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

Wednesday, February 22, 2017  
9:00 a.m.

Northern Nevada Location:  
State of Nevada  
Department of Employment, Training & Rehabilitation  
Vocational Rehabilitation Office  
1325 Corporate Boulevard  
Large Conference Room  
Reno, Nevada 89502

Southern Nevada Location (Videoconferenced):  
State of Nevada  
Department of Employment, Training & Rehabilitation  
2800 E. St. Louis Ave.  
Conference Room C  
Las Vegas, Nevada 89104

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR  
Certified Court, Shorthand and Registered Merit Reporter  
Nevada CCR #322, California CSR #8753, Idaho CSR #485  
(775) 887-0472

A P P E A R A N C E S

Board Members Present:

Mark Zane, Chairman (Las Vegas)  
Jim Colbert (Reno)  
Raymond Flynn (Las Vegas)  
Charlotte Collins (Las Vegas)  
Jim Nadeau, (Reno)

Also: Kevin Ingram (Las Vegas)  
Executive Director

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

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

Henna Rasul (Las Vegas)  
Senior Deputy Attorney General  
Board Counsel

Rosalie Bordelove (Las Vegas)  
Deputy Attorney General  
Board Counsel

Jason Woodruff (Carson City)  
Investigator

Mary Klemme (Carson City)  
Investigative Assistant

Other Participants:

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

Mahmoud Hendi

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EXHIBITS

State's Exhibit	Description	Mkd	Adm
C-1	Notice of Violation I-071-16	(12-8-16)	
C-2	Certified Mail Receipt	(12-8-16)	
C-3	Email communications	(12-8-16)	
C-4	Notice of Appeal	(12-8-16)	
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C-13	Email communications:		
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1	Respondent's		Mkd	Adm
2	Exhibit	Description		
3	C-A	Notice of violation (Unlicensed Business Activity Citation)	(12-8-16)	
4	C-B	Email communications	(12-8-16)	
5	C-C	Email communications	(12-8-16)	
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8	C-F	Email communications	(12-8-16)	
9	C-G	Email communications	(12-8-16)	
10	C-H	(Same as Exhibit 6, page 152)		---
11	C-I	(Same as Exhibit 6, page 153-155)		---
12	C-J	(Same as Exhibit 6, page 153-155)		---
13	C-K	Email communications	(12-8-16)	
14	C-L	Email communication	(12-8-16)	
15	C-M	Copy of checks	(12-8-16)	
16	C-N	Copies of checks	(12-8-16)	
17	C-O	Letter, July 18, 2016, to ESI Security Services, Mahmoud Hendi from Lori Irizarry	(12-8-16)	
18				
19	C-P	Email communications		---
20	C-Q	Email communication	(12-8-16)	
21				
22				
23				
24				
25				

1 RENO, NEVADA, WEDNESDAY, FEBRUARY 22, 2017, 9:08 A.M.

2 -oOo-

3 BOARD CHAIRMAN ZANE: Okay. Let's call the  
4 meeting to order. This is the February 22nd, 2017  
5 meeting of the Private Investigator's Licensing Board.

6 Can we have roll call, please?

7 MR. INGRAM: Yes, Mr. Chairman.

8 We'll start with Board Member Colbert?

9 BOARD MEMBER COLBERT: Here.

10 MR. INGRAM: Board Member Collins?

11 BOARD MEMBER COLLINS: Here.

12 MR. INGRAM: Board Member Flynn?

13 BOARD MEMBER FLYNN: Here.

14 MR. INGRAM: Board Member Nadeau?

15 BOARD MEMBER NADEAU: Here.

16 MR. INGRAM: And Chairman Zane?

17 BOARD CHAIRMAN ZANE: Here.

18 Okay. The next item is item number two, which  
19 is the notice regarding public comment. And that is to  
20 mean that we'll take public comment now, if anybody  
21 would like to make some, or we will also reserve some  
22 time at the end of the meeting to also accept public  
23 comment for anything that the public would like to bring  
24 forward to the Board.

25 It should be noted that the item on the agenda

1 which is published as number three is an adversarial  
2 matter. And, therefore, in accordance with the notice,  
3 as part of the notice on public comment, we would not  
4 accept public comment during the period that we're  
5 addressing item number three on the agenda.

6 Is there any public comment in the north?

7 BOARD MEMBER COLBERT: No.

8 BOARD CHAIRMAN ZANE: Is there public comment  
9 in the south?

10 None down here.

11 Okay. We'll move on to item number three, PILB  
12 versus ESI Security Services. Is everybody ready to  
13 proceed?

14 BOARD MEMBER NADEAU: Mr. Chairman?

15 BOARD CHAIRMAN ZANE: Yes, sir.

16 BOARD MEMBER NADEAU: Mr. Chairman, I'd like to  
17 make a disclosure. NRS Chapter 281A requires me to make  
18 this disclosure.

19 In March of 2016, I spoke with Mr. Hendi at a  
20 social function, of which he and I are both members of a  
21 social organization. During that conversation,  
22 Mr. Hendi mentioned the pending matter, but there was  
23 not any in-depth discussion of the matter. Though we  
24 engaged in that conversation, I do believe -- I do not  
25 believe that I am precluded from deciding this matter in

1 an unbiased manner and will not abstain from voting on  
2 the matter.

3 And, additionally, there have been, since that  
4 March 16th, there have been subsequent social events  
5 which we have encountered but have not discussed the  
6 matter.

7 So with that on the record, thank you.

8 BOARD CHAIRMAN ZANE: Thank you, Mr. Nadeau.  
9 Who remembers where we left off?

10 MS. PALMER: Mr. Chairman, I believe that we  
11 have -- Mr. Ingram was on cross-examination.

12 But as a preliminary matter, I would just like  
13 to make sure, in light of what's happened in previous  
14 hearings, that we are invoking the exclusionary rule.  
15 And any witnesses in the room up there, we would ask  
16 that they please be excused at this time.

17 BOARD MEMBER COLBERT: No one here.

18 BOARD CHAIRMAN ZANE: Mr. Campbell?

19 MR. CAMPBELL: There are none here, yes. And  
20 the witnesses that are coming, we told them to wait out  
21 in the hall until we call them.

22 BOARD CHAIRMAN ZANE: Thank you, sir.

23 I think, we have to swear Mr. Ingram anew, I  
24 would assume.

25 MS. BRADLEY: Yes.

1 (Kevin Ingram was duly sworn/affirmed by the  
2 Reporter.)

3 MR. CAMPBELL: Are we ready to proceed,  
4 Mr. Chairman?

5 BOARD CHAIRMAN ZANE: Yes, sir. I'm sorry.

6 MR. CAMPBELL: I have one preliminary matter.  
7 Could I ask the Chair to admonish Ms. Palmer to -- the  
8 verbal chatter between her and co-counsel has been a  
9 little bit distracting. And, I think, it may be able to  
10 be heard by the witness. So, I think, it's  
11 inappropriate, if they're commenting on  
12 cross-examination or direct examination, that they  
13 should be talking back and forth within earshot of the  
14 witness.

15 I know that Ms. Bradley has commented a couple  
16 times that we can hear your comments up there. So I  
17 just ask for that courtesy.

18 BOARD CHAIRMAN ZANE: And that was based upon  
19 the last hearing?

20 MR. CAMPBELL: Well, it's been kind of going on  
21 in the last couple days of the hearings.

22 BOARD CHAIRMAN ZANE: I'm just trying to figure  
23 out if it's the seating arrangement, the speaker  
24 arrangement, or. Could you maybe raise that if you hear  
25 it again, as early as possible?

1 MR. CAMPBELL: I will.

2 BOARD CHAIRMAN ZANE: Thank you.

3 MS. PALMER: Thank you. Mr. Chairman, if I  
4 could just respond to that. I mean we have, we have to  
5 be able to communicate. You know, we're definitely not  
6 trying to do it. We have sensitive equipment. There's  
7 certainly nothing on the transcript that picked up our  
8 dialogue. I've looked at the transcript. So I mean  
9 we'll do our best to keep it quiet, and we'll write  
10 where we can. But, you know, sometimes it requires us  
11 to communicate.

12

13 K E V I N I N G R A M,  
14 having been first duly sworn/affirmed by the Reporter,  
15 was examined and testified as follows:

16

17 CROSS-EXAMINATION RESUMED

18 BY MR. CAMPBELL:

19 Q. Mr. Ingram?

20 A. Yes, sir.

21 Q. When we left off last December, we were  
22 discussing the conversations that -- between  
23 Ms. Hegdahl, Ms. Irizarry and yourself last May and June  
24 of 2016. Do you remember that?

25 A. Yes, sir.

1 Q. And if you recall, there was about a six-week  
2 gap between the initial emails between Ms. Hegdahl and  
3 Irizarry about the registration of Mr. Magri and  
4 Ms. Haslip. I think, that has been marked, it's been  
5 marked as Exhibit M, C-M. Do you remember that string  
6 of emails that started then?

7 A. Yes, I do, sir.

8 Q. Okay. Now, in the hearing last December, you  
9 said you were going to provide me with the dates that  
10 Ms. Irizarry was on sick leave. Do you have those dates  
11 now?

12 A. I do, sir.

13 THE WITNESS: Mr. Chairman, if I may move over  
14 there so I can see him a little bit better and still see  
15 counsel?

16 BOARD CHAIRMAN ZANE: Sit where you like.

17 (Mr. Ingram moved.)

18 THE WITNESS: Okay. I'm ready, Mr. Campbell.

19 BY MR. CAMPBELL:

20 Q. Okay. Can you give me the dates that  
21 Ms. Irizarry was on sick leave?

22 A. I pulled up from March through June. I'm  
23 sorry. May through June. So are there specific, is  
24 there a specific date frame you're looking for?

25 Q. Yeah, I believe, the first email conversation

1 was sometime around May 7th of 2016, and then it would  
2 have been up till about July, or excuse me, June 28th of  
3 2016.

4 A. Okay. Perfect. That's what I have. So  
5 starting in June, on June 1st, 2nd, 3rd, 5th, 8th, 9th,  
6 10th, 16th, 17th, 19th, 20th, 23rd, 27, 28 and 30.

7 Q. Okay. And then how about May?

8 A. May was 5-8 and 5-22. There was also annual  
9 leave used during that time frame so that she wasn't  
10 using all of her sick leave. I have those dates  
11 available as well.

12 Q. Okay.

13 A. Would you like those?

14 Q. Yes, please.

15 A. Okay. So for annual leave, May 8th, 22nd,  
16 excuse me, 23rd, 24th. June, June 5th and June 19th.

17 Q. Okay. The email string that started the  
18 conversation about Ms. Magri and Ms. Haslip started  
19 around the 7th. Ms. Irizarry said to Ms. Haslip,  
20 basically, that she was going to talk to you and get  
21 back to Ms. Haslip within a week or so. Is that  
22 correct? Do you remember that string of emails?

