4 anything other than what was said in the agreement.

5 It's a confusing agreement, but it's a very
6 reasonable interpretation that Mr. Hendi, sitting in the
7 hearing and hearing Ms. Palmer say that he's going to
8 have to make monthly payments, 12 equal monthly
9 installments over the next year, monthly payments,
10 reading the stipulation, seeing a new provision saying
11 that it's due beginning 60 days from the effective date
12 of the agreement, it's not an unreasonable
13 interpretation to say that that means that the payment
14 starts in that month 60 days hence.

15 This, this provision, all these payment
16 provisions, this could have been easily revolved by
17 putting a specific date, a date certain in the
18 agreement. Just as Ms. Bordelove says, just as a car
19 payment does, you get a statement that says it's due
20 August 1st. There's nothing in the provision in this
21 agreement, especially as to the second payment, as to
22 when the actual date certain was, and especially with
23 the monthly payments.

24 Now, he made the third payment, the second
25 monthly payment, which would have been June. He made

1 that, I believe, about the 12th or the 13th, again, in
2 the month.

3 The July payment was made in July, according to
4 his understanding, and nobody told him different. Which
5 is a really important point. Nobody told him different.
6 Nobody from the PILB staff, the PILB attorney, or his
7 counsel said anything about the -- about a late payment.

8 Under Nevada law, in an agreement, if time is
9 of the essence, it has to be part of the contract, and
10 it has to be specifically stated. When time is of the
11 essence is a material breach, performance within a
12 reasonable time frame does not constitute a material
13 breach, and especially if it's made not part of the
14 contract, unless the other party makes a demand for
15 performance by a date certain.

16 The cite on that is Mayfield v. Koroghli, 134
17 Nevada 343, a 2008 case.

18 It's not that it's as if the PILB staff or
19 counsel could not have notified Mr. Hendi or anybody in
20 his staff. Mr. Ingram, in cross-examination, admitted
21 that it was his counsel's responsibility to notify ESI
22 to make sure any questions about the terms of the
23 stipulation were worked out. Other than that one email,
24 that didn't take place.

25 Mr. Ingram could have easily said something in

1 the late April meeting. His testimony was that both he
2 and his counsel were saying that they considered the
3 April meeting or the April payment to be due on the
4 11th. And the meeting that they had at ESI was held on,
5 I think, the 26th of April. Why didn't he bring that up
6 in that meeting? "Oh, by the way, Mr. Hendi, since
7 we're here, because of the stipulation requires us to be
8 all on the same page, you ought to know that your April
9 payment was late even though it, even though, what your
10 counsel said, you believed it was due from the later
11 date. And make sure you make your May payment on the
12 9th." Did he say ever say that? No, he didn't say a
13 word about that.

14 Did he notify his counsel to contact
15 Mr. Hendi's counsel when he could have done that? No,
16 he didn't. He said that the email, the exhibit -- I
17 think, it was Exhibit 8. He said that, well, that when
18 he notified counsel that the payment was late, he didn't
19 say anything about bringing forward any kind of notice
20 to Mr. Hendi or ESI. He just told her that the payment
21 was late. Why didn't he forward an email? Why didn't
22 counsel forward an email to Mr. Hendi, say, "Oh, by the
23 way, your May payment is now late?" No notice
24 whatsoever.

25 And then, in an email -- I think, the email is

1 Exhibit C-K -- on June 22nd, Mr. Ingram and Ms. Hegdahl
2 have a colloquy in an email about another issue. And
3 Mr. Ingram says, "Oh, by the way, make sure you send
4 your payments to our new address." This is June 22nd.
5 So by now, according to his calculation and his
6 arguments, the April, May and June payments are all
7 late.

8 And what was his excuse? That he didn't want
9 to tell Ms. Hegdahl that the payments were late, "Oh,
10 that was not my duty," or, "She was not the right
11 person." Well, that's a lame excuse. Why would he tell
12 her that the payment's being sent to the wrong place and
13 not feel comfortable telling her that the payment was
14 also late?

15 So this continuing story that Mr. Ingram keeps
16 repeating, that he didn't notify Mr. Hendi or anyone at
17 ESI about payments being late because it was not his
18 responsibility, I think, is nothing more than an excuse
19 to avoid the obligations that the PILB staff had to
20 Mr. Hendi regarding this fresh start and to make sure
21 everybody was on the same page.

22 Finally and probably most importantly in this
23 case, PILB accepted and cashed each and every one of the
24 checks. Even in their own minds, they admitted that
25 they believed that the checks were late.

1 You heard that Mr. Ingram testified that they
2 contemplated filing a complaint for violation of the
3 stipulation as early as April of 2016 and each month
4 thereafter.

5 The PILB staff, by accepting these payments,
6 has waived their claim that the payments are late.
7 Waiver of a legal right can be implied from a conduct
8 such as making payments or accepting payments which do
9 not meet contract requirement. And the cite to that is
10 Udevco vs. Wagner, 100 Nevada 185, 1984 case.

11 Further, a party who has not insisted upon
12 strict compliance in the past, who has accepted late
13 payment as a matter of course, must, before he validly
14 relies upon a payment clause to declare a default, first
15 give notice to the other party that strict compliance
16 with the terms of the contract will be demanded. Nevada
17 National Bank, 94 Nevada 506, 1978 case.

18 In light of the ambiguities in the payment
19 provisions, the fact that the checks were cashed without
20 question, the fact that no late notice was ever given to
21 ESI, except for the April email, which was not late, the
22 April payment, under the law, and the fact that there is
23 no evidence whatsoever that Mr. Hendi or anyone at ESI
24 was intentionally slow-rolling these payments, the
25 grounds for this part of the complaint are simply

1 meritless.

2 I'll move next to the Haslip and Magri
3 violation.

4 Paragraph 12 of the stipulation provides that
5 for the purposes of this agreement, in establishing
6 whether an act that could constitute grounds for
7 discipline had occurred, only those facts giving rise to
8 a notice of violation that occurred after the
9 stipulation is entered into will be considered.

10 You heard Mr. Smith testify that it was an
11 important part of this negotiation and the stipulation
12 to make sure that Mr. Hendi was going to be given a
13 clean start. In fact, that is part and parcel of this
14 contract, is that the facts and course of action from
15 ESI prior to the stipulation were not going to be
16 grounds on a go-forward basis.

17 What do we know about facts occurring prior to
18 the stipulation? Ms. Haslip had been doing this exact
19 same thing. She had been an employee of Events
20 Services. She was recruiting for ESI Security. She was
21 using the ESI tagline in their email, and in a couple of
22 the emails, or some of the emails, using an ESI Security
23 email.

24 Staff knew this. They had a roster of ESI
25 registered employees. Ms. Haslip was never on that

1 roster. If that was an issue for them, why not bring it
2 up to Mr. Hendi in the late April 26th meeting? And,
3 instead, they wait, and then they send an email in May
4 to Ms. Haslip that said, "Oh, by the way, we found out
5 that" -- they sent the email to Ms. Hegdahl and said,
6 "By the way, we found out that two of your employees are
7 doing this exact, doing this exact same thing," that
8 they knew about before, same factual scenario, Events
9 Services employees doing recruiting for ESI, using an
10 ESI email.

11 Do they say anything in that April 26th
12 meeting? No. When they bring it up to Ms. Hegdahl,
13 Ms. Hegdahl responds and says, "What do you want me to
14 do? I'll have them register. I'll have them change
15 their email address. Help me out here."

16 And what happens then? She's met with a stone
17 wall, no response whatsoever, until about two -- almost
18 seven weeks later, she gets an email from Ms. Irizarry
19 that says, "Oh, by the way, we're going to issue a
20 notice of violations on these."

21 Why didn't she answer? Mr. Ingram's excuse
22 was, "Oh, she was on sick leave." But when he came to
23 the hearing last time and he gave the date, there was
24 ample opportunity. She wasn't on sick leave every day
25 for those seven, seven weeks. She could have easily

1 answered that email. If the staff really intended that
2 the parties be on the same page and that everything be
3 worked out and that issues that were outstanding,
4 especially those issues prior to the stipulation, be
5 worked out, why didn't they answer?

6 Even Mr. Hendi sent an email to Mr. Ingram in
7 June and said -- it was on the other matter, but he
8 said, "Hey, I just want to make sure we're on the same
9 page. Let's work together." No response whatsoever.
10 Nothing about Ms. Haslip or Mr. Magri.

11 Now, the Board has found against Mr. Hendi and
12 ESI for these violations. But I believe that under the
13 intent and the clear language of the stipulation and the
14 intent of the stipulation is that the facts that existed
15 prior to the stipulation were going to be a carve-out
16 and that those issues that existed prior to the
17 stipulation were the reason that the stipulation
18 included language, one, there's going to be a meeting
19 between the parties to make sure everybody's on the same
20 page. And that's, you know, that's clearly in the
21 record, both in the stipulation and in the hearing of
22 the stipulation.

23 And, secondly, if there were questions about
24 these facts, that the counsel were going to meet and
25 work it out. That never took place. Now, whose fault

1 was that? I'm not blaming anybody's fault. But that
2 never took place. And that obligation rose to both
3 sides. But nobody ever addressed that.

4 Another issue that's a little troubling is that
5 in their deliberations on the notice of violation, the
6 Board seemed to use the fact that when Mr. Hendi was
7 issued this notice of violation, from Haslip and Magri,
8 that he then didn't immediately have those two people
9 registered.

10 Mr. Hendi would have had them registered before
11 the notice of violation. But once that notice of
12 violation was issued, you can't use the fact that he
13 didn't immediately register them as a grounds to find
14 against him. He had a due process right to contest
15 these violations. He did that.

16 There's no question that he wasn't obligated to
17 have those people registered until this Board made a
18 decision, and ultimately perhaps a court made a decision
19 that, in fact, those two people needed to be registered.
20 But he did take the steps, once this Board made the
21 decision in December that these two people needed to be
22 registered, he then had all his people registered.

23 So to hold the fact against him, in finding
24 that first violation, because he didn't have the people
25 immediately registered right at the notice of violation,

1 I think, is a violation of his due process rights, if
2 that in any way was part of the decision.

3 Secondly and more importantly, he would have
4 had them easily -- Ms. Hegdahl said, "What do you want
5 me to do? Do you want me to have these people
6 registered?" I mean a simple response to that email,
7 "Sure, let's have you register," would have taken care
8 of this whole case. It would have resolved the issues.
9 It would have complied with the terms of the stipulation
10 that the parties would be on the same page and work
11 together to do that.

12 But it never happened. I don't know why, but
13 they never responded to Mr. Hendi. They're talking
14 about him trying to obviate the requirements of the
15 stipulation. I think, it goes the other way.

16 It's interesting that in the stipulation it
17 defines unprofessional conduct at paragraph 13. You can
18 look at that. I don't need to look at that again. But
19 unprofessional conduct is something that's -- let's take
20 a look at it. It's pretty easy to see.

21 For the purposes of the agreement,
22 unprofessional conduct or unfitness means the commission
23 of any act that is detrimental or harmful to the health,
24 safety and welfare of the public, and which violates the
25 high standards of honesty, diligence, prudence, and

1 ethical integrity demanded by a person licensed by the
2 PILB. Unprofessional conduct or unfitness by an
3 employee of the ESI shall not be considered
4 unprofessional conduct by ESI.

5 Why was that provision in here? Why is there
6 an unprofessional conduct in here? The citations that
7 we're looking at for this revocation of his license or
8 revoking the probation are, in the scheme of things,
9 pretty minor and, I think, do not rise anywhere to the
10 level of unprofessional conduct. And that provision was
11 put in the stipulation, I think, for a reason.

12 Just to recap, if you look at the facts in this
13 case as to Magri and Haslip, there's no doubt that the
14 factual background of an Events Services employee doing
15 recruiting work for ESI Security, using an ESI email,
16 existed prior to the stipulation, and then, when read as
17 a whole with the provisions, intended to give Mr. Hendi
18 a fresh start, for counsels to meet with each other, and
19 for Mr. Ingram to meet and make sure everybody was on
20 the same page, that it was the intent that anything that
21 happened, any fact pattern, any situation that happened
22 prior to the stipulation, would be part of that
23 carve-out.

24 Secondly, as to the payment provisions, there's
25 multiple legal grounds as to why there's no, no merit

1 for those to revoke the stipulation.

2 The April payment -- the March payment was made
3 on time. The April payment was made on time. Actually,
4 the monthly May payment, if you calculate it as to a
5 date certain, which it wasn't, was made on time. So
6 you're talking about the June and July payments. And,
7 again, I think, it's a very reasonable interpretation as
8 to that these payments were due on a monthly basis, not
9 on a date certain.

10 You've got a third option here under this
11 agreement. You could find that the payments were not
12 made late and that the Haslip and Magri were preexisting
13 facts that should not be -- that should have been a
14 carve-out as far as negating the stipulation and having
15 another hearing or suspending Mr. Hendi's license.

16 Again, I know this has been a really long
17 process. It's been very tedious. But it had to be done
18 in light of the monumental impact that this could have
19 on Mr. Hendi.

20 And, again, I thank the Board for their
21 patience in this matter.

22 BOARD CHAIRMAN ZANE: Thank you, Mr. Campbell.

23 MS. BRADLEY: Usually we'll give the state
24 another chance to respond, if they want to. So I don't
25 know if Ms. Bordelove has anything else to say.

1 MS. BORDELOVE: And I might have a few
2 comments.

3 I just want to address a couple issues. First,
4 you know, on the payments, Mr. Campbell cited a lot of
5 law to say that, you know, unless the other side demands
6 performance, that if they've allowed a payment to be
7 late, they are waiving that right. And I just want to
8 point out that the PILB did demand performance by
9 sending that April email that said, "Look, we expect
10 every future payment to be made on the 9th." And they
11 did demand it at that time.

12 In addition, Mr. Campbell brought up that the
13 payment issue was not mentioned at the April meeting
14 that they had. And that's because at that point it was
15 the PILB's understanding that the issue had been
16 resolved between counsel. PILB's counsel had
17 communicated the May payment had not been made yet,
18 wasn't due yet. And so counsel had already made it.
19 There was no obligation on Kevin Ingram's part to again
20 reiterate everything when he did believe that those
21 communications were supposed to happen between counsel.

22 And I want to address, I guess, Kevin Ingram's
23 and the PILB staff's communication obligations under
24 this agreement. To the extent that Mr. Campbell has
25 continuously said, in any communication emails that were

1 made between Board staff and Mr. Hendi, that they should
2 have brought up this issue, they should have brought up
3 a million different issues, he's essentially saying that
4 before responding to any email or any communication from
5 Mr. Hendi or from ESI, that the PILB staff needed to
6 consult with their counsel, survey everybody, make sure
7 that they were including every single potential issue
8 that should ever be mentioned, in every response email,
9 as opposed to simply responding to the question that was
10 sent to them.

11 And, I think, it's a bit unreasonable to say
12 that they needed to, that they had a duty there to,
13 again, survey all issues and bring everything up in
14 every single communication that was sent.

15 When it comes to the carve-out provision in the
16 stipulated agreement with respect to facts giving rise
17 to the June violation that can be considered under the
18 agreement, we both quoted that first sentence of the
19 paragraph that talks about for purposes of the agreement
20 and establishing whether an act would constitute grounds
21 for discipline, those facts must occur after the
22 stipulation was entered into.

23 But that same paragraph goes on to specifically
24 mention a couple notices of violation that have been
25 brought up but had not -- were not included in the

1 agreement, because they hadn't been brought before the
2 Board at that time. And it was very specifically
3 carving out, saying, "Look, we are aware that these
4 facts, these notices of violations exist, and we want to
5 make sure that those aren't considered an automatic
6 breach right down the road, because we already know that
7 they exist." And that was the main reason for this
8 carve-out provision. And it's discussed later in that
9 paragraph.

10 It's not as broad as Mr. Campbell tries to make
11 it sound, where any issues -- he essentially is saying
12 that the PILB had a duty to audit Mr. Hendi's entire
13 business, including each of his businesses and how
14 employees were working crossways, and bring up every
15 issue that they can see in that April meeting, to give
16 Hendi a chance to fix it all before issuing any
17 violations.

18 And the PILB does not have the resources and
19 the time and staff to do that. If any licensee wanted
20 to walk up and say, "You know what, I think, I might
21 have some issues. I want you to go audit my business
22 and give me a free pass," I mean that's not what this
23 agreement was looking at.

24 The presentation in the April meeting was a
25 chance for Mr. Hendi and his staff to ask questions and

1 for a lot of the -- and Board staff to explain a lot of
2 their position on things and try and get some
3 clarification. It was not the time where Board staff
4 had to search for every issue they could find and bring
5 that issue up to be fixed.

6 And I also want to point out that the Haslip
7 and Magri facts came to the Board's attention after that
8 meeting. Kevin didn't mention that at the meeting as
9 they, the Board was not aware of them at that time.

10 The Haslip and Magri issue came up. And, yes,
11 Ms. Hegdahl asked and said, "What should we do?" As
12 soon as she found it was an issue, they could have tried
13 to get those, just to be safe, get those people
14 registered. But they didn't. And this was before a
15 violation was issued. They did not make any attempts to
16 have those people registered.

17 And the facts that the violation was complete
18 prior to those communications, the facts were in
19 existence, those people were unregistered and operating.
20 And, I think, that's largely why the Board upheld the
21 violation in December.

22 So I just want to really bring the Board back
23 the provisions in the agreement that we're saying have
24 been breached.

25 And under paragraph 11, the payment issue

1 doesn't even come into play. Paragraph 11, which says
2 that if there's a violation of the probation, the
3 license will be revoked, the stay is lifted and the
4 license will be revoked, all that's required of that
5 finding there is that the violation in December counts
6 under this agreement, and the exception, the carve-out
7 essentially does not apply.

8 The alternative under paragraph 19, which
9 involves rescinding the agreement and proceeding on the
10 original complaint, involves both issues. If you find
11 that there is violations because of the payments, or if
12 that violation of the probationary period exists, either
13 one is enough by itself to rescind the agreement under
14 paragraph 19.

15 And so I just kind of want to frame those
16 issues and bring back to those are what the provisions
17 in the agreement are.

18 And, I think, too, I just want to point out
19 that they seem fairly clear. And that third option of
20 doing nothing essentially says, "Well, you may have
21 committed these violations, but we're going to go ahead
22 and say everything's fine, and because the payments were
23 made, even if they weren't on time."

24 And I want to just bring back really to the
25 violation, because, I think, that's the most important

1 part here, is the fact that he was on probation. The
2 fact that this was a fresh start does not, was never
3 intended to make the prior violations not exist. Those
4 violations existed. They -- or it's acknowledged in the
5 agreement that they essentially rose to the level of
6 revocation, and where they talk about the license will
7 be revoked upon, you know, any additional violations of
8 the probation. It was just simply said he gets a fresh
9 start if he complies with all of the provisions
10 contained in the agreement. Which he did not.

11 That's all I have.

12 MR. CAMPBELL: Mr. Chair, may I address one
13 issue that she just brought up about paragraph 12, just
14 so the record's very clear?

15 MS. BRADLEY: Sure.

16 BOARD CHAIRMAN ZANE: Please.

17 MR. CAMPBELL: Paragraph 12 is the carve-out
18 provision. And you'll remember that Mr. Smith gave
19 uncontroverted testimony that paragraph 12 was not
20 limited to the two notices of violation. It was a
21 general paragraph that, for purposes of the agreement,
22 established whether an act that would constitute grounds
23 for discipline has occurred, only those facts giving
24 rise to a notice of violation that occurred after the
25 stipulation is entered into will be considered. Period.

1 Thus, while there are two currently pending
2 violations, if, if the intent of the Board or the staff
3 was to only carve out those two particular notices of
4 violation, this provision could have easily been drafted
5 in that case.

6 Mr. Smith's testimony is clear that that was
7 not the intent of paragraph 12. And, in fact, he also
8 testified about a conversation with Ms. Palmer about
9 another matter that considered preexisting facts. And
10 she, according to Mr. Smith's uncontroverted testimony,
11 said, she said, "We're not going to pursue that because
12 that's another set of facts that occurred prior to the
13 stipulation."

14 So, again, I don't think you can read paragraph
15 12 to say that it's only those two notices of violation
16 that are of the carve-out. And, too, I don't think you
17 can read paragraph 12 to say in isolation that you can
18 have a continuing set of facts that's going to
19 constitute a notice of violation.

20 If you read the agreement as a whole, and you
21 see that there is an obligation on both parties and
22 especially on staff to meet and confer, to talk about
23 issues, and to give Mr. Hendi a fresh start, if you're
24 not going to give him a fresh start on Magri and Haslip,
25 why was that provision ever in there?

1 It was a series of events that had took place
2 for over two years. In fact, the staff stipulated in
3 this hearing that there were over a hundred emails along
4 the very same lines that led to the grounds for this
5 notice of violation.

6 So why would you give Mr. Hendi a fresh, why
7 would you say that counsel should meet to clear up any
8 misconceptions, why would you impose an obligation for
9 Mr. Ingram to come to the ESI and make sure that
10 everybody was on the same page, unless you really wanted
11 to give Mr. Hendi a fresh start?

12 If you're going to vitiate that agreement and
13 say the only two grounds that were carved out were these
14 two notices of violation, then the rest of that
15 agreement makes no sense about giving him a fresh start.

16 So I think that Magri and Haslip are clearly
17 within that carve-out provision. They are facts that
18 the Board knew or could have known easily before that.
19 And instead they those not to address it.

20 And this random email theory that Ms. Bordelove
21 has about they have to look at every single one,
22 Ms. Hegdahl specifically asked in that email, "What do
23 you want me to do? I will register them. I will have
24 them change their email. Tell me what to do. Help.
25 Help me out here. Tell me what to do. Let's work

1 together." And what was the reply? No reply. None
2 whatsoever. Not any courtesy at all. And the excuse
3 about she wasn't in there was -- she was there in the
4 office. There would have could have been a reply to
5 that email. And this matter could have been resolved
6 with a simple, "Register them."

7 That's all I have. Thank you.

8 BOARD CHAIRMAN ZANE: Thank you.

9 MS. BORDELOVE: Can I say one more, I guess,
10 Board response to that? And that would be that Magri
11 was hired after the stipulation. There is no way that
12 his facts were in existence prior. And the carve-out
13 was not intended to give this cure period. The
14 violation was complete upon Ms. Hegdahl's
15 communications.

16 And, essentially, Mr. Campbell is saying that
17 by asking for some guidance, that put it onboard to
18 allow her to cure everything prior to getting any
19 violation. The violation was complete.

20 And, you know, to this day, Haslip still is not
21 registered, never was. I don't know that she's an
22 employee anymore. But she -- they didn't choose to
23 register her at that time when it was made an issue.
24 There was no corrective action taken before the notice
25 of the violation was even issued.

1 And I just want to caution you to take into
2 strong consideration that carve-out provision and the
3 fact that it's not just continuing violations, but
4 Mr. Magri was a new violation. He was a new employee,
5 that they hired the day before the meeting with Kevin
6 Ingram, and then still chose not to register him, even
7 after the issues arose.

8 BOARD CHAIRMAN ZANE: Thank you.

9 MS. BRADLEY: So --

10 BOARD CHAIRMAN ZANE: So I'll assume that at
11 this point, then, we go into discussions as far as the
12 motions that are necessary to complete the matter?

13 MS. BRADLEY: Yeah, so now we're in the
14 deliberation stage. I mean if you'd like to have a
15 preliminary discussion, you can do that.

16 Normally, I recommend that you go through the
17 complaint and notice of hearing and find or not find the
18 facts listed proven. So there are, let's see, looks
19 like 19 facts, on the complaint I'm looking at. So you
20 should go through each one and make a motion on each one
21 whether or not they're proven.

22 And then, once you determine what facts have
23 been proven, then that's where you would -- that,
24 hopefully, helps you determine whether the violations of
25 law have been proven.

1 So, but if you'd like to have some preliminary
2 discussion, you can. Or if you want to just go right
3 into the facts, you can.

4 BOARD MEMBER COLLINS: Mr. Chairman?

5 BOARD CHAIRMAN ZANE: Yes.

6 BOARD MEMBER COLLINS: Could I ask that we take
7 a break?

8 BOARD CHAIRMAN ZANE: Any opposition to a
9 break?

10 BOARD MEMBER NADEAU: No.

11 BOARD MEMBER COLBERT: No.

12 BOARD CHAIRMAN ZANE: How about 10 minutes,
13 please. Thank you.

14 * * * * *

15 (A break was taken, 10:23 to 10:32 a.m.)

16 * * * * *

17 BOARD CHAIRMAN ZANE: Ready up north?

18 MS. BRADLEY: I think so.

19 BOARD CHAIRMAN ZANE: I had a couple of
20 questions for counsel.

21 MS. BRADLEY: Okay.

22 BOARD CHAIRMAN ZANE: One of them is based upon
23 the nature of the settlement agreement.

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

25 BOARD CHAIRMAN ZANE: And it is my

1 understanding that if we go down these different levels,
2 and if we find any one single violation, that in and of
3 itself would trigger the stay removal. Is that correct?

4 MS. BRADLEY: Oh, the stay of revocation?

5 BOARD CHAIRMAN ZANE: Yes.

6 MS. BRADLEY: That's how the agreement is
7 written. However, I think -- let me read through it
8 right now. Generally, I would say you still have
9 jurisdiction and authority over what discipline you
10 implement, you know, if you don't want to trigger it.
11 What it says right now -- let me just go there.

12 So --

13 MS. BORDELOVE: I guess, I want to object to it
14 a little to the extent that I very much view the
15 agreement as being, I guess, the option -- it's if they
16 find -- under paragraph 11, it's required that
17 revocation unless they find that it's part of the
18 carve-out.

19 MS. BRADLEY: Okay.

20 MS. BORDELOVE: Any single violation will lead
21 to mandatory. Or they can choose to rescind the
22 agreement under paragraph 19.

23 MS. BRADLEY: Yeah, they can always modify, I
24 mean the Board can always say, "We would like to change
25 the settlement we entered into."

1 I mean, I guess, I just don't think that
2 there's a situation where the Board is forced to take an
3 action as far as discipline, if they don't want to do.

4 And I agree with you. I was going to look at
5 paragraph 11. So this is the one that talks about -- I
6 think, you just referred to it. It says that after
7 being afforded due process, and that that means having a
8 hearing and also an appeal right, if it's determined
9 that ESI has engaged in any act that constitutes grounds
10 for discipline, so that would mean any discipline, I
11 mean anything that's issued, as described in paragraph
12 three above, or otherwise failed to comply with the
13 terms of the agreement, the stay of revocation will be
14 lifted, and ESI's license will be revoked.