23 A. Yes, I do.

24 Q. Okay. Did, in fact, Ms. Irizarry talk to you  
25 on the 7th?

1           A.    As I previously stated, I don't remember when I  
2 spoke to Ms. Irizarry on the subject. I believe, it was  
3 after a period of time, due to the amount of time that  
4 she was out of the office.

5           Q.    Okay. But she would have been in the office  
6 from May 9th till May 22nd, right?

7           A.    Correct.

8           Q.    Do you know why she didn't respond to  
9 Ms. Hegdahl during that approximately two-week time  
10 period?

11          A.    I'm sorry. I can't answer for her.

12          Q.    And then, again, from May 25th through June  
13 1st, she would have been in the office, too, right?

14          A.    Yes.

15          Q.    And do you know if she contacted Ms. Hegdahl at  
16 that time about the conversation regarding Magri and  
17 Haslip?

18          A.    Again, I can't speak on her behalf.

19          Q.    Okay. So if she was gone for so many days in  
20 June, were you covering some of her duties?

21          A.    I'm ultimately responsible for the office, so I  
22 would say yes.

23          Q.    Well, were you checking her emails, seeing if  
24 she had any deadlines that had to be met, any important  
25 telephone calls that had to be returned, any emails that

1 should have been returned?

2 A. I was not monitoring her email, no. She had an  
3 out-of-office assistant on it.

4 Q. But then, if we move to Exhibit M, that's the  
5 email that you had between Ms. Hegdahl and yourself on  
6 about June 23rd, 2016. Do you remember that discussion  
7 at the last hearing?

8 A. Yes, uh-huh (affirmative).

9 Q. Okay. And, I think, your testimony was that  
10 you didn't, you didn't talk to Ms. Hegdahl about the  
11 late payment, either June, April, May or June, because  
12 she was not your point of contact. Is that right? We  
13 can look at the transcript, if you need it.

14 A. No, I wouldn't have talked to her about late  
15 payments. She wasn't the qualifying agent. You're  
16 correct.

17 Q. Okay. Well, then why would you have talked to  
18 her about where the payments were being sent; did you  
19 assume that she knew that the payments had been, were  
20 being sent and that ESI was obligated to make some  
21 payments?

22 MS. PALMER: Objection. Asked and answered.

23 MR. CAMPBELL: I don't believe it's been  
24 answered.

25 MS. PALMER: It has. We can review the

1 transcript if you'd like.

2 BY MR. CAMPBELL:

3 Q. The question was, if she was, if she was your  
4 point of contact to say that the payments were being  
5 sent to the wrong address, why wasn't she your point of  
6 contact to say that the payments were also late?

7 MS. PALMER: Objection. Asked and answered.

8 MR. CAMPBELL: I don't believe that question's  
9 even been asked yet.

10 MS. PALMER: It has. We'll go to the  
11 transcript.

12 MS. BRADLEY: Yes, if you could cite the page,  
13 I think that would be helpful for the Chair in ruling on  
14 these objections.

15 MS. PALMER: Yeah, page 233. This is the  
16 December 8th transcript.

17 MR. CAMPBELL: I didn't ask that, any question  
18 related to if -- if you look at page 234, it said "Why  
19 do you reach her about the check should be mailed to?"  
20 Answer, "She was my only point of contact to correct  
21 that."

22 BY MR. CAMPBELL:

23 Q. My question is, was why wasn't she your point  
24 of contact to tell ESI that the payments were late if,  
25 in fact, she was your only point of contact for where

1 the payments should be mailed?

2 MS. BRADLEY: Mr. Chair, do you have --

3 MS. PALMER: Well, again, page 233 is the page.  
4 You referenced page 234. 233 is where the question  
5 comes from. And the question is "Since you're talking  
6 about payments, and you took the effort to tell  
7 Ms. Hegdahl where to send them properly, why wasn't  
8 there anything in this email that said, 'Oh, by the way,  
9 your June, May and April payments were also late?'"

10 MR. CAMPBELL: That's not the question I just  
11 asked.

12 MS. PALMER: It's...

13 MS. BRADLEY: Mr. Chair, do you have the  
14 transcript in front of you?

15 BOARD CHAIRMAN ZANE: I don't.

16 MS. BRADLEY: Okay. And I don't think I do,  
17 either.

18 MS. PALMER: I do. We can provide it to him.  
19 It's a clean copy.

20 MS. BRADLEY: Okay. And could we read back the  
21 question that was just asked, the one that he wants to  
22 ask now.

23 (The Reporter read back the last question.)

24 MS. BRADLEY: Okay. Did you hear that,  
25 Mr. Chair?

1 BOARD CHAIRMAN ZANE: Yes.

2 MS. BRADLEY: Okay. So that was the question  
3 that Mr. Campbell asked. And then I'm looking at the  
4 transcript, and, I think, you are, too, page 233. It  
5 looks like it starts on line 12. It says you're talking  
6 about payments. And that's the part we just read. And  
7 then, I don't see that these questions say "point of  
8 contact" in them. He's asking why that wasn't said, but  
9 he doesn't say anything about point of contact. I don't  
10 know if that's a specific term.

11 BOARD CHAIRMAN ZANE: I'll overrule the  
12 objection.

13 MS. BRADLEY: So, Mr. Ingram, that means you  
14 need to answer the question if you have an answer.

15 THE WITNESS: Thank you.

16 Well, if I stated in the past that she was my  
17 only point of contact, that was not my intent. I was  
18 very ill at that hearing. So I can't tell you whether I  
19 said my only point of contact or not. That is not the  
20 truth, because my points of contact with ESI are the  
21 qualifying agent, and there have been some other  
22 individuals.

23 But during this time frame, there had been  
24 several late payments. I wanted to ensure -- and if  
25 you'll look at Exhibit M, that's not the entire thread.

1 And I don't recall in this thread, I don't believe I  
2 reached out to Ms. Hegdahl first. I believe, she had  
3 sent me an email requesting some information. I think,  
4 I responded to her. She thanked me for responding. And  
5 at that time, I put in there that, and, you know, while  
6 we're discussing this, please make sure that the checks  
7 are being sent to 03.

8 MR. CAMPBELL: Okay.

9 THE WITNESS: It was a conversation that I had  
10 going with her. I wanted to ensure that the information  
11 was received.

12 BY MR. CAMPBELL:

13 Q. Okay. Because you did testify that you said,  
14 on page 334, "Well, then why didn't you reach out to her  
15 about where the checks should be mailed, why did you  
16 reach out to her where the checks should be mailed?"  
17 And your testimony was "Because she was my only point of  
18 contact to correct that."

19 A. May I just state --

20 Q. Are you changing your testimony now to say  
21 that, no, she wasn't your only point of contact?

22 A. That's correct, she's not my only point of  
23 contact at ESI.

24 Q. Well, why would she be your point of contact  
25 regarding payments?

1           A.    You have to read the remaining part of this  
2 email thread so I can, again, explain.  And she  
3 contacted me for something.

4           MS. PALMER:  Exhibit 9.  Exhibit 9, of ours.  
5 This became an issue last time.  And you were going to  
6 correct Exhibit M and make Exhibit M a complete email.  
7 Exhibit 9 is that complete email at 164.1.

8           MS. BRADLEY:  Okay.  And, I guess, if I could,  
9 I'm sorry, check for just a second.  Because I have a  
10 Exhibit M that's a copy of a check.

11          MR. CAMPBELL:  That's the --

12          BOARD MEMBER COLBERT:  That's the C-M.

13          MS. BRADLEY:  Oh.  Okay.  Yeah, I was going to  
14 say, and then the one with the email string, I have  
15 written C-M.  And I have another one, C-Q, it looks  
16 like.

17          MR. CAMPBELL:  And, I think, we corrected that  
18 by having the whole exhibit as C-M.

19          MS. BRADLEY:  Okay.  I just want to make sure  
20 that -- okay.  I just want to make sure everybody has  
21 the same as me, especially the Board members.

22          MS. PALMER:  He doesn't have --

23          THE WITNESS:  There's not an exhibit 164.1 in  
24 this book.  In fact, it's a copy of a check.

25          MS. BRADLEY:  Do we want to take a quick break

1 to make sure the Board members all have the correct  
2 exhibit, or?

3 MR. CAMPBELL: Yeah, I thought it was going to  
4 be inserted as C-9 with some subsections, point whatever  
5 it was, that that's what we did last hearing.

6 MS. BRADLEY: Yeah.

7 MR. CAMPBELL: To make that a full exhibit.

8 MS. BRADLEY: I don't know if we want to do  
9 that, because it seems like we're all kind of shuffling  
10 and not listening, at least at the current moment, but.

11 BOARD CHAIRMAN ZANE: Do we need five minutes?

12 MS. BRADLEY: Yeah.

13 \* \* \* \* \*

14 (There was a period off the record, 9:30 to 9:34 a.m.)

15 \* \* \* \* \*

16 BOARD CHAIRMAN ZANE: Ready to go?

17 MS. BRADLEY: We are. Can you hear me? Oh,  
18 there we go. We're actually getting a couple of copies  
19 made, because we -- it seems like the three of us didn't  
20 have it. Mr. Campbell had the pages, though. And  
21 Mary's making copies for us. So we probably do need  
22 another minute or so.

23 BOARD CHAIRMAN ZANE: Just wave when you're  
24 ready.

25 MS. BRADLEY: Okay. Thank you.

1 MS. PALMER: And then the copies that I have,  
2 just so you know, I have written on here go to Exhibit M  
3 instead, go to M instead. But, I think that was whole.  
4 We found out that M, the letter M, was not a complete  
5 copy. So I just wanted you to be aware that there was  
6 some of my writing on the document that was provided to  
7 the Board, because it's the only copy we have.

8 MS. BRADLEY: Okay.

9 MS. PALMER: But the only thing that it said is  
10 go to M instead.

11 MS. BRADLEY: Because the one I have marked M  
12 is a check, But I do have an incomplete C-M that has  
13 emails.

14 So, yeah, I think, Mary will be back in a  
15 minute or so. Thank you.

16 BOARD CHAIRMAN ZANE: Okay.

17 \* \* \* \* \*

18 (There was a period off the record, 9:36 to 9:39 a.m.)

19 \* \* \* \* \*

20 MS. BRADLEY: Mr. Chair, we have the copies.  
21 And, I think, we're starting the recording again.

22 BOARD CHAIRMAN ZANE: Okay.

23 BY MR. CAMPBELL:

24 Q. Mr. Ingram, let me start back over. So I know  
25 Ms. Hegdahl reached out to you about the form of I.D.

1 for a certain person to be registered. And then you  
2 responded. And there was a colloquy way back. But at  
3 the end of that email string, you said, "Can you please  
4 make sure that the monthly checks are sent to Suite 203,  
5 old suite number being used"; and Ms. Hegdahl said,  
6 "Will do." That was the end of that email string.