15 And that's what the parties agreed to. And the
16 parties are Mr. Hendi, the Board staff, and then it was
17 approved by the Board. And then it says upon receiving
18 written notice that they'll surrender the license.

19 And then the other option is -- I think, it's
20 paragraph 19. And this is kind of standard, I would
21 say, in most settlements that I've seen, where it talks
22 about that if the Board staff feels like the case, the
23 stipulation isn't fulfilled under paragraph 19 on
24 page 14, that there's the option to rescind the
25 settlement completely and just have a hearing on the

1 underlying violations.

2 And then, I guess, I would add that given the
3 stipulation is only effective based on the Board
4 approving it, and the Board approved it by order, I
5 think, the Board can always amend its order, if it
6 chooses. I mean I agree that the terms said that the
7 stay is lifted. But, I guess, I'm not comfortable
8 telling the Board that they have to revoke a license if
9 that's not what they're wanting to do.

10 So I don't know if that answers your question,
11 Chairman Zane. I think, the way to do it is you have to
12 modify the order approving and/or, as Ms. Bordelove
13 said, you have to find that maybe the violation exists,
14 but it's not something that would be subject to the
15 agreement, either because it was preexisting -- I think,
16 that's really it. Preexisting is the only things that
17 don't apply to the agreement.

18 BOARD CHAIRMAN ZANE: Thank you.

19 MR. CAMPBELL: May I add one thing? In the
20 complaint, the disciplinary authorization in the
21 complaint, as alleged, is also spelled out.

22 MS. BRADLEY: Oh, yes. Yeah. I mean, again,
23 the Board -- I mean, I don't know. I guess, I feel like
24 the Board is free, in my opinion, kind of any time it's
25 having a public hearing, to take the disciplinary action

1 it thinks is appropriate, even though the settlement
2 says it would be automatically revoked.

3 MS. BORDELOVE: I mean I want to point out,
4 though, that the settlement agreement was reached by the
5 parties. So I don't know that the Board can alter the
6 settlement agreement.

7 MS. BRADLEY: The Board can, actually. There's
8 two ways. One, it's not effective until it's approved
9 in a meeting. So it has to be approved in a meeting
10 under 622.320, public meeting.

11 And then, in the settlement itself, there's
12 usually a notice -- let me find it -- that talks about
13 the fact that if the Board is uncomfortable, and this
14 happens a lot, where the Board either wants to change
15 something or -- and the respondent is actually the one
16 that has to agree to the change. It doesn't normally
17 require staff to agree, if it's what the Board wants to
18 do.

19 So it's page 15 of the settlement: If the
20 PILB, so that's if the Board rejects -- this is
21 withdrawal of settlement. If the Board rejects the
22 stipulation or suggests terms unacceptable to ESI, ESI,
23 then, doesn't have to agree to the change, and then
24 staff will have a complaint hearing.

25 Also, the top -- the bottom of 14, top of 15

1 talks about the approval of the stipulation. And ESI
2 acknowledges and agrees that the PILB -- that's the
3 Board -- may approve the stipulation, reject it, or
4 suggest different terms that must be communicated to ESI
5 and accepted or rejected by ESI before any amendment
6 becomes effective.

7 So I do think they have continuing jurisdiction
8 under the underlying agreement and their order, because
9 the order approving is what makes it effective. And
10 I've seen sometimes they'll put something in there that
11 they want to modify.

12 So I don't know if that helps clarify for
13 everybody.

14 MS. PALMER: Ms. Bradley?

15 MS. BRADLEY: Yes.

16 MS. PALMER: This is co-counsel Palmer. The
17 withdrawal of the stipulation referred specifically to
18 that provision that had been unsettled at the time that
19 the complaint draft was moving forward. There was an
20 unsettled term. The Board may recall, there was a lot
21 of things that had to be discussed. There were two
22 proposed agreements.

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

24 MS. PALMER: And that's what this provision was
25 there for.

1 MS. BRADLEY: Okay. Well, I --

2 MS. PALMER: That once that was --

3 MS. BRADLEY: Okay. I do remember that.

4 However, I would just say, Withdrawal of Stipulation is
5 a standard. I put it in every single settlement I have,
6 because the Board always has the right to amend the
7 settlement, if it would like to. The respondent has the
8 option to agree to what the amendment the Board wants or
9 doesn't want. It's not uncommon for the Board to want
10 more of a fine paid, an additional class.

11 This says "Withdrawal of Stipulation." It
12 doesn't talk about that specific term and that specific
13 issue. I recall that issue. And, I guess, I'm going to
14 stand by what I've said. I think, the Board has
15 continuing jurisdiction over the stipulation. It can
16 modify the terms, if Mr. Hendi agrees.

17 I also think that, you know, in general, in the
18 complaint process -- and I realize this is very unique.
19 I would say that it's a unique situation, because we
20 have a settlement that says there's an automatic
21 revocation, and then we're having a complaint hearing on
22 it, and so the Board has to determine whether there are
23 facts that apply.

24 But at the same time, I just don't believe that
25 I can advise the Board that they must revoke, if they

1 don't want to. I think that they'd have to modify, I
2 agree, the underlying agreement.

3 But I mean, I think, that was the question that
4 the Chairman asked, was whether that was mandatory.
5 And, I guess, I think, it's up to the Board what they
6 would like to do. I think, the parties agreed to that,
7 the Board approved that, and now we're here hearing the
8 case we're hearing. And the Board is free to decide how
9 they'd like. And if they want to change that, we'll
10 have to draft an order or somehow reflect that the
11 settlement has been changed in that way based on an
12 order of the Board.

13 MS. PALMER: And, Ms. Bradley, I agree with you
14 that the Board does not have to revoke. There were two
15 options. The Board could revoke, or the Board could
16 rescind this agreement and move forward on the original
17 complaint. That was the intent of the agreement, for
18 the record.

19 MS. BRADLEY: Yeah, and, I think, that's been
20 stated. And it is definitely in the agreement.
21 However, I guess, I think, regardless of what that says,
22 regardless of the agreement, I don't think the
23 settlement tells the Board what to do per se. It gives
24 them guidance. I think, the Board ultimately has
25 authority to decide how it wants to handle a license

1 case. And it can make that choice. And we'll deal with
2 what we need to do with the document once the Board
3 decides.

4 I mean they can't add things or do anything
5 inappropriate. But if they decide, "You know what,
6 we've heard this, yes, there was a violation, but we
7 don't want to revoke," I think, they have that ability,
8 and there can be a modification.

9 And, I guess, I would ask that we go back to
10 deliberation, which means the Board is speaking. And, I
11 guess, if they have questions for me, I will answer
12 those questions.

13 BOARD CHAIRMAN ZANE: Well, I'll kick it out to
14 start the thing.

15 It would be my impression that the issue
16 regarding the payment of the fines is not a major issue,
17 in my mind, as far as the technical violation of the
18 settlement agreement.

19 The fact that there's an overall perception of
20 an unwillingness on the license, by the licensee to
21 either understand the obligation or to fulfill an
22 obligation is precipitated by a lot of past behavior.
23 And that past behavior was supposed to be considered
24 nullified by the settlement agreement.

25 I don't know that, one, that the PILB totally

1 forgot about the licensee's history. And I don't think
2 that the licensee forgot that he's supposed to abide at
3 a true or better level as what's expected of him.

4 But as far as the payment, or the check,
5 really, in my mind, I don't care that it was little bit
6 late. I think that it falls into a level of substantial
7 compliance. I would say that if it was 30 days late,
8 we'd have an issue.

9 I think that there's a problem, because we had
10 other state agencies who have issued financial orders
11 that the licensee failed to comply with, that created --
12 I wouldn't say it's an illusion -- that a continuing
13 process to maybe not take care of the fulfillment of
14 responsibilities with the licensee's checkbook, probably
15 put the feeling at the Board level, or at the staff
16 level that what are we supposed to do that allows this
17 stuff to languish. I can't help but believe that a
18 little bit of that history crept into the want to
19 enforce the settlement.

20 At the time, as has been discussed prior, I do
21 support the settlement agreement, because I felt that
22 based upon the allegations that, one, each and every
23 allegation should have been tried on its merits,
24 especially if we were considering pulling a license
25 that's been in existence for over 20 years. And, but,

1 on the same token, Mr. Hendi was reasonably represented
2 and chose to enter into the stipulation agreement.

3 But I felt, given the circumstances and with
4 the information that I had available, I felt that that
5 agreement might have been a little bit Draconian
6 inasmuch as where we're here now, with the question I
7 just posed to counsel, and that is, is that if we find
8 that he failed to wipe his nose after he sneezed, he
9 would lose his license.

10 I'm not taking away the seriousness of the
11 original violations that came to be part of the
12 settlement agreement, because there was quite a few
13 things that needed to be addressed. But by the same
14 token, I have an issue about jerking a license unless
15 there's a clear and distinct public safety issue
16 associated with that revocation.

17 I think, we can find people all day long and we
18 can bring complaint showing a pattern of conduct that
19 says this person shouldn't hold a license anymore
20 because of this pattern of conduct over time.

21 But that, for me, was kind of removed when we
22 entered into the settlement agreement. Because I didn't
23 get to hear about all these different patterns of
24 conduct. Because if we had hearing after hearing --
25 and, you know, I understand that there were

1 circumstances that we were not able to go into because
2 the violations weren't appealed when they were issued,
3 within the time frames that were allowed.

4 You know, quite possibly maybe we should have
5 had an emergency suspension on the license to bring it
6 before the Board at a time way earlier than now, and to
7 address those issues when the licensee, apparently,
8 chose to just ignore the regulation.

9 So I'm not mitigating the circumstance, and I'm
10 not saying that staff was wrong or that Mr. Hendi was
11 wrong. But I have a difficult time moving straight for
12 pure revocation under a singular issue brought up over a
13 license that's been in effect over 20 years. That's
14 where I'm coming from. That's my thought process at
15 this time.

16 MS. BRADLEY: What I would encourage you all to
17 do is if you want to have preliminary discussions, let's
18 do that. But let's not worry about or discuss any
19 penalty just yet. I think, before we do that, we need
20 to determine, you need to determine whether the facts
21 have been proven. And then, and then that's where you
22 get into the violations of law, whether those have been
23 proven. And then we get into, okay, now, now what kind
24 of remedy, and what does the settlement say, and how are
25 we going to work that out.

1 So I mean, if we could -- and, again, I know
2 this is a unique one. But let's not try to get too much
3 into that right yet, because, I think, we need to go
4 through it kind of more orderly with the facts first.

5 BOARD MEMBER NADEAU: (Raised a hand.)

6 BOARD CHAIRMAN ZANE: Yes, sir, Mr. Nadeau.

7 BOARD MEMBER NADEAU: Thank you, Mr. Chair.
8 You know, we've spent a considerable amount of time on
9 this, and expense. And you can see there's clearly
10 frustration on the part of staff on the continuing
11 behavior and how, and how that -- who knows if that
12 taints the interpretation, or that.

13 I feel, in the stipulation agreement, I'm
14 concerned about the conflicting language and lack of
15 hard dates, and along with the lack of engagement by
16 Mr. Hendi's attorney.

17 I had a question, I have had a question for our
18 counsel, and in that does an email, does that stand as a
19 legal notice; in other words, an email between two
20 individuals, not -- one representing Mr. Hendi, who has
21 an obvious responsibility in representing Mr. Hendi and
22 getting adequate word, but does an email stand as legal
23 notice for this, for this purpose? And...

24 MS. BRADLEY: I guess, my answer is it's going
25 to depend. You know, I mean it's in writing. You know,

1 a lot of times, when you think of notices, it should be
2 in writing, and it should be sent to the person and
3 received.

4 And, I think, we generally rely on email maybe
5 more and more than we used to. I'd say it's probably
6 not really a formal notice. In my mind, a formal notice
7 is still probably on written paper and mailed to
8 somebody, maybe even mailed certified; you know, that's
9 probably more. But, but I mean if the intent is to have
10 a conversation and let the person know, I think, email
11 can do that.

12 You know, so, I guess, it's hard to say. I was
13 going to look in -- yes, I just was looking in
14 Chapter 238, because 238 does talk about notices, but
15 it's mostly talking about publication of notices.

16 So, I think, in general, probably a court would
17 construe, if there was a question, that an email
18 correspondence maybe could be notice, but maybe not as
19 formal.

20 BOARD MEMBER NADEAU: I know, in some statutes,
21 electronic signatures and electronic mail is considered
22 as appropriate notice. I just didn't know if it was in
23 this case, this particular case.

24 You know, and I think back. I think, I was in
25 the original hearing on the stipulation. That was a

1 long time ago. But I do remember or seem to remember
2 the conversation about the fresh start and that it was
3 specifically addressing activity prior to, you know,
4 prior to the signing of the stipulation.

5 And so, I guess, you know, my question is,
6 okay, if there's activity that's going on prior to the
7 fresh start or prior to the stipulation, that if that
8 activity occurs after, then it seems to be carried, it
9 should carry forward.

10 Now, the activity of the second individual is
11 the part that, you know, kind of raises the question,
12 because that began after the stipulation was signed.
13 Yet there was still a question about whether, at least
14 my sense is, in Mr. Hendi's mind, there was still a
15 question about whether or not they were required to be
16 registered. And so, you know, I'm still struggling with
17 that, with that piece of it.

18 Mr. Chair, I agree with you as far as the
19 payment issue. Payments were made. You have a grace
20 period. If you are buying a car and you're making a car
21 payment, there's a grace period before you're hammered
22 for late payment or repossession. Mr. Chair, you'd know
23 about the repossession piece.

24 So I'm not -- the payment issue, though, is
25 concerning. There appears, to me, to be some kind of

1 lack of communication on both sides as to whether or not
2 that was -- that there was a hard date.

3 So, I guess, those are my thoughts right now.

4 BOARD CHAIRMAN ZANE: Any other Board comment?

5 Ms. Bradley, do you believe that we should go
6 down each one of these and make a finding of a
7 violation, or?

8 MS. BRADLEY: My recommendation is that you
9 start on page one of the complaint, and you start with
10 the first factual allegation, and you determine whether
11 or not they're proven. You can group them if you think
12 that's appropriate. And then maybe discuss maybe the
13 more contentious facts, you know, the ones that -- not
14 contentious, but the ones that maybe aren't as clear to
15 all of you.

16 But, yeah, I would recommend that we start with
17 the facts, and you make a motion on them.

18 And I would also suggest and encourage, and I
19 may prompt you as you go through this, that once a
20 motion's on the floor, and there's a second, that you
21 put your reasons why you're either going to vote in
22 favor of the motion, or not, so that it's clear in the
23 record. Because I think that's important.

24 BOARD CHAIRMAN ZANE: And the complaint Bates
25 number on the bottom is what?

1 MS. BRADLEY: I have one that says 00002. I
2 think, there's also a second copy. At least in my
3 packet, I actually had two complaints at the front of my
4 book. So I don't know if that's -- but it should be the
5 very first thing you have in the complaint notebook.

6 Does everybody have it?

7 BOARD CHAIRMAN ZANE: That was my confusion,
8 because that Bates number is apparently to the -- that I
9 have is apparently to the disciplinary action or the
10 work card issue.

11 MS. BRADLEY: Oh, okay.

12 BOARD CHAIRMAN ZANE: So I just wanted to make
13 sure I had the right one.

14 MS. BRADLEY: I think, it's also 12. It could
15 be page two or page 12.

16 BOARD CHAIRMAN ZANE: Would it be possible for
17 you to read each one?

18 MS. BRADLEY: Sure.

19 BOARD CHAIRMAN ZANE: Thank you.

20 MS. BRADLEY: So the first factual allegation
21 is: On March 3rd, 2016, PILB Executive Director Kevin
22 Ingram and respondent entered into a stipulation for
23 settlement of disciplinary action.

24 And so, if you want, I mean I don't know if you
25 want to group them, or if you want to just vote on that

1 one and then move on to the next one, or how you'd like
2 to do it.

3 BOARD MEMBER NADEAU: Mr. Chair?

4 BOARD CHAIRMAN ZANE: Yes, sir.

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

6 I'd suggest we group them. You know, they're already
7 grouped in some kind of a way. But that would be -- I
8 think, it would make it simpler than have to go through
9 motion after motion after motion.

10 MS. BRADLEY: Okay. The only thing is I was
11 concerned that if you didn't -- okay.

12 BOARD MEMBER NADEAU: But, yeah.

13 MS. BRADLEY: Okay. So I'll read the second
14 one as well: On March 9, 2016, a declaration of
15 attorneys' fees and costs totaling \$30,477.46, stemming
16 from the disciplinary action, was sent to respondent and
17 to his legal counsel, J. Robert Smith, at Holland & Hart
18 LLP.

19 And then the third fact, alleged fact is: On
20 March 10, 2016, the PILB entered an order approving the
21 Stipulation for Settlement of Disciplinary Action
22 between respondent and the PILB. And then it says: See
23 Attachment 1. And that includes that order.

24 Number four: Pursuant to the stipulated
25 settlement agreement, among other provisions, ESI

1 specifically agreed to the following enumerated terms:

2 And subsection two says: 18 months of
3 probation and a stay of revocation of its license
4 pending satisfactory completion of the remain terms of
5 the settlement.

6 Subsection three: Refrain from any act that
7 constitutes grounds for discipline pursuant to NRS
8 648.150.

9 Subsection seven: Reimbursement for up to
10 \$30,000 of the PILB's costs and attorneys' fees
11 associated with the disciplinary action that gave rise
12 to the stipulated settlement. And that was \$15,000 of
13 which was due on or before April 9, 2016, 30 days from
14 the effective date of the order. That's in parentheses.

15 And subsection nine: Payment of 12 monthly
16 installments of \$1,798.96 beginning on or before -- and
17 I have an X here. I think, it was amended to say
18 May 14, but I don't know if that's true. Anyway, on or
19 before May 9th, 2016, 60 days from the effective date of
20 the order, for the remaining fines, costs, and
21 attorneys' fees.

22 Maybe that change was not included in there. I
23 don't know. No. Okay. So strike the change.

24 So those, that's the first section of facts.

25 BOARD CHAIRMAN ZANE: So we need a motion that

1 the facts have been proven or not.

2 BOARD MEMBER NADEAU: Mr. Chair?

3 BOARD CHAIRMAN ZANE: Yes, sir.

4 BOARD MEMBER NADEAU: I would, I would move
5 that the factual allegations one to three be approved.

6 BOARD CHAIRMAN ZANE: There's a motion. Is
7 there a second?

8 BOARD MEMBER FLYNN: Ray Flynn seconds.

9 BOARD CHAIRMAN ZANE: We have a motion and a
10 second. Any Board discussion?

11 BOARD MEMBER NADEAU: I just, I can agree that
12 those factual allegations are factual.

13 BOARD CHAIRMAN ZANE: Any Board comment?

14 Okay. All in favor, say "aye."

15 (Board members said "aye.")

16 BOARD CHAIRMAN ZANE: Any opposed, say "no."
17 Carries unanimously.

18 MS. BRADLEY: So factual allegation four wasn't
19 included. And I would also remind you that if you need
20 to strike things, you can remove things from the
21 complaint as far as words or things like that, but you
22 can't add to it. I don't know if that makes sense. So
23 if there's a term or there's something that you don't
24 like, you could remove that from the complaint. Or you
25 can just find it's not proven, or whatever you prefer.

1 BOARD MEMBER NADEAU: Mr. Chair?

2 BOARD CHAIRMAN ZANE: Yes, sir.

3 BOARD MEMBER NADEAU: I would move that in
4 factual allegation four, that items seven and nine be
5 removed. And I would be able to support for, with those
6 two removed.

7 MS. BRADLEY: Do you want to remove the whole
8 provision or just the portion that includes the due
9 dates? I mean is the due dates the concern?

10 BOARD MEMBER NADEAU: The due dates are my
11 concern. But, but, additional, if you don't have dates,
12 if you don't have a list of dates, then the other party
13 is not eligible to the obligation.

14 MS. BRADLEY: Okay. So you're saying four is
15 proven with subsection two and subsection three?

16 BOARD MEMBER NADEAU: Yes.

17 MS. BRADLEY: Okay. And then you're saying
18 seven and nine were not proven?

19 BOARD MEMBER NADEAU: That's correct.

20 MS. PALMER: Counsel?

21 MS. BRADLEY: Yeah.

22 MR. CAMPBELL: Board counsel Bradley?

23 MS. BRADLEY: M-hm (affirmative).

24 MS. PALMER: This is co-counsel Palmer.

25 MS. BRADLEY: M-hm (affirmative).

1 MS. PALMER: I'm not sure what you just did.
2 The complaint was brought forward by Board staff.

3 MS. BRADLEY: M-hm (affirmative).

4 MS. PALMER: These are allegations. I don't
5 understand why the Board would be removing the complaint
6 that was brought forward. I understand making findings,
7 but I don't understand why they would actually be --

8 MS. BRADLEY: Well --

9 MS. PALMER: -- striking it as if it wasn't --

10 BOARD MEMBER NADEAU: I'm okay.

11 MS. BRADLEY: For example, they can just find
12 it not proven, if you like. But what I found, when
13 working with boards, sometimes they object to a term or
14 a date or something that's in there that specifies it to
15 a level they don't like. And there's nothing in the law
16 that prohibits them from striking that portion if that's
17 their concern.

18 So, for example, if they don't want the date in
19 there, but they want the rest of it in there, if they
20 don't like a word that says "knowingly," they can strike
21 that. And that, that's actually permitted. And it's
22 happened numerous times.

23 So they can remove a word, and then they can
24 find that it's true with that change. Sometimes that's
25 all that's necessary for them to find something is true.

1 But, but in this case, it sounds like what
2 Member Nadeau's really requesting, instead of removing,
3 he's actually just requesting that four, two and three
4 are proven, and seven and nine are not proven. That's
5 what I'm hearing, rather than striking.

6 I mean it's up to you. I don't know. But
7 that's what I heard.

8 BOARD MEMBER NADEAU: Well, there's no second,
9 so.

10 MS. BRADLEY: Oh, yeah, there hasn't been a
11 second. So the motion would fail.

12 BOARD CHAIRMAN ZANE: Well, I haven't called
13 for a second yet, because we were having a discussion.

14 MS. BRADLEY: Okay. Sorry.

15 BOARD CHAIRMAN ZANE: To the extent that it's
16 understood, is there a second?

17 BOARD MEMBER COLLINS: Second.

18 BOARD CHAIRMAN ZANE: We have a motion and a
19 second. Any Board discussion?

20 MS. BRADLEY: Well, could we just clarify.

21 BOARD MEMBER FLYNN: Yeah, I -- well, I'll let
22 you talk, then. I thought it was Board discussion.
23 Please do. I appreciate it.

24 MS. BRADLEY: I just wanted to clarify the
25 motion that Mr. Nadeau made.

1 So are you wanting to actually just remove
2 those from the complaint, or are you wanting to find
3 that seven and nine are not proven? It's up to you. I
4 just want to make sure for the order and the record.

5 BOARD MEMBER NADEAU: I could, you know, we
6 could consider seven and nine. My motion is that four,
7 two and three, I support the allegations in four, two
8 and three.

9 MS. BRADLEY: Okay. So then you'll deal with
10 seven and nine separately?

11 BOARD MEMBER NADEAU: Correct.

12 MS. BRADLEY: Okay. And does the second
13 understand that and modify their second to just be four,
14 and then sub two and sub three are proven?

15 BOARD MEMBER COLLINS: Second. Yes.

16 BOARD CHAIRMAN ZANE: The second modifies.
17 Okay. Board discussion.

18 BOARD MEMBER FLYNN: I have nothing.

19 BOARD CHAIRMAN ZANE: No discussion. All in
20 favor of the motion, say "aye."

21 (Board members said "aye.")

22 BOARD CHAIRMAN ZANE: Any opposed, say "no."
23 Carries unanimously.

24 And are we required to handle seven and nine in
25 some affirmative way, or we move on?

1 MS. BRADLEY: You need to make a finding. I
2 mean the factual allegations need to be proven or not
3 proven, or amended if the Board feels it appropriate.
4 So.

5 BOARD MEMBER NADEAU: Mr. Chair?

6 BOARD CHAIRMAN ZANE: Yes, sir.

7 BOARD MEMBER NADEAU: I'll make a motion, if
8 we're -- I would move that four, seven and nine, that
9 there's insufficient findings, insufficient information
10 for me to find.

11 BOARD CHAIRMAN ZANE: There's a motion. Is
12 there a second?

13 BOARD MEMBER COLBERT: Second.

14 BOARD CHAIRMAN ZANE: Motion and a second. Any
15 Board comment, question?

16 All in favor, say "aye."

17 (Board members said "aye.")

18 BOARD CHAIRMAN ZANE: Any opposed, say "no."

19 Carries unanimous.

20 Next?

21 MS. BRADLEY: Okay. So the next two facts are
22 grouped together.

23 Five: On April 12th, 2016, through legal
24 counsel, PILB Executive Director Kevin Ingram advised
25 Mr. Smith that the PILB had not received payment for

1 costs and attorneys' fees, due to April 9, 2016,
2 pursuant to the stipulated settlement agreement.

3 And then number six: On April 13, 2016, the
4 PILB received a check in the amount of \$15,000, dated
5 April 10, 2016, which had been sent via priority
6 overnight mail through FedEx on April 12, 2016.

7 BOARD MEMBER FLYNN: This is Ray Flynn. I'll
8 make a motion that items five and six have been proven.

9 BOARD CHAIRMAN ZANE: Is there a second?

10 BOARD MEMBER COLLINS: Second.

11 BOARD CHAIRMAN ZANE: We have a motion and a
12 second. Any Board discussion or question?

13 All in favor, say "aye."

14 (Board members said "aye.")

15 BOARD CHAIRMAN ZANE: Any opposed, say "no."
16 Carries unanimous.

17 MS. BRADLEY: The next two are also grouped
18 together.

19 Factual allegation seven: On May 9, 2016,
20 respondent's first \$1,798.96 monthly installment check,
21 for fines, costs, and attorneys' fees, was due to the
22 PILB.

23 Number eight: On May 17, 2016, the PILB
24 received a check in the amount of \$2,000, dated May 9,
25 2016, which was postmarked May 12, 2016.

1 BOARD MEMBER NADEAU: Mr. Chair?

2 BOARD CHAIRMAN ZANE: Yes, sir.

3 BOARD MEMBER NADEAU: I'd make the motion that
4 on factual allegation seven, that there's inadequate
5 information to make a finding on that. And on -- well,
6 I'll just say that on seven.