7 My question to you now, sir, is that if she was  
8 your only point of contact, or now, I guess, under your  
9 corrected testimony, she was a point of contact for the  
10 location of the email string, you knew that she was  
11 aware that ESI had to make payments under a stipulation,  
12 then, weren't you?

13 A. Yes.

14 MS. PALMER: Objection. Form of the question.  
15 There's no foundation. You knew she was aware?

16 MR. CAMPBELL: Yeah, he said, "Yes."

17 BY MR. CAMPBELL:

18 Q. Let me read this. You tell Amanda, "Can you  
19 please make sure that the monthly checks from ESI are  
20 sent to Suite 203." What monthly checks were you  
21 referring to?

22 A. The monthly payments that were due.

23 Q. Under the stipulation?

24 A. That's correct.

25 Q. So it was your belief that Ms. Hegdahl knew

1 about the monthly checks that were required under the  
2 stipulation?

3 A. Yes.

4 Q. Now, I think, your testimony about that same  
5 time was that you didn't, you didn't reach out to  
6 Mr. Hendi because under the stipulation -- reach out --  
7 excuse me. Rephrase that. You didn't reach out to  
8 Mr. Hendi about the alleged late payment because, you  
9 said, under the stipulation, you were required that  
10 legal counsel would do that. Do you remember that  
11 testimony?

12 A. I remember saying something to the effect of  
13 that, that and according to the stipulation agreement,  
14 the communications on clarifications and things of that  
15 nature should be through counsel, yes.

16 Q. Can you look at -- I believe, it was Exhibit 8  
17 in the previous binder, for the notice of violation  
18 hearing, which is an email dated May 17th, 2016?

19 A. That binder's being located.

20 MS. BRADLEY: Okay. I've got it. Do you guys  
21 have it?

22 MR. CAMPBELL: It should have Bates 160.1 on  
23 it.

24 MS. PALMER: Look in the -- that's in the  
25 complaint binder. It was the notice of violation.

1 MS. BRADLEY: Okay. I've got it in a binder, I  
2 think, from you. And it's Exhibit 8. I don't know.  
3 Mine says "Complaint Exhibits" on the front. It's a  
4 black binder.

5 MS. PALMER: Correct, the complaint exhibits  
6 are for this matter. He said it was the citation  
7 matter.

8 MS. BRADLEY: Oh, okay. I'm sorry.

9 MR. CAMPBELL: Okay. I'm confused, looking  
10 back and forth.

11 BY MR. CAMPBELL:

12 Q. Okay. Well, anyway, do you have that Exhibit 8  
13 in front of you, C-8 in front of you?

14 MS. PALMER: It's the purple one.

15 THE WITNESS: Right. And what was the Bates  
16 stamp?

17 BY MR. CAMPBELL:

18 Q. It should have 160.1 on it.

19 A. Yes, sir, I have that in my hands.

20 Q. Okay. So you believed under the stipulation  
21 that communications regarding late payments should not  
22 have gone to Mr. Hendi, either, they should have gone  
23 through counsel; that was your testimony, right?

24 A. Yes.

25 Q. Okay. And this is an email from you to your

1 counsel talking about a late payment, right?

2 A. Yes.

3 Q. Okay. Why didn't you tell Ms. Palmer in this  
4 email to notify Mr. Hendi or his counsel that the  
5 payments were being processed late, or being made late?

6 A. Because counsel and I had already determined  
7 what dates payments were due. And I don't remember on  
8 this -- this one is May. There was correspondence  
9 between my legal counsel and, at that time, legal  
10 counsel for Mr. Hendi, clarifying the dates that they  
11 were due.

12 Q. The allegations in your complaint were that the  
13 May payment was also late. So the question is, why  
14 aren't you telling Ms. Palmer, somewhere in an email  
15 communication, to tell Mr. Hendi or Mr. Hendi's counsel  
16 that the payments are late?

17 A. You know, I can't answer that. It was probably  
18 in a conversation we had.

19 Q. Okay. But you don't recall sending any emails  
20 to Ms. Palmer that said, "Look, we need to put Mr. Hendi  
21 or his counsel on notice that the May payment is late,  
22 the June payment is late, the July payment is late"?

23 A. All of that information was during discussions,  
24 not in writing.

25 MR. CAMPBELL: Okay. So discussions that I

1 can't delve into because of the attorney-client  
2 privilege, I assume.

3 Ms. Palmer, can I ask him questions about that,  
4 since he opened the door?

5 MS. PALMER: He didn't open the door.

6 MR. CAMPBELL: He just said that all those  
7 discussions about notifying Mr. Hendi were in -- all  
8 those communications regarding notifying Mr. Hendi or  
9 his counsel were in discussions.

10 MS. PALMER: All right. And as you noted, that  
11 that would be covered under the attorney-client  
12 privilege.

13 MR. CAMPBELL: I just want to make sure for the  
14 record that I'm not -- you're not going to allow me to  
15 ask questions about those discussions.

16 MS. PALMER: That's the legal rule. That's  
17 correct.

18 MR. CAMPBELL: Okay. I just want to note that  
19 for the record.

20 BY MR. CAMPBELL:

21 Q. So, Mr. Ingram, to your knowledge, did  
22 Mr. Hendi or his counsel ever get any notice, other than  
23 the email string with Ms. Palmer and Mr. Smith back in  
24 about April 9th of 2016, that the May, June, July  
25 payments were late?

1 A. I don't have knowledge. I don't know.

2 Q. Do you have any knowledge if Mr. Hendi or his  
3 legal counsel ever got notice that a late payment in  
4 either June, either -- starting in April, May, June or  
5 July, would constitute grounds for revocation of the  
6 stipulation?

7 A. Can you ask that again, please?

8 Q. Yeah. Do you know if Mr. Hendi or his legal  
9 counsel ever got notice that late payments from April,  
10 May, June or July would constitute grounds for  
11 revocation of the stipulation?

12 A. I think, that stipulation agreement speaks for  
13 itself there.

14 Q. That's not my question, sir. Do you know if  
15 Mr. Hendi ever got notice, subsequent notice to when the  
16 stipulation was signed, that his April payment, his May  
17 payment, his June payment, his July payment were late  
18 and that such late payment would constitute grounds for  
19 violation of the stipulation?

20 A. I don't know.

21 Q. And have you seen any records that indicate  
22 that?

23 A. In the evidence?

24 Q. Yeah.

25 A. No. No.

1 Q. Now, Mr. Hendi did reach out to you in late  
2 June of 2016 about another matter, if you could go look  
3 at Exhibit Number Q, C-Q.

4 A. Okay.

5 Q. Have you got that email in front of you?

6 A. Yes, I do.

7 Q. So on June 24th, about the same time that  
8 Ms. Hegdahl and you were communicating, Mr. Hendi sends  
9 you an email, basically saying he wanted to check on the  
10 inspection Jason was doing, and he said, "We'd like to  
11 stay on the same page with you to avoid any issues." Do  
12 you see that?

13 A. Yes, I do.

14 Q. Did you ever respond to Mr. Hendi from this  
15 email?

16 A. I did not.

17 Q. Why not?

18 A. Because at that time, we were -- we had other  
19 citations in the works, other investigations. It was  
20 very ironic that he contacted me directly following an  
21 inspection done by Investigator Woodruff in the northern  
22 area, where he had spoken with Mr. Hendi's brother that  
23 they had infractions and --

24 MR. CAMPBELL: I'm going to object. That's  
25 going beyond the scope of my question. He's...

1 BY MR. CAMPBELL:

2 Q. Just answer the question. Why didn't you  
3 contact him, why didn't you reply to this email?

4 A. Because at that time, we had other  
5 investigations going, and violations had already been  
6 brought to light.

7 Q. Okay. It would have been pretty easy just to  
8 respond, just respond to him, say -- that issue and,  
9 also, say, "Oh, by the way, Mr. Hendi, now your June  
10 payment's late, also"; wouldn't it have been?

11 A. I don't feel that that's my place to tell him  
12 that his payments are late. He knows when they're due.

13 Q. Yeah. Well, whose place was it?

14 A. Well, if somebody tells me that I owe them  
15 money, on a monthly basis, and I know that it's due  
16 every month, I will make sure that those payments were  
17 due, because I don't want my credit affected.

18 Q. And did Mr. Hendi pay every month?

19 A. Yes.

20 Q. Okay. Let's go back in time. Strike that.  
21 Just one second.

22 Where's the transcript?

23 MS. BRADLEY: It's right there.

24 BY MR. CAMPBELL:

25 Q. In the last hearing, you testified at page 165.

1 We were talking about payments being made and when they  
2 were due. And your answer to a question said "I had  
3 sent information to my Carson City office and then our  
4 office in the south, myself and Chief Irizarry, on the  
5 dates that the payments were due, so that both offices,  
6 no matter where the payments would be received, would be  
7 able to inform me of when the payments were made. So I  
8 had notified my Carson City office."

9 Did you send some kind of a written memo to the  
10 Carson City and Las Vegas office with due dates set  
11 forth as to when the payments were due?

12 A. I did send due dates to them, yes.

13 Q. I haven't seen that document. Is that a  
14 document that you produced to counsel for production?

15 MS. PALMER: Production when? There was no  
16 discovery in this case.

17 MR. CAMPBELL: Well, there was discovery,  
18 because there was a public records request in a previous  
19 matter.

20 MS. PALMER: A public records request has  
21 nothing to do with the hearing, and it's not something  
22 that he would provide to counsel. That's exactly that,  
23 that's a public records request. It's separate from  
24 this hearing.

25 ///

1 BY MR. CAMPBELL:

2 Q. Is there a document that says this, that says  
3 the dates?

4 A. Yes, there is.

5 Q. Is that a document you can access and produce?

6 A. At this moment, no.

7 Q. At some point?

8 A. Well, I have it in my office.

9 Q. And do you remember what was in that document;  
10 what dates did you calculate?

11 A. The dates were by month for, I believe it was  
12 the 9th of every month, if I remember correctly.

13 Q. Well, if that's your recollection --

14 A. Actually, there were other dates on there, too,  
15 because there were dates that were due prior to the  
16 monthly. It would have been the first half of the  
17 attorney fees. It would have been a specific amount for  
18 the check to Mr. Zsenyuk. There would have been an  
19 additional fine that was paid up front. And then the  
20 monthly dates thereafter.

21 Q. Okay. Other than the early payments that were  
22 already made, you're talking about when the monthly  
23 payments were going to be due?

24 A. Correct.

25 Q. And your recollection was that you had put the

1 9th of each month?

2 A. I did not put it, but it was calculated between  
3 myself and legal counsel. Per the discussion following  
4 the hearing, those dates were put together, and that  
5 those were the dates that we agreed upon based on the  
6 stipulated agreement.

7 Q. Okay. Let's go back to the April meeting. I  
8 think, it was April 26th or something, around there,  
9 that you had at ESI's offices. Do you remember that  
10 meeting?

11 A. Yes, I do.

12 Q. What was your understanding of the purpose of  
13 that meeting?

14 MS. PALMER: Objection. Asked and answered.  
15 We're just duplicating the testimony of December the  
16 8th.

17 MR. CAMPBELL: No, I'm not duplicating. I'm  
18 following up on what he's already testified to.

19 MS. BRADLEY: Do you have a page number,  
20 counsel, in the transcript?

21 MR. CAMPBELL: Well, let me ask him that.

22 MS. PALMER: It is asked and answered.

23 MR. CAMPBELL: Let me ask it another way.

24 BY MR. CAMPBELL:

25 Q. Mr. Ingram, would you agree with me that that

1 April, late April meeting at ESI was part of the  
2 stipulation to make sure that everybody was on the same  
3 page as regarding complying with the terms of the  
4 stipulation?

5 A. Yes.

6 Q. Okay. And were there, in fact, two meetings at  
7 the ESI Security offices that day, a general meeting and  
8 then kind of a breakout meeting; do you remember that?

9 A. Yes, there was.

10 Q. Okay.

11 A. Yes.

12 Q. And in the breakout meeting, it was just  
13 Ms. Hegdahl and Mr. Hendi, correct?

14 A. That's correct.

15 Q. Do you remember what was discussed at that  
16 second breakout meeting?

17 A. Yes, I do.

18 Q. Okay. And what was it, what was discussed?

19 A. Well, it was an opportunity for the three of us  
20 to sit down and try to come up with a plan to get them  
21 on track specifically. The things that we discussed, I  
22 said, "Now would be a good time, if you guys want to go  
23 through your roster and get everything cleaned up, gives  
24 us a little bit of time to let you start off with a new  
25 roster. If you go through and you find inconsistencies,

1 either people are not on the roster, or people that are  
2 on the roster that should not be there, notify us and  
3 let us know, and we'll do everything we can to help you  
4 clean that roster up."

5           And I also stated that understand there still  
6 might be some fines associated for any discrepancies  
7 that are found. But that, during that time frame, it  
8 was kind of an opportunity for them to fix those  
9 problems, pay a fine, but those fines or citations would  
10 not go against them as far as revocation of their  
11 license.

12           Q. Okay. So at that late April meeting, by the  
13 time of that meeting, you knew, or it was your opinion  
14 that Mr. Hendi's April 9th payment was late, right?

15           MS. PALMER: Objection. Speculation.

16 BY MR. CAMPBELL:

17           Q. Weren't you informed that Mr. Hendi didn't make  
18 his April payment on time?

19           A. You know, I don't remember what was happening  
20 at that time. I just remember I was there to try to  
21 level the playing field, help them out of a tight spot,  
22 give them some direction. I can't recall if I knew the  
23 payment was late or not.

24           MR. CAMPBELL: Okay. The Chair's indulgence  
25 just for one minute so I can look for an exhibit here.

1 BOARD CHAIRMAN ZANE: Please.

2 BY MR. CAMPBELL:

3 Q. Can you look at Exhibit C-6, sir?

4 A. Okay.

5 Q. Do you see the first page of that exhibit at  
6 152?

7 A. Yes.

8 Q. And you're on -- that email was sent to you,  
9 correct?

10 A. That's correct.

11 Q. And Ms. Klemme is telling you that the \$15,000  
12 legal fees was not received, right?

13 A. That's correct.

14 Q. Okay. And it was your opinion that April 9th  
15 was when the first monthly payment was due?

16 A. That's correct.

17 Q. So at the meeting in late April, you would have  
18 known, or you would have -- it would have been in your  
19 opinion that Mr. Hendi was late in the April payment?

20 A. That's correct.

21 Q. Okay. Did you mention to Mr. Hendi in the  
22 meeting with you, he and Ms. Hegdahl that the -- "Oh, by  
23 the way, we want to make sure and help you out, we want  
24 to make sure that you know that your April payment was  
25 late, and you need to make the next payment on May 9th,

1 and if you don't, it's going to be considered late,  
2 too"?

3 A. I'm sorry. I didn't follow the question.

4 Q. Did you make any statement to Mr. Hendi in that  
5 late April meeting --

6 A. No, I did not make any statements.

7 Q. Why not?

8 A. No, I did not.

9 Q. Why not? I thought you were trying to be  
10 helpful, helpful and help out Mr. Hendi and make sure he  
11 was on the same pages on all the issues regarding the  
12 stipulation.

13 A. Communication on all the payments had been gone  
14 through legal counsel for both legal counsels to  
15 discuss. I was there to provide oversight on how they  
16 should be hiring and firing staff, who should be working  
17 which environment. It wasn't, I wasn't there to tell  
18 him that his payment was late. I was there for a whole  
19 different reason, which was separate and apart from the  
20 stipulated agreement.

21 Q. Okay. Well, we can look at the stipulated  
22 agreement. We know exactly why the meeting was to be  
23 set, right; it's in the stipulation, correct?

24 A. Yes, that's correct, because I offered.

25 MR. CAMPBELL: The Chair's indulgence.

1           That's all I have of this witness.

2           BOARD CHAIRMAN ZANE: Thank you.

3           Ms. Palmer, do you have redirect?

4           MS. PALMER: Yes.

5

6

REDIRECT EXAMINATION

7 BY MS. PALMER:

8           Q. Mr. Ingram, regarding the dates of leave for  
9 Ms. Irizarry --

10          A. Yes.

11          Q. -- I notice that several of those dates are  
12 Sunday. May 8th of 2016, May 22nd, a lot of those dates  
13 are a Sunday. Do you have -- I don't know if you have a  
14 calculator. But I just want to make sure that we're  
15 correct on the dates.

16          A. I didn't catch that. This is a printout that I  
17 received from our attorney general personnel's office.  
18 These are the dates that were put into the system, into  
19 the timekeeping system for the state, of leave. And if  
20 they are falling on Sundays, we have a problem. Because  
21 they should have been on other dates. Because  
22 Ms. Irizarry does not work Saturday or Sunday. So I  
23 will have to go back with the attorney general's  
24 personnel and find out why these dates are showing up.

25          Q. All right. Thank you.

1 Mr. Ingram, is there any requirement in the  
2 agreement that you instruct Mr. Hendi, or anyone at ESI  
3 Security, when their payments were late?

4 A. No.

5 Q. Was there anything in the agreement that  
6 required you to tell him the dates upon which payments  
7 were due?

8 A. No.

9 MS. PALMER: The Chair's indulgence, please.

10 BOARD CHAIRMAN ZANE: Please.

11 BY MS. PALMER:

12 Q. Mr. Ingram, would you please turn to  
13 Exhibit C-6, page 154.

14 A. Yes.

15 Q. And I apologize. If you'd turn to page 153  
16 just before that. It's the top -- or the very bottom of  
17 154 where it starts the email header.

18 A. Okay.

19 Q. And who that a communication between?

20 A. From Mr. Rob Smith to legal counsel, Raelene  
21 Palmer.

22 Q. Are you at the bottom of page 154?

23 A. 153.

24 Q. So at the bottom of 154.

25 A. The bottom of 154.

1 Q. Who is the communication from?

2 A. On the bottom of 154, it's from Raelene Palmer  
3 to Rob Smith.

4 Q. And that's the Board's legal counsel at the  
5 time; is that correct?

6 A. Raelene Palmer was the Board's legal counsel.  
7 Rob Smith was ESI's legal counsel.

8 Q. And what's this email communication say?

9 A. It says "Rob, the PILB did not receive the  
10 \$15,000 in legal fees due yesterday."

11 Q. And that's on page 155 of Exhibit C-6?

12 A. That's correct.

13 Q. And what was the date of the email on the  
14 bottom of page 154?

15 A. April 12th, 2016.

16 Q. And is there a response to that email?

17 A. Yes, there is.

18 Q. And who is the response coming from?

19 A. From Rob Smith.

20 Q. And what does it say?

21 A. It says "Okay, Mr. Hendi says payment is on its  
22 way. Also, he says that April 26th works for Kevin to  
23 come visit ESI if that date's still good with Kevin."

24 Q. And was there further communication from your  
25 legal counsel with Mr. Smith after that statement was --

1 A. Yes, there was.

2 Q. -- made by Kevin? What was that, and when did  
3 it occur?

4 A. The following day, in a response to Mr. Smith,  
5 it says "What does" -- in quotes -- "'on its way' mean?  
6 Please call me to discuss the reason for the breach. My  
7 client needs to understand what happened."

8 Q. And breach is a legal term, Mr. Ingram. Do you  
9 know what that means?

10 MR. CAMPBELL: Objection. Calls for a legal  
11 conclusion.

12 MS. PALMER: I think, it's common enough in  
13 society that people can -- I'm asking him if he -- what  
14 is his understanding of what that means.

15 BOARD CHAIRMAN ZANE: I'll allow it.

16 MR. CAMPBELL: The question you asked was a  
17 legal term, and you asked for his opinion as to that  
18 legal term. If you want to rephrase it just to what's  
19 his basic common understanding of it.

20 BY MS. PALMER:

21 Q. All right. What's your common understanding of  
22 what breach means?

23 A. A breach would be like a break. A breach of  
24 agreement, a break in the agreement.

25 Q. And could you clarify what you mean by a break

1 in the agreement.

2 A. Not following it.

3 Q. And this is communication between two legal  
4 counselors; is that correct?

5 A. That's correct.

6 Q. And was there a response to that inquiry and  
7 that statement that the Board's counsel believed there  
8 had been a breach of the agreement?

9 A. Yes, there was.

10 Q. When did that occur?

11 A. On Thursday, the 14th.

12 Q. And what was the statement?

13 A. Mr. Smith said "Sorry for the delay. I've been  
14 tied up on a massive appellate brief. Anyway, it means  
15 it was overnighted on Tuesday. You should have received  
16 it yesterday. Hendi me told me that he calculated 30  
17 days from the day he received the agreement, rather than  
18 when the agreement was actually signed by the Board."

19 Q. Mr. Ingram, is there any challenge from  
20 Mr. Smith in that communication indicating that he did  
21 not believe that there was a breach of the agreement?

22 A. No.

23 Q. And then was there further communication with  
24 your counsel to Mr. Smith?

25 A. Yeah, there was.

1 Q. And what was that communication, and when was  
2 that sent?

3 A. On Thursday, April 14th, legal counsel replied  
4 to Mr. Smith. It says "Okay. The 9th of the month is  
5 the actual day that payments are due, but this month the  
6 9th landed on Saturday. Last question is whether you  
7 planned on being at the training Kevin will be  
8 conducting on April 26th."