7 BOARD CHAIRMAN ZANE: Okay. There's a motion.
8 Is there a second?

9 I'll second. Any Board discussion, questions
10 on the motion?

11 BOARD MEMBER COLLINS: I'm going to have to
12 abstain from the motion. It wasn't clear.

13 BOARD MEMBER NADEAU: Mr. Chair, if you want me
14 to, I can go ahead, and my motion was that there's
15 insufficient -- there was not sufficient information to
16 support making a finding on that, that idea. And, I
17 think, the question of due date is sufficiently unclear
18 that I can't make a finding that that was, in fact,
19 accurate.

20 MS. BRADLEY: So, I think, your motion is that
21 it's not proven.

22 BOARD MEMBER NADEAU: That's correct, yes.

23 BOARD CHAIRMAN ZANE: Any other Board comment?

24 All in favor of the motion, say "aye."

25 (Board members said "aye.")

1 BOARD CHAIRMAN ZANE: Any opposed, say "no."
2 Carries unanimous.

3 BOARD MEMBER NADEAU: Mr. Chair, I'd make a
4 motion that on that item eight, that there was
5 sufficient information to support a finding on that
6 allegation.

7 BOARD CHAIRMAN ZANE: There's a motion. Do we
8 have a second?

9 BOARD MEMBER FLYNN: Ray Flynn. Second.

10 BOARD CHAIRMAN ZANE: Motion and a second. Any
11 Board comment or question regarding the motion?

12 All in favor, say "aye."

13 (Board members said "aye.")

14 BOARD CHAIRMAN ZANE: Any opposed, say "no."
15 Carries unanimous.

16 MS. BRADLEY: Oh. Sorry. The next two facts
17 are grouped together.

18 Factual allegation nine: On June 9, 2016,
19 respondent's second \$1,798.96 monthly installment check,
20 for fines, costs, and attorneys' fees, was due to the
21 PILB.

22 Factual allegation 10: On June 23rd, 2016, the
23 PILB received a check in the amount of \$2,000, dated
24 June 17, 2016, which had been sent by certified mail on
25 June 20, 2016.

1 I think, there has -- oh, yeah. Okay. Sorry.

2 BOARD MEMBER NADEAU: Mr. Chair?

3 BOARD CHAIRMAN ZANE: Yes, sir.

4 BOARD MEMBER NADEAU: Are you waiting for me?

5 BOARD CHAIRMAN ZANE: If you're continuing the
6 lead.

7 BOARD MEMBER NADEAU: All right. Mr. Chair,
8 I'd move that on factual allegation number nine, there
9 is insufficient evidence to support a finding on that
10 one.

11 BOARD CHAIRMAN ZANE: There's a motion. Do I
12 have a second?

13 BOARD MEMBER COLBERT: Second.

14 BOARD MEMBER COLLINS: Second.

15 BOARD CHAIRMAN ZANE: Okay. We have a motion.
16 We have a second. Any Board comment or question
17 regarding the motion?

18 BOARD MEMBER NADEAU: To support my --

19 BOARD CHAIRMAN ZANE: All in favor, say "aye."

20 (Board members said "aye.")

21 BOARD CHAIRMAN ZANE: Any opposed, say "no."

22 Carries unanimous.

23 BOARD MEMBER NADEAU: Mr. Chair, I'd move that
24 on factual allegation 10, that there is sufficient
25 information to support that allegation.

1 BOARD CHAIRMAN ZANE: Okay. We have a motion.
2 Do we have a second?

3 BOARD MEMBER FLYNN: Ray Flynn. Second.

4 BOARD CHAIRMAN ZANE: Motion and a second. Any
5 Board comment or question regarding the motion?

6 All in favor, say "aye."

7 (Board members said "aye.")

8 BOARD CHAIRMAN ZANE: Any opposed, say "no."

9 Carries unanimous.

10 MS. BRADLEY: The next two are grouped
11 together.

12 Factual allegation 11: On July 9, 2016,
13 respondent's third \$1,798.96 monthly installment check,
14 for fines, costs, and attorneys' fees, was due to the
15 PILB.

16 Factual allegation 12: On July 22nd, 2016, the
17 PILB received a check in the amount of \$2,000, dated
18 July 15, 2016, which had been sent via certified mail on
19 July 18, 2016.

20 BOARD MEMBER NADEAU: Mr. Chair, I'd move that
21 on factual allegation number 11, that there's
22 insufficient evidence to support that finding.

23 BOARD CHAIRMAN ZANE: There's a motion. Is
24 there a second?

25 BOARD MEMBER COLBERT: Second.

1 BOARD MEMBER COLLINS: Second.

2 BOARD CHAIRMAN ZANE: Motion and a second. Is
3 there any Board discussion or question regarding the
4 motion?

5 All in favor, say "aye."

6 (Board members said "aye.")

7 BOARD CHAIRMAN ZANE: Any opposed, say "no."

8 Carries unanimous.

9 BOARD MEMBER NADEAU: Mr. Chair, I'd move that
10 on factual allegation number 12, that there is
11 sufficient evidence to support that finding.

12 BOARD CHAIRMAN ZANE: There's a motion. Is
13 there a second?

14 BOARD MEMBER FLYNN: Ray Flynn. Second.

15 BOARD CHAIRMAN ZANE: Motion and a second. Any
16 Board comment or question regarding the motion?

17 All in favor, say "aye."

18 BOARD CHAIRMAN ZANE: Any opposed, say "no."

19 Carries unanimous.

20 MS. BRADLEY: Okay. The last facts are grouped
21 together regarding notice of violation number I-071-16.

22 Factual allegation 13: On June 29, 2016,
23 Irizarry issued a notice of violation, NOV, number
24 I-071-16, to respondent in the total amount of \$200,
25 pursuant to NRS 648.160 and NAC 648.431, sub 3, for a

1 third or subsequent offense of a licensee employing two
2 unregistered persons, in violation of NRS 648.060.

3 Factual allegation 14: The NOV was served by
4 certified mail, receipt number 7015 1520 0002 6583 0944,
5 dated June 29, 2016, addressed to respondent at
6 8670 Technology Way, Reno, Nevada 89521, pursuant to NAC
7 648.433, with delivery completed on July 11, 2016, via
8 signed receipt. It was also served by way of electronic
9 mail to respondent and to Mr. Smith on June 29, 2016.

10 Factual allegation 15: The NOV instructed
11 respondent to, one, remit payment to the PILB in the
12 total amount of the violation fine; or, two, submit a
13 written request to the PILB for a hearing to appeal the
14 violation not later than August 1, 2016.

15 Factual allegation 16: On July 13, 2016, the
16 PILB received a letter dated July 11, 2016, from
17 Attorney Richard G. Campbell, Jr., Mr. Campbell, Downey
18 Brand LLP, requesting a hearing to appeal the violation
19 and indicating that he was representing respondent in
20 the appeal.

21 Factual allegation 17: On July 26, 2016, a
22 notice of hearing was sent to Mr. Campbell advising him
23 that a hearing date for the appeal had been set for
24 September 8, 2016.

25 Factual allegation 18: On July 29, 2016,

1 Mr. Campbell advised that he will not be available for a
2 hearing on September 8, 2016, but that he would be
3 available for a hearing during the week of August 29,
4 2016.

5 Factual allegation 19: On August 2nd, 2016, a
6 revised notice of hearing was sent to Mr. Campbell
7 advising him that a hearing date for the appeal had been
8 set for September 1, 2016.

9 BOARD MEMBER FLYNN: Mr. Chair, I'd make a
10 motion.

11 BOARD CHAIRMAN ZANE: Please.

12 BOARD MEMBER FLYNN: I believe that it's been
13 proven that items 13 through 19 have been proven.

14 BOARD CHAIRMAN ZANE: There's a motion. Is
15 there a second?

16 BOARD MEMBER COLLINS: Second.

17 BOARD CHAIRMAN ZANE: Motion and a second. Any
18 Board comment or question?

19 I have a comment, regarding 13 only, and
20 that's: On June 29, 2016, Irizarry issued a notice of
21 violation, NOV number I-071-16, to respondent, in the
22 total amount of \$200, pursuant to NRS 648.160 and NAC
23 648.431(3), for a third and subsequent offense of a
24 licensee employing two unregistered persons, in
25 violation of 648.060.

1 I'm concerned that the -- I'm not concerned
2 that it was proven that that was issued. But I'm
3 concerned that it was not proven that it was a third and
4 subsequent offense, since the point in time that the
5 settlement agreement said that they have a fresh start.

6 MS. BRADLEY: I think, the way the fact reads,
7 because you've already -- you've already had the matter,
8 a hearing on that matter. I mean the facts here is
9 written that on this date this was issued. And so, I
10 think, the question that you're asking is what the
11 notice included, whether it was that last part.

12 I hope that makes sense. But I don't know that
13 this is asking you to find that the violation itself was
14 true, just that the notice was issued on this date, and
15 this fine amount.

16 BOARD CHAIRMAN ZANE: Okay. That clears it up.

17 MS. BRADLEY: That's how I'm reading it anyway.
18 Because, I think, the truth of whether it was valid was
19 a different proceeding.

20 BOARD CHAIRMAN ZANE: Okay. Thank you. That's
21 the only question or comment I had.

22 Any other Board questions or comments on the
23 motion?

24 BOARD MEMBER FLYNN: I'll keep my motion as is.

25 BOARD MEMBER NADEAU: Yeah, thank you,

1 Mr. Chair. I appreciate you clarifying that, because...

2 Thank you.

3 BOARD CHAIRMAN ZANE: Okay. We're ready for a
4 vote.

5 BOARD MEMBER FLYNN: Do we have a second?

6 BOARD CHAIRMAN ZANE: Oh.

7 BOARD MEMBER COLLINS: No, I already seconded
8 that motion.

9 BOARD CHAIRMAN ZANE: I believe, for the
10 record, that Member Collins seconded?

11 THE REPORTER: Yes.

12 BOARD CHAIRMAN ZANE: Thank you.

13 All in favor, say "aye."

14 BOARD CHAIRMAN ZANE: Any opposed, say "no."

15 Carries unanimous.

16 MS. BRADLEY: So now that you've gone through
17 the facts, you can go through the violations. And, I
18 think, at least some of the facts will help you
19 determine the violations as well.

20 Do you want me to read the violations, or? I'm
21 happy to do whatever you'd like, Mr. Chair.

22 BOARD CHAIRMAN ZANE: It would be best, since
23 not all of us have a copy in front of us to follow.

24 MS. BRADLEY: Okay. The first claim for
25 relief: By timely failing to pay the costs and

1 attorneys' fees in the amount of \$15,000, on or before
2 April 9, 2016, or the first business day thereafter,
3 Monday, April 11, 2016, respondent breached paragraph
4 seven of the Stipulation for Settlement of Disciplinary
5 Action.

6 BOARD CHAIRMAN ZANE: Do I have a motion?

7 BOARD MEMBER FLYNN: Ray Flynn. I make a
8 motion that that has been proven.

9 BOARD MEMBER NADEAU: I'm sorry. Could you
10 repeat the motion.

11 BOARD MEMBER FLYNN: Yes. I'm saying that I
12 believe that on the first claim for relief, that has
13 been proven.

14 BOARD CHAIRMAN ZANE: Is there a second?

15 I'll second for discussion. Board discussion?

16 BOARD MEMBER NADEAU: Mr. Chair?

17 BOARD CHAIRMAN ZANE: Yes, sir.

18 BOARD MEMBER NADEAU: In my mind, I cannot
19 support the motion, because in my mind the specific
20 dates, I think, there's been confusion, conflict between
21 the parties of the stipulation as to when, what the
22 dates were. Clearly, the PILB believed that they knew
23 what the dates were. But I'm not -- I don't know that
24 that, that the confusion over the dates is sufficient to
25 support this being a breach of the stipulation

1 agreement.

2 BOARD CHAIRMAN ZANE: Any other Board comment
3 or question?

4 BOARD MEMBER FLYNN: I just want to support my
5 motion that we've had a lot of talk about dates certain,
6 especially with the installments. I just say ahead of
7 time that I'm confused about the further ones. But, I
8 think, on this particular first one, it's been proven.

9 BOARD CHAIRMAN ZANE: And any questions?

10 BOARD MEMBER COLLINS: I have a question as far
11 as what Board Member Flynn is saying. It is clear that
12 it was not paid by the 9th of that month, but it's not
13 clear that it was due. Is that the -- for a
14 clarification in my mind, that that was actually --

15 BOARD CHAIRMAN ZANE: On the 9th?

16 BOARD MEMBER COLLINS: Yeah.

17 BOARD MEMBER FLYNN: Are you asking me or Board
18 counsel?

19 BOARD MEMBER COLLINS: I'm just kind of putting
20 it out there.

21 BOARD MEMBER FLYNN: Oh, I think, I don't mind.
22 I'm a reasonable person. By what I read, if I was in
23 the defendant's driver's seat, I would have made payment
24 long before the 9th. I probably would have made payment
25 on the 1st.

1 BOARD MEMBER COLLINS: Yeah. But that was --
2 it's not an established due date. And, therefore, if it
3 wasn't an established due date, and could it be a breach
4 of the agreement.

5 BOARD CHAIRMAN ZANE: Any other comments or
6 questions?

7 Call for the vote. All in favor of the motion,
8 say "aye."

9 BOARD MEMBER FLYNN: Aye.

10 BOARD CHAIRMAN ZANE: Any opposed to the
11 motion, say "no."

12 BOARD MEMBER NADEAU: No.

13 BOARD MEMBER COLBERT: No.

14 BOARD CHAIRMAN ZANE: No.

15 BOARD MEMBER COLLINS: No.

16 BOARD CHAIRMAN ZANE: Four to one. The motion
17 fails.

18 MS. BRADLEY: So we would need a new motion,
19 then.

20 BOARD MEMBER NADEAU: Mr. Chair?

21 BOARD CHAIRMAN ZANE: Yes, sir.

22 BOARD MEMBER NADEAU: Are you waiting for me?

23 BOARD CHAIRMAN ZANE: I was still reading over
24 Ray's shoulder again.

25 BOARD MEMBER NADEAU: Okay.

1 BOARD CHAIRMAN ZANE: If you'd like to lead on,
2 be my guest.

3 BOARD MEMBER NADEAU: I'll make a motion and
4 see if it flies. On the first claim for relief, I'd say
5 there's insufficient information to support that this
6 was a breach of the stipulation agreement.

7 BOARD CHAIRMAN ZANE: There's a motion. Is
8 there a second?

9 BOARD MEMBER COLBERT: Second.

10 BOARD CHAIRMAN ZANE: Board questions, comments
11 regarding the motion?

12 All in favor, say "aye."

13 (Board members said "aye.")

14 BOARD CHAIRMAN ZANE: Any opposed, say "no."

15 BOARD MEMBER FLYNN: No.

16 BOARD CHAIRMAN ZANE: Four to one. Motion
17 carries.

18 MS. BRADLEY: The second claim for relief: By
19 timely failing to pay the first monthly installment for
20 fines, costs, and attorneys' fees in the amount of
21 \$1,798.96, on or before May 9, 2016, respondent breached
22 paragraph nine of the Stipulation for Settlement of
23 Disciplinary Action.

24 BOARD CHAIRMAN ZANE: Do we have a motion?

25 I'd move that the second claim for relief be

1 denied. Is there a second?

2 BOARD MEMBER COLLINS: Second.

3 BOARD CHAIRMAN ZANE: I have a motion and a
4 second. Any Board discussion or comment regarding the
5 motion?

6 All in favor, say "aye."

7 (Board members said "aye.")

8 BOARD CHAIRMAN ZANE: Any opposed, say "no."

9 Carries unanimous.

10 MS. BRADLEY: The third claim for relief: By
11 timely failing to pay the second monthly installment for
12 fines, costs, and attorneys' fees in the amount of
13 \$1,798.96, or on or before June 9, 2016, respondent
14 breached paragraph nine of the Stipulation for
15 Settlement of Disciplinary Action.

16 BOARD CHAIRMAN ZANE: I'd move that the third
17 claim for relief be denied. Is there a second?

18 BOARD MEMBER COLBERT: Second.

19 BOARD MEMBER COLLINS: Second.

20 BOARD CHAIRMAN ZANE: We have a motion and a
21 second. Any Board comment or question regarding the
22 motion?

23 All in favor, say "aye."

24 (Board members said "aye.")

25 BOARD CHAIRMAN ZANE: Any opposed, say "no."

1 Carries unanimous.

2 MS. BRADLEY: Fourth claim for relief: By
3 timely failing to pay the third monthly installment for
4 fines, costs, and attorneys' fees in the amount of
5 \$1,798.96, on or before July 9, 2016, or the first
6 business day thereafter, Monday, July 11, 2016,
7 respondent breached paragraph nine of the Stipulation
8 for Settlement of Disciplinary Action.

9 BOARD MEMBER COLLINS: I'll make a motion,
10 Mr. Chairman, that the fourth claim for relief be denied
11 due to lack of sufficient information to support the
12 claim.

13 BOARD CHAIRMAN ZANE: Okay. We have a motion.
14 Do we have a second?

15 BOARD MEMBER COLBERT: Second.

16 BOARD CHAIRMAN ZANE: We have a motion and a
17 second. Any Board comment or question regarding the
18 motion?

19 All in favor, say "aye."

20 (Board members said "aye.")

21 BOARD CHAIRMAN ZANE: Any opposed, say "no."

22 Hearing none, passes unanimous.

23 MS. BRADLEY: Fifth claim for relief: By
24 employing two unregistered persons, respondent committed
25 two violations of NRS 648.060, sub 3, which constitutes

1 grounds for disciplinary action, pursuant to NRS
2 648.150, sub 2, as evidenced by NOV number I-071-16
3 issued by the PILB. The PILB fined respondent \$100 per
4 violation pursuant to NAC 648.431, sub 3, for a third or
5 subsequent offense of NRS 648.060, for a total amount of
6 \$200.

7 By committing an act that constitutes grounds
8 for discipline pursuant to NRS 648.150, respondent
9 breached paragraph three of the Stipulation for
10 Settlement of Disciplinary Action.

11 BOARD CHAIRMAN ZANE: Can I have a motion?

12 BOARD MEMBER FLYNN: I'll make a motion that
13 the fifth claim for relief has been proved.

14 BOARD CHAIRMAN ZANE: We have a motion. Do we
15 have a second?

16 BOARD MEMBER COLLINS: Second.

17 BOARD CHAIRMAN ZANE: Any Board question or
18 comments regarding the motion?

19 BOARD MEMBER NADEAU: Mr. Chair, I just wanted
20 to be clear. This was the citation that was upheld at
21 the end of last year?

22 BOARD CHAIRMAN ZANE: Yes.

23 Any other comment or questions?

24 All in favor of the motion, say "aye."

25 (Board members said "aye.")

1 BOARD CHAIRMAN ZANE: Any opposed, say "no."
2 Passes unanimous.

3 MS. BRADLEY: And so now we've gone through the
4 facts, so, and the violations. So regarding discipline,
5 and it is spelled out here in the complaint. So
6 paragraph 11 says that if the Board determines -- and
7 I'm summarizing a little bit -- that respondent failed
8 to comply with the terms of the agreement, the stay of
9 revocation may be lifted, and respondent's license may
10 be revoked.

11 And then, alternatively, the Board can rescind
12 the stipulation and have a hearing on the underlying
13 complaint.

14 And then there's the general disciplinary
15 action proceedings.

16 And I would also remind the Board that it's my
17 understanding that the finding regarding the citation
18 has been appealed and, I think, is currently under
19 appeal.

20 MR. CAMPBELL: That's correct.

21 MS. BRADLEY: Okay. So I don't know what the
22 Board would like to do with regard to this.

23 BOARD MEMBER FLYNN: Counsel, I've got a
24 question.

25 MS. BRADLEY: Yes.

1 BOARD MEMBER FLYNN: Because you were a little
2 garbled there, you were a little garbled down south
3 there.

4 MS. BRADLEY: Oh.

5 BOARD MEMBER FLYNN: What, if I heard you
6 correctly, we can either rescind the agreement and have
7 a hearing, or we can issue a fine; is that correct?

8 MS. BRADLEY: Well, I was just looking at the
9 Discipline Authorized section of the complaint. So if
10 you've got that in front of you, I'm looking at the
11 bottom of page five and the top of page six.

12 BOARD MEMBER FLYNN: No, I'm unsure of --

13 MS. BRADLEY: Oh.

14 BOARD MEMBER FLYNN: Please, I want your
15 opinion. I read the same thing. I want your opinion.
16 I mean if you want to read it to me word by word, I'll
17 just do it again. I want your opinion.

18 MS. BRADLEY: No, I think, it's whatever you'd
19 like to do. I think, if the parties agree that if there
20 was conduct that violated the stipulation, that a
21 revocation, you know, that there was a stay of
22 revocation, and that would be lifted, and if there would
23 be -- they did agree to that revocation in that
24 stipulation, if the sufficient facts were found.

25 So, I think, you can definitely revoke if you'd

1 like to, but I don't think it's mandatory. I think,
2 partly looking at the language of the complaint here
3 itself, where it says the stay may be lifted, and the
4 license may be revoked, you could actually keep it as a
5 stayed revocation if you wanted, you know, or you
6 could -- I means it's really up to you, I think. I mean
7 I don't think any -- I can't imagine any situation where
8 a board is mandated to revoke a license.

9 So, I think, it's up to you. You have
10 underlying jurisdiction over the settlement and the
11 order approving. Certainly, you can do any of the
12 options that are regular for discipline. A fine. You
13 can do probation. You can reprimand. You can do a
14 revocation or a suspension. Those things are all
15 allowed. You can also charge additional attorneys' fees
16 and costs for the proceedings.

17 It's really what you think is appropriate based
18 on the situation. And so it sounds like there were the
19 two unregistered people. And so, I guess, it's up to
20 the Board to determine, you know, what's an appropriate
21 penalty for those two registered people and/or does that
22 trigger the settlement in such a way that you want to
23 revoke the license.

24 BOARD MEMBER FLYNN: Okay. Thank you. And
25 then there was another thing that was garbled down here.

1 Those citations are under appeal right now. So is the
2 appeal on hold because we're having this hearing?

3 MS. BRADLEY: No. It's my understanding the
4 appeal is proceeding. It's not a super fast process.
5 And, I guess, the only reason I brought it up was,
6 looking at what you found today, the only violation of
7 the settlement that you have found is those two
8 violations that was in the settlement, or sorry, in the
9 citation.

10 So if a court decided something differently
11 than you, that would affect. You know what I'm saying?
12 That's the only reason I brought it up, was just that
13 you had made that finding. It's being appealed. A
14 court could have a different opinion, or they may agree.
15 I don't know. But that could affect your decision
16 ultimately, or the impact of your decision.

17 BOARD MEMBER FLYNN: So if we make, if I was to
18 make a motion, knowing that those citations are on
19 appeal, and let's say hypothetically my motion passes --

20 MS. BRADLEY: Yeah.

21 BOARD MEMBER FLYNN: -- can that motion be
22 enforced by the PILB?

23 MS. BRADLEY: Most likely -- I mean it's going
24 to be up to Mr. Campbell and Mr. Hendi. But any
25 decision you make today, whether it's a fine or

1 revocation or suspension, is going to be subject to
2 court review again. So an order would be issued. And
3 they have a right to appeal that order. And they can
4 request a stay of the Board order pending appeal.

5 BOARD MEMBER FLYNN: Okay.

6 MS. BRADLEY: So you're free to do what you
7 think is appropriate, but a court could stay what you've
8 said based on the appeal.

9 BOARD MEMBER FLYNN: All right. Thank you.

10 MS. PALMER: Mr. Chairman, for clarity of the
11 record -- this is co-counsel Palmer. Under the
12 discipline authorized, and I know that the Board counsel
13 disagrees with this, but, again, for purposes of the
14 record and any appeal that might be held, the Board --
15 it's kind of weird, because the Board has agreed to the
16 agreement, and now the Board is deciding to discipline.
17 The Board --

18 MR. CAMPBELL: I'm going to object. I'm going
19 to object to this. The time for argument from counsel
20 is done. The Board has counsel to ask legal questions.
21 I think, it's inappropriate for the counsel that's
22 litigating this thing to answer questions for the Board.
23 I think that's totally inappropriate. It's argument,
24 and argument's passed.

25 MS. PALMER: Well, the Board forewent the

1 opportunity to move forward on the original facts of the
2 complaint. That's was unheard.

3 MR. CAMPBELL: Again, my objection. I need a
4 ruling. This is argument. The time for argument is
5 passed.

6 MS. PALMER: Well, and that's why there were
7 two options, to either move forward on the stipulation
8 or to rescind the agreement and hear the original
9 complaint and the original egregious facts.

10 MR. CAMPBELL: Again, again, you're...

11 Chairman, this is totally inappropriate. She's
12 again arguing. She's inferring her egregious facts into
13 a situation. This is -- if the Board has questions, you
14 have counsel to ask it. This is argument, clearly
15 argument now with inserting words like egregious,
16 egregious facts.

17 MS. BRADLEY: I mean --

18 BOARD CHAIRMAN ZANE: Okay. Mr. Campbell, your
19 objection's sustained.

20 MS. BRADLEY: And I would, just for the record,
21 for the Board, if we look at the bottom of page five, it
22 says: Pursuant to paragraph 11 of the Stipulation for
23 Settlement of Disciplinary Action, if, after affording
24 respondent due process, it is determined that respondent
25 failed to comply, the stay of revocation may be lifted,

1 and respondent's license may be revoked.

2 "May" is actually optional. And I can go to
3 the definition if it's necessary. But, I guess, I'm
4 uncomfortable, and I'll stand by this, telling a board
5 they must revoke a license. I don't think any judge in
6 the country would agree with me if I said that. So I'm
7 not going to.

8 But I would look at the -- the plain language
9 of the complaint actually gives the Board the option.
10 Which, I think, you have the option, Board. I'm going
11 to look up "may," though.

12 NRS 0.025, "may" confers a right, privilege or
13 power. The term "is entitled" -- okay. And then it
14 talks about "must" is a requirement; "shall" imposes a
15 duty to act. But "may" is optional; it confers a right.

16 So you have the option to lift the stay of
17 revocation and revoke the license, but you're not
18 required to do so. It's your decision.

19 MS. PALMER: However, you're ignoring the plain
20 language that follows that --

21 MR. CAMPBELL: I thought my objection had been
22 sustained. Chairman, I thought my objection had been
23 sustained. This is the same colloquy. I'd ask you to
24 admonish counsel to quit.