9 Q. And, Mr. Ingram, were you made aware of these  
10 communications relatively close in time --

11 A. Yes.

12 Q. -- to them being made? Do you have any idea  
13 approximately when you would have known?

14 A. It would have been right within that time  
15 frame.

16 Q. Was it your understanding at the time that if  
17 there had been any clarity lacking in the agreement,  
18 that as of April 14th, Mr. Hendi, through his counsel,  
19 was put on notice exactly when the payments were due  
20 moving forward?

21 MR. CAMPBELL: Objection. I think, there's no  
22 foundation for that testimony.

23 MS. PALMER: The foundation is what did he  
24 believe. I'm asking him what he believed.

25 MR. CAMPBELL: This was one payment related to

1 April, the April payment. You're asking him to  
2 extrapolate to that, that he was put on notice that all  
3 future payments he was put on notice.

4 MS. PALMER: Okay. I'll clarify. I'll clarify  
5 with more foundation.

6 BY MS. PALMER:

7 Q. Mr. Ingram, looking at that April 14th  
8 communication, the second sentence, would you repeat  
9 that again.

10 A. The 9th of the month is the actual day that  
11 payments are due, but this month the 9th landed on a  
12 Saturday.

13 Q. So, Mr. Ingram, does that say "payments" with  
14 an S?

15 A. Yes, it does.

16 Q. So we're not just talking about the April  
17 payment, we're talking about future payments --

18 A. That's correct.

19 Q. -- in that communication?

20 A. Yes.

21 MR. CAMPBELL: Objection. Lack of foundation.

22 BY MR. PALMER:

23 Q. And so if --

24 MR. CAMPBELL: Objection. Lack of foundation.

25 MS. PALMER: I need clarity on what your

1 concern is.

2 MR. CAMPBELL: It's no indication that the --  
3 that this payment is, that this refers to future  
4 payments. This whole colloquy is about the April  
5 payment.

6 MS. PALMER: I respectfully disagree with you,  
7 but, okay.

8 BY MS. PALMER:

9 Q. Mr. Ingram, was Mr. Hendi making any other kind  
10 of payments to the Board other than the payments that  
11 were due as a result of the stipulated agreement?

12 A. No.

13 Q. And do you know if there would be any other  
14 communications coming from the Board through their  
15 counsel to Mr. Hendi's counsel regarding another type of  
16 payment?

17 A. I would generally be aware of that, yes.

18 Q. And is there any communication from Mr. Smith,  
19 Mr. Hendi's counsel, questioning what I mean when I  
20 say -- or what your counsel meant when she wrote  
21 "payments are due"?

22 A. The follow-up email from him doesn't, doesn't  
23 say anything to that effect. It was simply a "Sorry, I  
24 was in Vegas all day in a settlement conference. No, I  
25 will not attend so you don't need to." So he didn't

1 really address it, but he didn't challenge it.

2 Q. Okay. Thank you.

3 When you had that second breakout meeting on  
4 April 26th, that counsel was asking you about on cross,  
5 did Mr. Hendi at any time ask you about payments?

6 A. No.

7 Q. Did he ask you when payments were due or if  
8 payments had been being made timely at that point in  
9 time?

10 A. No.

11 Q. Was there any discussion about payments  
12 whatsoever?

13 A. None.

14 Q. So if counsel seems to have indicated that you  
15 had some responsibility to bring that up with Mr. Hendi,  
16 do you believe that you did?

17 A. I do not.

18 Q. Do you believe that if there was the question  
19 regarding payments, that Mr. Hendi should have asked you  
20 about those payments?

21 A. I do not.

22 Q. If he had had a question regarding payments?

23 A. At that time, he could have.

24 Q. He could have. Okay. But it's your  
25 understanding that was not the purpose of the meeting?

1 A. That's correct.

2 Q. Did you have any responsibility to notify  
3 Mr. Hendi that his payments were late?

4 A. No.

5 MS. PALMER: The Board's indulgence, please.

6 I have no more questions on redirect. If  
7 counsel does not have a recross, though, I'd like to  
8 reserve this witness as a rebuttal witness.

9 MR. CAMPBELL: I have a few questions on  
10 recross.

11 BOARD CHAIRMAN ZANE: Mr. Campbell?

12 MR. CAMPBELL: I have a few questions on  
13 recross.

14 BOARD CHAIRMAN ZANE: Thank you.

15

16 RE CROSS-EXAMINATION

17 BY MR. CAMPBELL:

18 Q. Mr. Ingram, when you calculated the 9th as the  
19 payment date being due, did you add any days for mailing  
20 onto when that, when the payment was due?

21 A. No.

22 Q. So you counted 30 days from March 10th, the  
23 date that the chairman signed the order?

24 A. That's correct.

25 Q. And you didn't add three days for mailing on

1 top of that?

2 A. No, I did not.

3 Q. Okay. And so starting in April, you knew that  
4 payments were late. You new that another payment was  
5 received in May. We have that other email that it was  
6 again late. And did you know that the June payment and  
7 the July payment were also allegedly sent late?

8 MS. PALMER: Objection. What time are you  
9 referring to?

10 BY MR. CAMPBELL:

11 Q. At the time they received the checks, did you  
12 know they were late, according to your calculation?

13 A. Yes.

14 Q. Okay. But you cashed the checks?

15 A. Yes.

16 Q. Why did you cash the checks if you thought the  
17 payments were late?

18 A. I received payment for the citations that was  
19 due. Yeah, I'm going to cash it.

20 Q. But, I think, your testimony last December was  
21 also that you were contemplating filing a complaint as  
22 early as the April time frame after the first April  
23 payment you considered late. Wasn't that, wasn't that  
24 your testimony?

25 MS. PALMER: Objection. Objection. Misstates

1 the testimony.

2 MR. CAMPBELL: Well, let me just ask him.

3 BY MR. CAMPBELL:

4 Q. Were you contemplating filing a complaint as  
5 early as April after the first payment, April payment,  
6 was made?

7 MS. PALMER: Objection. Asked and answered.

8 MS. BRADLEY: Well --

9 MR. CAMPBELL: She can't have it both ways.

10 MS. BRADLEY: Do you have a page number for  
11 that asked and answered that the Board Chair can review?  
12 And, I guess, I will look as well.

13 MS. PALMER: In the interest of time, I'll  
14 withdraw the objection.

15 MS. BRADLEY: Okay. So, I think, the question  
16 on the table, then, was were you considering filing a  
17 complaint as early as the April payment?

18 MR. CAMPBELL: After the April payment.

19 MS. BRADLEY: After the April payment.

20 THE WITNESS: There were discussions with  
21 counsel about the breaches.

22 BY MR. CAMPBELL:

23 Q. The question was were you considering filing a  
24 complaint?

25 A. I think, it was a consideration if there was

1 any breach, yes.

2 Q. Okay. And you just said you discussed about a  
3 breach. So, in your opinion, the stipulation had been  
4 breached?

5 A. Yes.

6 Q. But you accepted the checks without any notice  
7 to anybody that the payments were late, cashed them?

8 MS. PALMER: Objection. Misstates his  
9 testimony.

10 BY MR. CAMPBELL:

11 Q. Other than the April payment, you accepted all  
12 the rest of the checks without any notice, you accepted  
13 all the checks, cashed them without any notice to  
14 anybody at ESI that those subsequent payments were late,  
15 also?

16 A. I did not notify anybody at ESI, that's  
17 correct.

18 MR. CAMPBELL: That's all I have on recross.

19 MS. PALMER: The Board's indulgence.

20

21 FURTHER REDIRECT EXAMINATION

22 BY MS. PALMER:

23 Q. Mr. Ingram, do you recall, in your earlier  
24 testimony from December 8th, a discussion about good  
25 faith?

1 A. Yes.

2 Q. And what is your recollection of that  
3 conversation, that you would have testified to on  
4 December 8th?

5 A. Could you give me something specific?

6 Q. Well, you said you recall a conversation about  
7 good faith. So what are you recalling about that?

8 A. Well, that, you know, I was in disbelieve that  
9 payments weren't being made, immediately following. And  
10 because of that, I felt like we need to make an effort  
11 to give Mr. Hendi a break. And that's why I notified  
12 legal counsel to say, you know, there's been breach,  
13 there's been some late payments, what do we do?

14 And we discussed at that time that the two  
15 legal counsel would discuss, set the specific dates that  
16 payments were due. And I had faith and belief that by  
17 doing so, we would receive the payments in a timely  
18 manner.

19 MS. PALMER: Thank you.

20 And for the record, I'll just represent that  
21 that communication is pages 171 through 173.

22 MS. BRADLEY: I think --

23 MS. PALMER: Yes, of the December 8th  
24 transcript.

25 MS. BRADLEY: Oh, okay. I'm sorry. I was

1 looking at Bates-stamped pages.

2 MR. CAMPBELL: Just one follow-up question.

3

4 FURTHER RECROSS-EXAMINATION

5 BY MR. CAMPBELL:

6 Q. So, Mr. Ingram, your decision to give Mr. Hendi  
7 a break was confined to the sole email exchange of April  
8 9th, or April 10th through the 14th?

9 A. I wouldn't say it was limited to that. I had,  
10 I had felt we put a lot of work into the stipulated  
11 agreement. There was a lot of back-and-forth discussion  
12 with not only my legal counsel involved and, also, his  
13 legal counsel.

14 MR. CAMPBELL: I'm going to object. That's not  
15 the question here.

16 BY MR. CAMPBELL:

17 Q. I just want to know that your attempt to give  
18 Mr. Hendi a break after the stipulation was the email  
19 string between Ms. Palmer and Mr. Smith, the April 9th  
20 through the 14th time frame; that's the extent of your  
21 efforts to give Mr. Hendi a break?

22 A. That was part of it, yes.

23 Q. That was all of it; was there, there was no  
24 other communications, right?

25 A. Well, not from me personally, no.

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

2 MS. PALMER: I'll re-re-redirect.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MS. PALMER:

6 Q. Mr. Ingram, was there an incident involving a  
7 licensee with a firearm, that had gone through firearm  
8 instruction, where you had found that somebody was not  
9 reported on the roster?

10 MR. CAMPBELL: Objection.

11 THE WITNESS: Yes.

12 MR. CAMPBELL: I don't see what the relevance  
13 of that is. It's beyond the scope of any cross.

14 MS. PALMER: It's relevant to is that the only  
15 break you gave them.

16 MR. CAMPBELL: No, it was regards to --

17 BY MS. PALMER:

18 Q. Mr. Ingram, did you cite a violation for that?

19 MR. CAMPBELL: With regard to the payments, is  
20 what we were talking about.

21 MS. PALMER: Well, and as Ms. Bradley pointed  
22 out at the last meeting, you go beyond the scope of  
23 testimony on recross and redirect and anything relevant.

24 So your question was, was that the only break  
25 you gave them. And I am asking Mr. Ingram about another

1 incident that will show more good-faith effort.