25 BOARD CHAIRMAN ZANE: Please quit.

1 BOARD MEMBER FLYNN: Counsel, could I make a
2 motion and see where it goes and just spur discussion?

3 MS. BRADLEY: Yes, you're absolutely always
4 able to do that. You can even talk right now if you
5 have thoughts.

6 BOARD MEMBER FLYNN: Okay. It was a yes or no
7 question. Thank you.

8 I'm going to make a motion, based on the fact
9 that on the fifth claim for relief we found sufficient
10 evidence to prove it, and also based on other comments,
11 as well as my belief, that there was problems with
12 communication on all of the parties here before we got
13 to this, including prior counsel.

14 I don't think we reached the point of revoking
15 and taking Mr. Hendi's license. But I also think that I
16 would have preferred Mr. Hendi to operate differently
17 since the last time we went through all this.

18 So based on that, my motion is going to be on
19 all counts, maximum fine, that we keep the rest of the
20 agreement in place, including the probation time. I'm
21 not sure how much is left. And then I'm open for
22 discussion.

23 To sum it up, I think, he should be fined the
24 maximum on both only because there's a pattern here.
25 And then, secondly, I think, we need to discuss

1 attorneys' fees. But I also feel it is important for
2 him to keep his license, and he needs to deal with his
3 business.

4 BOARD MEMBER NADEAU: Mr. Chair?

5 BOARD CHAIRMAN ZANE: I have a motion. Do we
6 have a second?

7 BOARD MEMBER NADEAU: I'll second it for
8 discussion.

9 BOARD CHAIRMAN ZANE: Okay. We have a motion
10 and a second. Discussion, please.

11 BOARD MEMBER FLYNN: Well, I would seek from
12 counsel, what can we do and not go in attorneys' fees?

13 MS. BRADLEY: Well, NRS 622.400 allows you to
14 get investigative costs and attorneys' fees once a
15 guilty finding on any violation has been found. So
16 you've made one finding. And so you're allowed to get,
17 you know, whatever attorneys' fees and costs have been
18 incurred. There's no limit that I'm aware of, as long
19 as it's reasonable. That's the only limit, it has to be
20 reasonable.

21 BOARD MEMBER FLYNN: Okay. Well, I put
22 "reasonable" in my motion.

23 MS. BRADLEY: Yeah.

24 BOARD MEMBER NADEAU: And, Mr. Chair, here's
25 where I'm struggling. In the stipulation agreement --

1 and I understand what counsel's saying. But in my mind,
2 I'm struggling with, after having been afforded due
3 process, et cetera, et cetera, et cetera, the stay of
4 revocation will be, will be lifted, and ESI's license
5 will be revoked.

6 So if we're standing by this stipulation
7 agreement, then, in my mind, we have to stand by the
8 language that's in the agreement. So I'm trying to
9 figure out, if we're going to impose discipline, do we
10 have to rescind the stipulation agreement first and then
11 initiate discipline. That's where my confusion is.

12 MS. BRADLEY: You have approved. So what you
13 could do is you could modify your order if you are
14 concerned about that. I mean, again, I would note, the
15 complaint gives you two options. One is to optionally
16 "may" lift the revocation or rescind. I don't think you
17 have to do -- I don't think you have to rescind
18 necessarily. You can. But usually what that means is
19 you rescind it, and it doesn't exist, and there's
20 actually a new, big hearing on all of those underlying
21 violations. That's usually what that means.

22 So, I think, the best course --

23 BOARD MEMBER NADEAU: So you're saying that
24 Ray's motion is legally sound?

25 MS. BRADLEY: I think, it is, yeah. I mean and

1 it it's necessary, we can -- let me get the order
2 approving. You know, you can modify the order approving
3 if you need to. And I'm sure, I mean Mr. Hendi has to
4 agree to any amendment to the settlement. So if you're
5 believing that you're amending the settlement to say
6 that, you know, in this current instance this is what
7 we're doing, next time we will do this, you know, if he
8 agrees to that, you can amend the settlement. But I
9 don't know that you have to. Let me pull the order.

10 Yes, so the order from the Board says it's
11 hereby ordered that the stipulated settlement attached
12 is incorporated herein, be and hereby is approved.

13 And then it says the Board may, at its option,
14 if it's not fulfilled, rescind the agreement and the
15 order approving and proceed with conducting a hearing.
16 It's further ordered that PILB may institute collection.

17 The safest might be, I suppose -- I'm trying to
18 think.

19 I think, in the motion, and I think it was
20 clear -- maybe we could have it read back. But, I
21 think, the motion was that this is what we're going to
22 do this time, but everything stays in effect.

23 So do you mind reading it back, the motion?

24 BOARD MEMBER FLYNN: Counsel?

25 MS. BRADLEY: Yes?

1 BOARD MEMBER FLYNN: If it helps the process, I
2 don't mind making my motion straightforward without all
3 my other comments.

4 MS. BRADLEY: No, I didn't dislike it. I just
5 wanted to make sure. Because, I think, you said this
6 was your motion for this case, and then everything else
7 in the previous settlement and order would remain the
8 same. I think, that's what I heard.

9 BOARD MEMBER FLYNN: That is correct, including
10 whatever probation time is left. I'm not asking to
11 extend the probation time.

12 So to cure the silence in the room, if the
13 Chair permits me, I'd like to restate my motion.

14 BOARD CHAIRMAN ZANE: Yes, well, if the second
15 will withdraw. Mr. Nadeau, do you withdraw your second?

16 BOARD MEMBER NADEAU: Sure.

17 BOARD CHAIRMAN ZANE: Thank you.

18 BOARD MEMBER FLYNN: Thank you.

19 I make the motion, based on the claim has been
20 proven and, also, voted on, that on the two violations,
21 that we assess a fine of \$5,000 each, that we also
22 assess reasonable attorney fees, that Mr. Hendi keeps
23 his license, and that the stipulated agreement remains
24 in effect, including whatever probationary time is left.

25 MS. BRADLEY: And --

1 BOARD MEMBER FLYNN: Counsel, is that more
2 clear for your purposes?

3 MS. BRADLEY: That is more clear. And could
4 you address -- and the stay of revocation remains in
5 place as well.

6 BOARD MEMBER FLYNN: The what revocation
7 remains in place?

8 MS. BRADLEY: The stay of revocation. Right
9 now, there's a stay of revocation as well. And I just
10 didn't hear you say that.

11 BOARD MEMBER FLYNN: Yeah, the stay of
12 revocation remains in place.

13 MS. BRADLEY: Okay.

14 BOARD MEMBER FLYNN: Through the remainder of
15 the agreement. That is my motion.

16 MS. BRADLEY: Okay.

17 BOARD MEMBER NADEAU: I'll second it again for
18 discussion. I'm trying to work through this
19 procedurally. So please bear with me.

20 He's already been fined. And the appeal was
21 denied. So he's already been fined for these
22 violations. I guess, where I'm questioning is can we
23 fine him again, and can we impose additional,
24 additional, you know, attorney fees and all this other
25 stuff? We're having the hearing on the complaint and

1 notice of hearing. You know, we're having the hearing.
2 I don't know that -- I'm trying to -- legally, can we
3 assess fines, and can we impose attorney fees, if we've
4 only established something that's already been fined?
5 And we're not imposing the revocation. Because this
6 whole process was for the revocation.

7 MS. BRADLEY: Well, that's a good question.
8 Two violations, let me just -- usually, violating a
9 board order, and if a settlement is approved as part of
10 a board order, usually violating a board order is
11 grounds for discipline. I don't know that it was
12 alleged that way here. Okay. Let me see.

13 BOARD CHAIRMAN ZANE: Is it possible to take a
14 10-minute break?

15 MS. BRADLEY: Sure, that would be great.

16 BOARD CHAIRMAN ZANE: Thank you. We'll be back
17 at about five after 12:00.

18 * * * * *

19 (A break was taken, 11:54 to 12:10 p.m.)

20 * * * * *

21 BOARD CHAIRMAN ZANE: All right. Are we ready
22 to proceed?

23 MS. BRADLEY: Yes. So, I think, the best way
24 to handle it and to alleviate Mr. Member Nadeau's
25 concern is to -- because kind of what you're doing is

1 you're pulling the current citation, I guess, from the
2 settlement. And so, I think, the best way would be to
3 modify the settlement, so that that citation -- I mean I
4 just don't know how else to do it. But if you modified
5 the settlement with regard to this citation, then, I
6 think, that can alleviate the concern. Because, I
7 think, there is a concern of potentially charging for a
8 fine that's already been charged for.

9 Let me double-check that. And, of course, to
10 modify a settlement, Mr. Hendi would have to agree to
11 any change. So let me just double-check this other
12 statute. I apologize.

13 Because the way the fifth claim for relief is
14 written, it's saying that the violation here is that
15 it's not really about those, the underlying violations.
16 It's about the fact that this citation was issued. If
17 that citation is true, then there is a breach.

18 The Board has found that it is true. So. I
19 mean, I guess, I just think if you want to not revoke,
20 you have to modify the settlement. And, I think, then
21 the terms that Member Flynn has suggested could be
22 incorporated into a revised settlement, and then that's
23 assuming, of course, that Mr. Hendi would agree.

24 Otherwise, I think, you'd have to have a
25 hearing, potentially, on the whole case again, if you

1 don't want to revoke. Because that's the only
2 violation. I think, if other violations had been found,
3 you might have different, different remedies. But that
4 one isn't really a standalone violation by itself, the
5 fifth claim for relief.

6 So, I think, the way that would work, then, is
7 Mr. Flynn's motion would be changed to be modifying the
8 settlement agreement and essentially saying what he
9 said, you know, modifying the settlement agreement to
10 turn that -- to include that additional language. And
11 it would, I think, in effect, really carve out this,
12 this certain citation here from triggering the
13 settlement agreement. But, of course, for any of that
14 to happen, Mr. Hendi would have to agree.

15 So I don't know, Mr. Flynn, if you want to
16 change your motion or how you want to handle that.

17 BOARD MEMBER FLYNN: Well, based on your
18 advice, I will change my motion. But, you know, I mean
19 if no one's going to agree, I can come up with a much
20 different motion. I don't want to waste anybody's time.
21 I'll put this out there for discussion. I thought what
22 I threw out there was fair with everybody involved, but
23 if they don't think it's fair, then we'll see if
24 somebody else can make a motion.

25 BOARD MEMBER NADEAU: So you're withdrawing

1 your motion?

2 BOARD MEMBER FLYNN: You know, yes, I'll
3 withdraw the motion. I'm not going to do a third set.
4 I'll let somebody else.

5 BOARD MEMBER NADEAU: Ray, understand, I'm not
6 asking for you to change your motion or anything like
7 that. But we have a motion on the floor that we either
8 have to vote on, or it gets pulled, I mean.

9 BOARD MEMBER FLYNN: No, I understand. I just,
10 I've asked for clarification twice. But like I said,
11 maybe somebody understands this process better than I
12 do.

13 So I withdraw my motion. I'm not pissed off.
14 Just maybe somebody understands it better than I do.
15 I've got other motions in my mind, if we don't come up
16 with one, so.

17 BOARD MEMBER NADEAU: As the seconder of the
18 motion, I'll agree to that.

19 BOARD MEMBER FLYNN: Thank you.

20 BOARD CHAIRMAN ZANE: So the motion's off the
21 floor. Is there a new motion?

22 Second call for a motion.

23 MR. CAMPBELL: Sarah, would it be appropriate
24 to --

25 BOARD CHAIRMAN ZANE: I'd move that the stay be

1 revoked and the license be revoked.

2 MS. BRADLEY: Okay. I think, you mean the stay
3 be lifted --

4 BOARD CHAIRMAN ZANE: Is there a second?

5 MS. BRADLEY: -- the stay be lifted and the
6 license revoked, yeah.

7 BOARD CHAIRMAN ZANE: Yes. I'm sorry. Is
8 there a second?

9 BOARD MEMBER FLYNN: Ray Flynn seconds.

10 BOARD CHAIRMAN ZANE: Comments or questions
11 regarding the motion?

12 BOARD MEMBER NADEAU: Mr. Chair?

13 BOARD CHAIRMAN ZANE: Yes, sir.

14 BOARD MEMBER NADEAU: I can't support the
15 motion. The violation, an administrative violation
16 seems, to me, rather severe for revocation. I would
17 like to find some other way of proceeding.

18 BOARD CHAIRMAN ZANE: Any other comment,
19 question?

20 MS. BRADLEY: So there's a motion and a second
21 and a comment.

22 BOARD MEMBER COLLINS: I have a comment or
23 question actually. Would there be like a timeframe for
24 the motion, like revoked for a certain amount of time,
25 or?

1 MS. BRADLEY: A revocation does have --

2 BOARD CHAIRMAN ZANE: I believe, it's permitted
3 for a year for reapplication, I believe.

4 MS. BRADLEY: Yeah, it is required that there
5 be a timeframe for revocation.

6 BOARD MEMBER COLLINS: Okay.

7 MS. BRADLEY: It can't be indefinite. Let's
8 double-check if that's in the settlement. I mean, and,
9 I think, in answer to Mr. Nadeau's comment, the option
10 for not -- I mean is to modify the settlement agreement.
11 That's the option. And, I think, that means we would
12 need to let Mr. Hendi and his counsel address that.

13 MR. CAMPBELL: We would agree to modify the
14 settlement agreement to allow an additional avenue of
15 remedy under the settlement agreement to fine and/or
16 impose additional fines and/or impose attorneys' fees
17 above that from the original notice of violation.