2 MR. CAMPBELL: His -- your question was, did  
3 the good-faith effort relate to the payments? And he  
4 said, yes, that --

5 MS. PALMER: No that --

6 MR. CAMPBELL: -- we gave him good faith by  
7 giving --

8 MS. PALMER: No, that was not my question.

9 MR. CAMPBELL: That was your question.

10 MS. PALMER: You said the only --

11 MR. CAMPBELL: It was your question, counsel.

12 MS. PALMER: That's not my question I'm asking.

13 MS. BRADLEY: Well, can we read back the  
14 question that Ms. Palmer asked?

15 MS. PALMER: No, it's the question that  
16 Mr. Campbell asked.

17 MS. BRADLEY: Okay.

18 MR. CAMPBELL: On recross after her question.

19 MS. BRADLEY: Yeah, I mean you can go --

20 MS. PALMER: The last question he just asked  
21 Mr. Ingram.

22 MS. BRADLEY: Okay. Well, in an administrative  
23 hearing, you can go beyond the scope of direct. You're  
24 not limited. So there's not a limit. That's in 233B.  
25 I could give you the exact citation if you want. But I

1 mean it's very clear you can go beyond the scope of  
2 direct.

3 And, I guess, I'm confused which question we're  
4 asking about. What was your question that you objected  
5 to, then, Ms. Palmer?

6 MS. PALMER: I'm not sure.

7 MS. BRADLEY: Okay.

8 MS. PALMER: It was the only question, the last  
9 question that was left with Mr. Ingram that Mr. Campbell  
10 had questioned him about, and that's what I'm following  
11 up on.

12 MS. BRADLEY: Okay.

13 MR. CAMPBELL: Just for the record again, my  
14 question is -- my objection is to her going into some  
15 other area that hadn't been addressed before, that  
16 doesn't have anything to do with payments. It's outside  
17 the scope of this stipulation and this hearing as to  
18 whether he violated the stipulation. She's not going  
19 down to some other alleged notice of violation. So I  
20 just don't think it's relevant at all.

21 MS. PALMER: It's now more important than ever  
22 that Mr. Campbell's question be read as it was not  
23 related to payments.

24 MS. BRADLEY: Okay. Would you read the  
25 question back, please.

1 MS. PALMER: It's the last question  
2 Mr. Campbell asked.

3 (The Reporter read the question; see page 52,  
4 lines 17-21.)

5 MS. PALMER: Thank you. That's the question  
6 I'm referring to. It's not limited to payments.

7 MR. CAMPBELL: No, counsel. That was a  
8 cross-examination question based on your redirect that  
9 specifically started the line of questioning as to how  
10 he gave -- operated in good faith to give Mr. Hendi a  
11 break with regard to payment of the -- making payments.  
12 That's where the whole question started. I was just  
13 following up on --

14 MS. PALMER: Well, thank you for --

15 MR. CAMPBELL: -- redirect.

16 MS. PALMER: Thank you for -- thank you  
17 clarifying your thought process. We'll go with the  
18 exact question that you asked.

19 MR. CAMPBELL: No, my question --

20 MS. PALMER: Because I want to be sure that the  
21 Board isn't left with the impression that Mr. Ingram  
22 only made this one exception on the April payment and  
23 that that was his only good-faith effort.

24 So back to my question --

25 MR. CAMPBELL: Let's start with the question

1 where you started to redirect.

2 MS. PALMER: It's not necessary. Because, as  
3 Ms. Bradley pointed out, 233B allows me to go into this  
4 regardless.

5 MS. BRADLEY: Okay. But wait. Let me read  
6 that for the record, 233B.123, and it's subsection 4:  
7 Each party may call and examine witnesses, introduce  
8 exhibits, cross-examine opposing witnesses on any matter  
9 relevant to the issues, even though the matter was not  
10 covered in direct examination, impeach any witness,  
11 regardless of which party first called the witness to  
12 testify --

13 (There was an interruption on the  
14 videoconferencing screen.)

15 MS. BRADLEY: Oh, and we have something  
16 happening.

17 And rebut the evidence against him or her.

18 So, yes, cross is not limited to what was  
19 covered on direct. Now, we've done direct and cross  
20 multiple times.

21 I do have a concern, potentially, though. It  
22 sounds like you're asking about another violation. Is  
23 that something that's coming before the Board?

24 MS. PALMER: No.

25 MS. BRADLEY: Okay.

1 MS. PALMER: No, I would not have brought it.

2 MS. BRADLEY: Okay.

3 MS. PALMER: No, this is good-faith effort  
4 where a violation was not brought before the Board.

5 BY MS. PALMER:

6 Q. So, Mr. Ingram, would you please --

7 MR. CAMPBELL: Well, let me just, let me just  
8 make my objection one more time for the record, that  
9 it's not relevant, that, the line of cross-examination  
10 related to good-faith efforts as to payments.

11 MS. BRADLEY: So before the question is asked,  
12 the Chair does have to make a ruling on it, whether or  
13 not, I think, Ms. Palmer's question will be allowed.

14 BOARD CHAIRMAN ZANE: The objection will be  
15 overruled. The question will be allowed.

16 BY MS. PALMER:

17 Q. Okay. Mr. Ingram, you recall that incident  
18 with the firearms instructor?

19 A. Yes.

20 Q. Can you please tell us about that?

21 A. Well, it was an individual that was working in  
22 the capacity of firearms instructor without being  
23 certified to do so.

24 Q. Working for whom?

25 A. ESI Security Services.

1 Q. And how did that come to your attention?

2 A. I don't, I don't recall who exactly brought  
3 that to my attention.

4 Q. Do you recall what communication or anything  
5 involved that particular perceived violation?

6 A. Have I received an email on that one?

7 Q. Did you have communication with ESI about it?

8 A. Me personally?

9 Q. Yes.

10 A. No.

11 Q. Did your counsel have communication?

12 A. Yes.

13 Q. With ESI's counsel?

14 A. Yes.

15 Q. Do you recall what the resolution was on that?

16 A. Well, we chose not to issue a citation.

17 Q. Why?

18 A. Good-faith effort.

19 Q. Why was there an exception made in that  
20 instance?

21 A. Again, it was during a time frame when -- the  
22 whole reason for the stipulated agreement was to gain  
23 compliance and to make sure that they had received all  
24 the information they possibly could to be successful  
25 moving forward.

1 Q. And what was it about when you ultimately  
2 issued the complaint, why, why did you decide that at  
3 that time it was necessary to do so?

4 A. Which complaint?

5 Q. Well, the complaint that we're here on today.

6 A. Oh, I'm sorry.

7 Q. Yeah.

8 A. I switched from the --

9 Q. I understand.

10 A. -- firearms. Why did I feel it was important  
11 to do it that time?

12 Q. Yeah, I mean you've made these concessions.  
13 There's been a lot of testimony about other errors that  
14 ESI had made, that you didn't pursue relief, you didn't  
15 pursue an action against the stipulated agreement?

16 A. Right.

17 Q. Why did you at this time that brought us to  
18 this hearing today?

19 A. Well, how many, how many exceptions can you  
20 give somebody? You know, it comes to a point where  
21 you've got to just say, you know what, you've got to be  
22 held accountable for your actions, you're not following  
23 the rules, you're not doing what was expected, you're  
24 continuing to break the law. And there comes a time  
25 when you just can't keep giving people exceptions.

1 I would not normally give this many exceptions  
2 to any licensee. And if I'm going to write a citation  
3 for one licensee, I've got to do it for the others. And  
4 it became, to me, and it was just very blaring that it  
5 wasn't going to change. The same things were occurring,  
6 over and over and over again.

7 MS. PALMER: Thank you.

8 MR. CAMPBELL: One follow-up on the firearms  
9 instructor.

10

11 FURTHER RECROSS-EXAMINATION

12 BY MR. CAMPBELL:

13 Q. Mr. Ingram, you said counsel talked about that  
14 issue?

15 A. Yes.

16 Q. Okay. And wasn't that citation not issued  
17 because it was a preexisting violation that had been  
18 carved out of the stipulation?

19 A. Well, it doesn't matter whether it was  
20 preexisting or not. It could have still been an issue.  
21 It just would not have started the revocation if it was  
22 preexisting.

23 Q. But counsel and -- your counsel and Mr. Smith  
24 had a conversation about that, to your knowledge?

25 A. That's correct.

1 MR. CAMPBELL: Okay. That's all I have.

2 BOARD CHAIRMAN ZANE: Thank you.

3 Next witness?

4 We'd like to take a five-minute break, please.

5 MR. CAMPBELL: I'll go get the witness.

6 \* \* \* \* \*

7 (A break was taken, 10:33 to 10:40 a.m.)

8 \* \* \* \* \*

9 BOARD CHAIRMAN ZANE: Are we ready up north?

10 MS. BRADLEY: I believe that we're going to  
11 start recording again. Just a second.

12 BOARD CHAIRMAN ZANE: Mr. Campbell, how many  
13 witnesses do you anticipate scheduling?

14 MR. CAMPBELL: I have Mr. Smith, Ms. Kibbie  
15 Kochel, who will testify about the payments, and then  
16 Mr. Hendi.

17 BOARD CHAIRMAN ZANE: Okay. Thank you.

18 Also, I was reminded that the Board has the  
19 opportunity to ask questions of the witnesses. That  
20 would include Mr. Ingram. Do we want to do that now, or  
21 since he's subject to recall, do it then?

22 MS. RASUL: Actually, I think, you should do it  
23 now.

24 MS. BRADLEY: Yeah, I would recommend now.

25 MR. CAMPBELL: Mr. Smith's going to leave the

1 room, then.

2 (Mr. Smith left the room.)

3 MS. BRADLEY: I should have provided you that  
4 before we went on break. I apologize.

5 BOARD CHAIRMAN ZANE: Well, you're saved from  
6 one of your colleagues. So your office is keeping me  
7 straight anyway.

8 Are there any Board questions for Mr. Ingram?

9 BOARD MEMBER FLYNN: I don't.

10 BOARD MEMBER COLLINS: No.

11 BOARD CHAIRMAN ZANE: No.

12 BOARD MEMBER NADEAU: No.

13 BOARD MEMBER COLBERT: (Shook head no.)

14 BOARD CHAIRMAN ZANE: Any questions up north?

15 BOARD MEMBER NADEAU: No.

16 BOARD MEMBER COLBERT: No.

17 MS. BRADLEY: They both shook their heads as  
18 well, so, just for the record.

19 BOARD CHAIRMAN ZANE: Thank you.

20 (Mr. Smith came back into the room.)

21 MR. CAMPBELL: ESI would like to call Mr. Rob  
22 Smith as the next witness.

23 BOARD CHAIRMAN ZANE: Thank you.

24 MS. BRADLEY: He'll have to be sworn.

25 ///



1 him, et cetera?

2 A. I was.

3 Q. Okay. Who drafted that stipulation?

4 A. Ms. Raelene Palmer.

5 Q. Okay. Did you make any changes or drastic  
6 additions or deletions to the stipulation?

7 A. To the best of my recollection, Ms. Palmer and  
8 I -- well, Ms. Palmer sent me the original agreement.  
9 We were emailing each other. Or I emailed some proposed  
10 changes to her. I don't recall which ones exactly were  
11 accepted, which ones were rejected. I believe, the vast  
12 majority of them were rejected. She wouldn't accept  
13 those. There may have been some provisions in there  
14 that she did accept. I just can't recall without  
15 looking and going back through all the reiterations of  
16 the document.

17 Q. And you know that as part of the stipulation,  
18 Mr. Hendi was supposed to pay some money to the PILB  
19 over a period of time, right?

20 A. Yes.

21 Q. Okay. And did you review those, those payment  
22 periods in the stipulation?

23 A. I'm sure I read them. I don't know if I  
24 analyzed them, but I'm sure I read them.

25 Q. Okay. And I'm going to show you the exhibit,

1 which is a stipulation, which is, I believe,  
2 Exhibit C-1, part of a bigger exhibit, the stipulation.

3 A. Okay.

4 Q. Okay. Could you look, could you first look at  
5 paragraph eight. Read it to yourself.

6 A. Okay.

7 Q. Okay. And what does paragraph eight say about  
8 a payment due from ESI to the PILB, when it was due?

9 A. Well, according to this one, it says within 30  
10 days from the date of the PILB's order approving this  
11 agreement.

12 Q. So that we would count 30 days from the actual  
13 date on the order that was signed?

14 A. Yes, I would say, yes, that would be fine.  
15 Although I would think --

16 Q. Well, let's --

17 A. -- if it took a month to get Mr. Hendi the  
18 document, then I'm not sure that that would be fair,  
19 but.

20 Q. But, anyway, that's what that --

21 A. That's what the document says.

22 Q. And it says that that's to be paid within 30  
23 days from the date of the order?

24 A. That's what the document says, yes.

25 Q. Look at paragraph seven and read that to

1 yourself.

2 A. Okay.

3 Q. And that's another payment provision, correct?

4 A. Correct.

5 Q. And what's the payment timing section of that  
6 paragraph state?

7 A. That it's within 30 days from the effective  
8 date of the PILB's order approving this agreement.

9 Q. Okay. To your knowledge, is effective date a  
10 term that's defined in this stipulation at all?

11 A. I don't believe that we had an effective date.  
12 Typically, that's in -- I don't believe so. But I --  
13 without me reading every line, I just don't. But I  
14 don't recall that.

15 Q. And what's your interpretation of that,  
16 effective date, what does that mean?

17 A. Effective date, at least from a civil  
18 litigator's perspective, when I do litigation and  
19 notices, the effective date is the date it's received,  
20 typically, that it's received by the person that's  
21 getting the notice. That's when the time clock begins  
22 to run. Typically, with when we file motions or  
23 pleadings in civil cases, notices, or notices of entry  
24 of order, for example, you get an extra three days when  
25 it's mailed. If it was hand-served, the effective date

1 is when the client gets it.

2 Q. Okay.

3 A. Okay.

4 Q. But isn't that a part of the Nevada Rules of  
5 Civil Procedure, I think 6(e)?

6 A. Yes, it absolutely is.

7 Q. That three days mailing are added to a time  
8 period?

9 A. Yes. Everybody that does civil litigation  
10 knows that.

11 Q. Okay. And then let's look to the next payment  
12 provision, which, I believe, is number --

13 A. Nine?

14 Q. Nine.

15 A. Do you want me to read that?

16 Q. Yeah.

17 A. Okay.

18 Q. Okay. And what is the payment provision as far  
19 as that payment related to?

20 A. My understanding of this one is that there's  
21 going to be 12 equal monthly installments for the  
22 remaining half of the -- the remaining half, or  
23 \$6,587.50, and the remaining costs and fees, which is  
24 defined in another paragraph, are going to be paid in 12  
25 equal monthly installments beginning 60 days from the

1 effective date.

2 Q. So, again, that's a different payment provision  
3 than the previous two ones that you looked at?

4 A. Yes. Yes, absolutely.

5 Q. And what's the operative word that's different  
6 in this one?

7 A. Well, this one, it's -- well, there's several,  
8 other than they're equal months installments. But it  
9 says beginning 60 days from, again, the effective date,  
10 which is different than in paragraph eight.

11 Q. Now, do you remember in the hearing which  
12 discussed this stipulation, as to any discussions about  
13 the balance, the amount due after the initial payments,  
14 how those were going to be structured?

15 A. I don't recall specifically.

16 Q. Let me show you the Exhibit Number 4, which is  
17 a copy of that transcript.

18 MR. CAMPBELL: I'm handing the witness  
19 Exhibit Number 4, which is at Bates 114.

20 THE WITNESS: Okay.

21 BY MR. CAMPBELL:

22 Q. And, I think, this is Ms. Palmer reading or  
23 testifying or chatting into the record?

24 A. I believe so.

25 Q. And what does she say in there?

1           A. Well, that they'll, meaning ESI will pay  
2 one-half of the fines and fees assessed, and the  
3 remaining half will be paid in 12 equal installments  
4 over the next year.

5           Q. What was your understanding of when that  
6 balance was going to be due by Mr. Hendi?

7           A. Well, going back to the other document, it  
8 would have been, they would have started some point  
9 after 60 days from the effective date. And then every  
10 month after that would have to be payment for the  
11 following 12 months.

12          Q. And there's no date certain in that paragraph,  
13 right?

14          A. No.

15          Q. And there's no date certain in paragraph seven,  
16 either, about the -- when the effective date was or  
17 anything?

18          A. No, yeah, correct, we did not put in a specific  
19 deadline. Instead, it was based off of -- one said the  
20 date the order was signed, the other one says the  
21 effective date.

22          Q. Did Ms. Palmer ever ask you to say let's just  
23 put a specific date, April 10th or April 9th or  
24 April 11th, and then each month thereafter, on the same  
25 date of the month, is when payments were going to be

1 due?

2 A. I don't recall that.

3 Q. Okay. But the agreement certainly doesn't  
4 state any specific date, does it?

5 A. No.

6 Q. And the testimony says that it looks like there  
7 were going to be monthly payments, right?

8 A. Yeah, they were going to be monthly payments.

9 Q. Okay. So, Mr. Smith, the payments, those were  
10 part of the stipulation, they had to be made as part of  
11 the stipulation, right?

12 A. Correct.

13 Q. And what was your understanding that if  
14 payments weren't made as part of the stipulation, what  
15 the PILB remedy would be as far as seeking payment from  
16 Mr. Hendi?

17 A. What I recall is, is that if -- I think, there  
18 was a separate provision in the agreement that said  
19 there -- or Mr. Hendi or ESI did not make the payments,  
20 that there was some sort of a separate remedy for the  
21 Board to pursue. Which is typical with any kind of a  
22 breach of settlement agreement or stipulation. It's a  
23 breach of contract at that point.

24 Q. Okay. Do you see paragraph number 10 in that  
25 stipulation? Does that refresh your recollection as to

1 what the remedy was going to be?

2 A. Yes, exactly. That's the provision that they  
3 could seek collection and recovery if there was a  
4 failure to pay. And collection and recovery is -- you  
5 got to bring a separate action for breach of contract.

6 Q. Could you just read that provision, that  
7 paragraph 10, into the record?

8 A. The PILB may institute collection and recovery  
9 actions -- actions, to me, are separate lawsuits --  
10 against ESI, if ESI fails to pay the costs, attorneys'  
11 fees and/or fines assessed above within the time given  
12 for payment.

13 So, yeah, that does refresh my memory. And I  
14 do recall specifically that provision be included,  
15 because it's important that if the payments aren't made,  
16 that the remedy of an action -- and when you use the  
17 word recovery action, that's a separate action to bring  
18 a lawsuit for breach of contract. Because that's what  
19 it is.

20 Q. Okay. Were there any discussions --

21 MS. PALMER: Objection. Objection. My  
22 objection is that he's now testifying as an expert as to  
23 what legal matters mean as opposed to the agreement  
24 itself. I'm going to object on the basis of his  
25 testimony being characterized as expert testimony, that

1 what he says it means, and he's got this civil  
2 experience, and this is how recovery actions work. He  
3 has not been designated as an expert.

4 MR. CAMPBELL: He's not testifying as an  
5 expert. He's testifying as his interpretation of this  
6 ambiguous agreement.

7 MS. PALMER: Well, then, he shouldn't be  
8 testifying that this is how it's done in recovery  
9 actions.

10 MR. CAMPBELL: He's testifying his  
11 interpretation of what this agreement means.

12 MS. PALMER: Then, I'd ask that it be stricken  
13 that this is how it's done in recovery actions.

14 MR. CAMPBELL: Well, he's just saying that the  
15 recovery, it says actions, and that's his opinion that's  
16 what actions meant.

17 MS. BRADLEY: Okay. So, again, I'm looking at  
18 NRS 233B.123 with regard to evidence. It doesn't really  
19 talk about expert witnesses that I can find here. Let  
20 me see. Just a second.

21 So there's no reference to expert witnesses in  
22 NRS Chapter 233B. I mean it does say every witness  
23 shall declare by oath that they will testify truthfully.  
24 Evidence may be admitted except where precluded by  
25 statute if it is a type commonly relied on by a

1 reasonable and prudent person. And then it does talk  
2 about notice being taken by the Board as to certain  
3 facts and issues.

4 I mean, I guess, it's up to the Chair how you  
5 want to handle it. I mean he is an attorney. I  
6 suppose, Mr. Campbell could ask him some questions about  
7 his background. I mean I'm not sure how relevant that  
8 is or how much longer we want to make the testimony. I  
9 mean, I think, the Board knows that Mr. Smith is an  
10 attorney that represented Mr. Hendi in the past.

11 MS. PALMER: Ms. Bradley?

12 MS. BRADLEY: Yes?

13 MS. PALMER: May I just respond? My concern is  
14 not his representation of Mr. Hendi or his understanding  
15 of that. I did not have an opportunity to bring in an  
16 expert myself that can talk about how things. It's  
17 notice is the problem. He's now testifying about his  
18 expertise in recovery actions and civil actions.

19 And just as rule 6(b), or excuse me, 6(e) is  
20 not mentioned on the three days, this is a statute. And  
21 as you know, expert testimony requires that somebody be  
22 named as an expert, that there be the ability to  
23 cross-examine on their expertise, to bring in another  
24 expert to counter whatever that experts says.

25 So I do have a concern with him testifying

1 about how things are commonly done. He can testify as  
2 to what he thought, what they believed. But coming in  
3 and telling the Board that this is how it's done is  
4 inappropriate.