18 MS. BRADLEY: So, I think, that would then
19 alleviate the problem of double fining, if that's what
20 the Board wants to do, again, if that's what you want.
21 Let me just double-check the timeframe in here and see
22 what it says.

23 MS. BORDELOVE: Sarah?

24 MS. BRADLEY: Yes.

25 MS. BORDELOVE: I guess, I have a question for

1 you.

2 MS. BRADLEY: Okay.

3 MS. BORDELOVE: To the extent that the Board is
4 somewhat opening settlement negotiations --

5 MS. BRADLEY: M-hm (affirmative).

6 MS. BORDELOVE: -- is there an option to bring
7 up any other issues they may want to consider?

8 MS. BRADLEY: Well, and that's actually, I mean
9 that's certainly an option, that the Board decides not
10 to decide the underlying case today, and the parties
11 negotiate, I mean if there are other things. I mean I
12 don't know that we want to bring up, you know, things
13 that we haven't heard.

14 MS. BORDELOVE: I just --

15 MS. BRADLEY: Oh.

16 MS. BORDELOVE: Essentially, there are other
17 issues to the extent that other allegations have been
18 made.

19 MS. BRADLEY: Okay.

20 MS. BORDELOVE: And I don't know if this is the
21 time that those could be considered by the Board.

22 BOARD MEMBER NADEAU: Mr. Chair?

23 BOARD CHAIRMAN ZANE: Yes, sir.

24 BOARD MEMBER NADEAU: Under discussion of the
25 motion, and may I ask counsel, is if -- the way I read

1 the -- whatever, the way I read this is that, again, we
2 have the options of removing the stay and invoking the
3 revocation. Or we can rescind, and then all of the
4 previously agreed to issues then go back to -- for
5 hearing and discussion. Could a motion be to rescind
6 and refer it back to the parties for a settlement
7 agreement, an amended settlement agreement?

8 MS. BRADLEY: I mean that's an option. The
9 only issue might be, if you rescind it like that, the
10 matter's completely open again. So. And what I mean by
11 that is it may be a full hearing on all of the
12 underlying initial violations, or it might be a
13 settlement. You know, we can't mandate that there would
14 be one.

15 I think, the third option is amending the
16 settlement agreement in some way to resolve the current
17 situation.

18 You know, so, I think, you have three options.
19 Two are specified. One is just the general kind of rule
20 where you kind of control the proceeding.

21 BOARD MEMBER NADEAU: So would the motion in
22 that case be to refer it back on the PILB attorney and
23 Mr. Hendi's attorney for amending the settlement
24 agreement for this particular situation?

25 MS. BRADLEY: Well, you can do that. And,

1 again, that reopens it. And then the parties will
2 discuss, and they'll have to jointly come up with
3 something.

4 I think, the Board also has the option, I mean
5 you have continuing jurisdiction over your orders and
6 the agreement. So, I think, you have the option to
7 amend your agreement in some way, if you want to. And
8 then what the law says is that Mr. Hendi gets to agree
9 to that or not. And that could be done here in the
10 meeting.

11 So it's up to you, whether you want to see a
12 new agreement, you want to have a new hearing, you want
13 to have the revocation, or you want to, you know, see
14 what changes you want to see, so that -- and then
15 whether Mr. Hendi agrees.

16 Because, I think, the issue with the motion
17 previously, it wasn't that anybody didn't like it,
18 Mr. Flynn. I think, the concern was just that it might
19 have been subject to attack, because it may not have
20 been lawful without amending the settlement agreement.

21 BOARD MEMBER FLYNN: For the purposes of
22 discussion, I'd rather us modify it, and Mr. Hendi can
23 agree or disagree. I don't want any more hearings on
24 this. We have spent countless hours. There's other
25 business we all could be doing and the P.I. Board could

1 be doing. So I'm willing to support anything that
2 resolves this in some manner today.

3 MR. CAMPBELL: For the record, we wouldn't, we
4 wouldn't attack any amendment of the --

5 MS. BRADLEY: Okay.

6 MR. CAMPBELL: -- hearing today that we agreed
7 to.

8 MS. BRADLEY: Yeah. No, and I knew that that
9 would be true.

10 And so, and I don't know if it's appropriate.
11 I mean if anyone's interested in Mr. Flynn's motion
12 still, we can ask Mr. Hendi if he would agree to that
13 being included in the settlement agreement, essentially.
14 You know, I don't know.

15 And if they agree to that, then it might be
16 that Mr. Flynn's motion can go forward, the agreement
17 could be modified in that way, and the matter could be
18 resolved today. And that would also mean that Mr. Hendi
19 is still on probation, and all those other terms that we
20 talked about.

21 And I was trying to find in your NRS, and I
22 will admit I'm not an expert exactly in your chapter. I
23 don't know that I see in here the time frame for
24 revocation. Maybe it's in reapplication. But I know,
25 generally, Nevada law requires that it be a term of not

1 less than one year, not more than 10. So if that's
2 happening, then that probably should be addressed.

3 MS. BORDELOVE: I just want to, I guess, voice
4 my concern with the ability of Mr. Hendi to,
5 essentially, negotiate a settlement with the Board,
6 without being able to raise additional issues for the
7 Board with respect to that settlement that, I think, are
8 of concern.

9 MR. CAMPBELL: I wouldn't raise additional
10 issues. All I would -- I would agree to agree with
11 Mr. Flynn, that we would amend the stipulation such that
12 the Board has the ability, express ability under the
13 stipulation to impose additional fines and/or reasonable
14 attorneys' fees as part of the stipulation.

15 MS. BORDELOVE: Again, he was able to negotiate
16 or agree, and I'm very concerned that there's other
17 issues that happened outside of this agreement that
18 should be considered if modifications are to be made.

19 MR. CAMPBELL: We won't agree to that.

20 All I'm trying to do is mirror what Mr. Flynn's
21 motion said and clear up the fact that we would agree to
22 that modification, according to Mr. Flynn's motion. We
23 would waive any argument that it was procedurally wrong.

24 MS. BRADLEY: Okay. So then that resolves your
25 concern about a motion.

1 BOARD MEMBER NADEAU: But we still have a
2 motion on the table.

3 BOARD CHAIRMAN ZANE: Any more Board
4 discussion? Questions?

5 BOARD MEMBER COLLINS: No.

6 BOARD CHAIRMAN ZANE: All right. Then, the
7 motion was to lift the stay and revoke. All in favor,
8 say "aye."

9 BOARD MEMBER COLLINS: Aye.

10 BOARD CHAIRMAN ZANE: Any opposed, say "no."

11 BOARD MEMBER NADEAU: No.

12 BOARD MEMBER FLYNN: No.

13 BOARD MEMBER COLBERT: No.

14 BOARD CHAIRMAN ZANE: No. Four to one. New
15 motion?

16 BOARD MEMBER FLYNN: Begrudgingly, I will try
17 this a third time.

18 BOARD MEMBER NADEAU: You said you weren't
19 going to do a third time. No, I'm...

20 BOARD MEMBER FLYNN: Based on the fifth claim
21 and sufficient proof that the violations did occur, that
22 the Board impose a fine, a maximum fine of \$5,000 per
23 violation; also, assess reasonable attorney fees be
24 recovered; and whatever probationary time is left on the
25 license stays in place; no other further modification to

1 the stipulation. And I do understand that we can only
2 do this if Mr. Hendi agrees.

3 BOARD MEMBER NADEAU: I'd second that.

4 BOARD MEMBER FLYNN: And that is my motion.
5 It's not a settlement conference. It's not a settlement
6 discussion. That is my motion.

7 BOARD MEMBER NADEAU: And I'll second that.

8 BOARD CHAIRMAN ZANE: Okay. We have a motion.
9 We have a second by Mr. Nadeau. Any Board discussion or
10 question regarding the motion?

11 All in favor, say "aye."

12 (Board members said "aye.")

13 BOARD CHAIRMAN ZANE: Any opposed, say "no."
14 Not hearing any, it's unanimous.

15 MS. BRADLEY: So, then, just for housekeeping,
16 can we put a couple things on the record? I guess,
17 Mr. Hendi and Mr. Campbell's agreement with that would
18 be helpful now that the motion's been made.

19 MR. CAMPBELL: We would stipulate that to amend
20 the -- we would agree to amend the stipulation to read
21 that the Board has the authorization to impose
22 additional fines and/or attorneys' fees against
23 Mr. Hendi for this violation, NOV 1-071-16.

24 MS. BRADLEY: Okay. And then the other
25 housekeeping matter is, for the Board's order, is there

1 a time frame for payment of the fine and then, also, the
2 attorneys' fees?

3 BOARD MEMBER FLYNN: Oh, yes, I would
4 definitely be date-specific. I might even put in an
5 hour and minute.

6 MS. BRADLEY: I mean would you like those paid
7 in one year, or?

8 BOARD MEMBER FLYNN: I would say within 60 days
9 of today's date. So we are April 5th. I would say by
10 June 5th.

11 MS. BRADLEY: June 5th. Okay.

12 BOARD MEMBER FLYNN: By close of business at
13 5:00 p.m. in the afternoon, Pacific Standard Time of the
14 United States of America. And if, by chance -- I don't
15 have a calendar in front of me -- but if that is a
16 Saturday or Sunday, it would move to the first Monday
17 after that date. So if somebody could get a calendar,
18 I'd really appreciate it.

19 MS. BRADLEY: We're looking right now.

20 MS. BORDELOVE: You might want to --

21 BOARD MEMBER NADEAU: June 5th is a Monday.

22 BOARD MEMBER FLYNN: The 5th is a Monday?

23 BOARD MEMBER COLBERT: Yes.

24 BOARD MEMBER FLYNN: All right. So by
25 5:00 p.m. Monday, payment needs to be received.

1 BOARD MEMBER NADEAU: Ray, you said Daylight
2 Savings, or you said Pacific Standard Time.

3 BOARD MEMBER FLYNN: I said Pacific Standard
4 Time, 5:00 p.m.

5 BOARD MEMBER NADEAU: Okay.

6 MS. BRADLEY: You probably should vote on --

7 BOARD MEMBER FLYNN: And if anybody doesn't
8 think that's clear, I'd really like to hear it.

9 MS. BRADLEY: There probably should be a vote
10 on that as well, just so that it is in the record.

11 BOARD MEMBER NADEAU: I'll second.

12 BOARD MEMBER FLYNN: All right. I'll make a
13 motion.

14 BOARD MEMBER NADEAU: I'll second.

15 BOARD CHAIRMAN ZANE: We have a motion, and we
16 have a second. Any Board comment or question regarding
17 the motion?

18 All in favor, say "aye."

19 (Board members said "aye.")

20 BOARD CHAIRMAN ZANE: Any opposed, say "no."

21 Carries unanimous.

22 All right. Is there anything else under item
23 number three?

24 Item number four, public comment. Is there any
25 public comment in the north?

1 BOARD MEMBER COLBERT: No.

2 BOARD MEMBER NADEAU: No.

3 BOARD CHAIRMAN ZANE: Any public comment in the
4 south?

5 MR. JAY PURVES: Yes.

6 BOARD CHAIRMAN ZANE: Yes. Would you come down
7 a little closer to the microphone.

8 Name, and what would you like to talk about?

9 MR. JAY PURVES: Jay Purves, license number
10 1621.

11 I just have to say, I've been to all the
12 hearings over this case. And I honestly feel that the
13 Board has let the citizens of Nevada down today.

14 I've been a licenseholder for six years, and I
15 have done everything in the right way, per the state
16 laws and the statutes. If I get a fine, I pay my fine.
17 No ifs, ands, or buts.

18 This gentleman has had this company for 20
19 years. How many times does he have to come before the
20 Board before the Board follows through? You've just
21 shown the entire industry it's cheaper to pay the fines
22 than to follow the law and do it the right way.

23 And I'm frustrated, very frustrated. Because
24 we go out of our way, as a company, since we came to
25 Nevada, to do it the right way.

1 You know, I hear allegations how the people
2 from the PILB have gone around and said he's losing his
3 license for this or that. How about looking into his
4 business practices? How about looking into you're
5 supposed to come to an event with a hundred people, and
6 you only show up with 40. Or you're supposed to have a
7 hundred licensed guards, and you only have 70 licensed
8 guards, and the rest are nonlicensed people working as
9 licensed guards.

10 So I repeat. I feel the Board has let the
11 people of Nevada down today.

12 That's all I have to say.

13 BOARD CHAIRMAN ZANE: Thank you.

14 Any other public comment?

15 Do I hear a motion to adjourn?

16 BOARD MEMBER COLLINS: I'll second.

17 BOARD CHAIRMAN ZANE: Okay. We have a motion
18 to adjourn. Second?

19 BOARD MEMBER FLYNN: I'll second.

20 BOARD CHAIRMAN ZANE: All right. All in favor?

21 (Board members said "aye.")

22 BOARD CHAIRMAN ZANE: Thank you all.

23 * * * * *

24 (The meeting adjourned at 12:34 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 Western Nevada College, 2201 W. College Parkway, Donald W. Reynolds Center for Technology, Room 102, Carson City, Nevada, on Wednesday, April 5, 2017, at 9:00 a.m., and commencing at 9:02 a.m. took stenotype notes of a meeting of the State of Nevada Private Investigator's 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 134, 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 18th day of April, 2017.

SHANNON L. TAYLOR
Nevada CCR #322, RMR