5 MR. CAMPBELL: Well, I'll just make a record  
6 here. I didn't call him as an expert, because he's not  
7 being called as an expert. He's being called to put his  
8 interpretation on an ambiguous agreement. And what I  
9 heard his testimony said was that he said he had viewed  
10 an action, meaning a civil action for enforcement and  
11 recovery.

12 THE WITNESS: And to clarify, I will say it  
13 this way. It is my understanding that that provision,  
14 paragraph 10 or -- yes, paragraph 10 of this agreement,  
15 this stipulation, when it says that the PILB may  
16 institute collection of recovery actions against ESI, it  
17 is my understanding that that means they could file a  
18 separate lawsuit for breach of contract for failure to  
19 pay under the terms of this particular agreement.

20 MR. CAMPBELL: Okay.

21 MS. BRADLEY: Okay. So, Mr. Chair, you  
22 probably do need to rule on it. I do want to read,  
23 though, the NRS regarding opinions of lay witnesses,  
24 just so we have it in the record. It's NRS 50.265: If  
25 the witness is not testifying as an expert, the

1 witness's testimony in the form of opinions or  
2 inferences is limited to those opinions or inferences  
3 which are rationally based on the perception of the  
4 witness and helpful to a clear understanding of the  
5 testimony of the witness or the determination of a fact  
6 in issue.

7           So just so that's there. I guess, you can rule  
8 on -- it sounds like the question's been rephrased. But  
9 I still think there should be a ruling with regard to  
10 the -- I guess, the scope of testimony.

11           BOARD CHAIRMAN ZANE: I'll overrule the  
12 objection. The Board can give it the weight that they  
13 determine is appropriate.

14 BY MR. CAMPBELL:

15           Q. Mr. Smith, to your knowledge, was there  
16 anything in the stipulation that would state that if  
17 Mr. Hendi was one day late on making these payments,  
18 that the staff could then seek to undo the stipulation  
19 and call him in breach?

20           A. Not that I recall. One day late?

21           Q. One day late?

22           A. No.

23           Q. Two days late?

24           A. No.

25           Q. Late at all?

1 A. But the payment was made?

2 Q. The payment was made.

3 A. No, the payment's made and accepted, there's no  
4 breach.

5 Q. Okay. But is there anything in the agreement  
6 that you recall or that said that, oh, by the way, not  
7 only if he doesn't pay, but if he's late, it's going to  
8 be considered a breach of the stipulation?

9 A. I don't believe there's anything in this  
10 stipulation to that effect.

11 Q. Okay. And were there any discussions regarding  
12 that in the hearing approving that?

13 A. No, not that I recall.

14 Q. Let's look at Exhibit Number 6 now. Why don't  
15 you just take a quick look at that.

16 A. Sure.

17 Q. Refresh your recollection. It goes back. I  
18 think, that's the start of the string.

19 A. Okay. Okay.

20 Q. And do you see in that -- try to read it upside  
21 down here -- but that you responded to Ms. Palmer. Get  
22 the page here. At the top of page 154.

23 A. Okay.

24 Q. You responded to Ms. Palmer that it was  
25 Mr. Hendi's belief that it was 30 days from the date

1 that he received the payment, correct?

2 A. From the date he received the agreement.

3 Q. I mean received the agreement, correct?

4 A. Yes, that's what I wrote, that it was his -- it  
5 was 30 days from the date he received the agreement,  
6 rather than when the agreement was signed by the Board.

7 Q. Okay. And --

8 MS. PALMER: Objection. There's a lack of  
9 foundation for the line of questioning.

10 MR. CAMPBELL: No foundation. I'm just asking  
11 him to say what this document says as to what the date,  
12 what it says, as far as Mr. Hendi's belief, in the  
13 document.

14 MS. PALMER: Well, there's no foundation laid  
15 for what that communication relates to, how the  
16 communication originated. You just referred to a page  
17 and said, so this is what this means. If you want to  
18 lay a foundation for the communication.

19 BY MR. CAMPBELL:

20 Q. Why don't you read that communication,  
21 Mr. Smith.

22 A. From the beginning?

23 Q. No, right here, this one paragraph.

24 A. Okay. In this communication, I was responding  
25 to Ms. Palmer with respect to her question of what does

1 "on its way" mean, because I told her that payment was  
2 on its way when she emailed me that the PILB had not  
3 received \$15,000 in legal fees yet. And I apologized  
4 for the delay, that I was working on a massive appellate  
5 brief. And then I said "it means it was overnighted on  
6 Tuesday. You should have received it yesterday. Hendi  
7 told me that he calculated 30 days from the day he  
8 received the agreement, rather than when the agreement  
9 was actually signed by the Board."

10 Q. So Hendi told you that?

11 A. Yes.

12 Q. Okay. And it was your understanding that that  
13 was consistent with what his belief was?

14 A. Yes.

15 Q. Okay. And that would have been based on the  
16 language of the stipulation?

17 A. Yes. He had a copy of the stipulation.

18 Q. Okay. And if we add three days mailing, we  
19 could easily count the days from the date it was mailed  
20 up until the 30 days from the -- you know, adding three  
21 days, right?

22 A. Yes.

23 Q. And then, if you continue on in that,  
24 Ms. Palmer then, I think, she responds to you. Why  
25 don't you read that.

1           A.    She responded back to me and said, "Okay.  The  
2  9th of the month is the actual day that payments are  
3  due, but this month the 9th landed on a Saturday.  Last  
4  question is whether you planned on being at the training  
5  Kevin will be conducting on April 26th."

6           Q.    Okay.  Did you agree with her that the 9th, you  
7  know, was the actual date that the payment was due?

8           A.    No, I didn't.  I don't even think I responded  
9  to that at all.

10          Q.    Okay.  Well, why didn't you respond?

11          A.    That I can't recall.  I don't know if I  
12  disagreed with it or whether -- you know, I just, I  
13  don't know why I didn't respond to that particular  
14  statement.  It may be that I needed to talk with  
15  Mr. Hendi about when he thought the day was, you know,  
16  which specific day payments were due.  I just can't  
17  recall now, as I sit here.

18          Q.    But did you believe that that payment was due,  
19  if you look at the provision in the stipulation, that  
20  the 9th would have been 30 days from the date of the  
21  10th of March?

22          A.    Oh, without me having gone --

23                   MS. PALMER:  Objection.  Asked and answered.

24                   THE WITNESS:  Without me having gone back, I --

25                   MS. PALMER:  Objection.  Asked and answered.

1 MS. BRADLEY: Okay. So do you have a page  
2 number in the transcript; is that what you're referring  
3 to for asked and answered, or is it today?

4 MS. PALMER: It's today. It's just a few  
5 moments ago. His response was, "I can't recall if I  
6 agreed or I disagreed. I don't know why I didn't  
7 respond." You can find that in the record if you need  
8 to have it read back.

9 BY MR. CAMPBELL:

10 Q. The question was, in looking at the  
11 stipulation, do you believe that April 9th was the date  
12 that the first -- that this legal fees payment was due?

13 A. If I look at the stipulation --

14 MS. PALMER: And he already answered that he  
15 doesn't recall.

16 MR. CAMPBELL: No, and that's not my question.

17 BY MR. CAMPBELL:

18 Q. My question is, in looking at the stipulation,  
19 do you believe that that's the date that it's due?

20 A. Well, I wouldn't know --

21 MS. BRADLEY: Are you withdrawing the  
22 objection, then, or?

23 MS. PALMER: To that question, that question, I  
24 think, is fine.

25 MS. BRADLEY: Okay.

1 THE WITNESS: I wouldn't know, without looking  
2 at the stipulation, the date the order was signed,  
3 adding mailing days, and then doing that calculation in  
4 my head, or taking a calendar out and actually numbering  
5 the days. That's how we do it.

6 BY MR. CAMPBELL:

7 Q. Let's do that.

8 A. Okay.

9 Q. Let's look at this stipulation, that that  
10 payment provision would have been under, I believe,  
11 paragraph seven.

12 A. Okay. Okay.

13 Q. Okay. And then let's look at the order.

14 MS. PALMER: Mr. Campbell, for clarity in the  
15 record, would you please state the page numbers in the  
16 exhibits.

17 MR. CAMPBELL: Well, this is the -- this  
18 exhibit, it's page 11 of the stipulation. There's no  
19 Bates on it.

20 MS. BRADLEY: Okay. I'm looking at what, I  
21 think, has been admitted. It's Exhibit 3, Complaint  
22 Exhibit 3 has the order and the stipulation.

23 MR. CAMPBELL: M-hm (affirmative).

24 MS. BRADLEY: And so the order is the very  
25 first page of that exhibit, and it's Bates 000075. And

1 then the page where paragraph seven is, is Bates 000088.  
2 And that's, paragraph seven's on the bottom of that  
3 page.

4 MS. PALMER: And I would just like to note for  
5 the record, if Mr. Campbell is showing his witness  
6 exhibits that haven't been admitted, without the  
7 necessity to refresh his recollection, I have concerns  
8 with what he's showing him and whether or not that  
9 reflects answers that he wants him to give or has been  
10 highlighted.

11 There are official exhibits. We've been very  
12 careful to utilize the actual exhibits. And any time  
13 there's been anything noted, as in that one page, I told  
14 you that I had written on the top "Refer to Exhibit M."  
15 I have concerns about what's happening here. And I just  
16 want that in the record.

17 MS. BRADLEY: Okay. Well, I'm looking at what  
18 the witness is looking at. He's got the same Bates page  
19 as I do. It's Exhibit 3 in a big binder. The binder  
20 looks different from mine, but the exhibit pages are the  
21 same. And they appear to be unmarked. They're just  
22 copies of the agreement, from what I can tell.

23 MS. PALMER: Okay. But he indicated that his  
24 didn't have page numbers, or he didn't have Bates stamps  
25 on them, which tells me it's not the official records

1 that he's looking at.

2 MS. BRADLEY: Well, I see the Bates page. I'm  
3 looking at it. I can testify under oath that I am. I  
4 think, Mr. Campbell just misspoke, because I see it  
5 right now. I see 00088. That's where paragraph seven  
6 is. So it looks just like mine, except for I have a  
7 couple notes on mine.

8 BY MR. CAMPBELL:

9 Q. Okay. So we know where the payment provision  
10 was in this provision, and we note it was the 30 days  
11 from the effective date of the order?

12 A. Right.

13 Q. So let's look at the order, Exhibit Number 3.

14 A. Yes.

15 Q. Bates number 075?

16 A. Yes.

17 Q. And what is the date of the order?

18 A. The date of this order is the 10th of March,  
19 2016.

20 Q. Go to the next page.

21 A. Yes.

22 Q. And what is that certificate of service on  
23 there?

24 A. It says it was mailed out on the 11th of March,  
25 2016. That's Bates number PILB 76.

1 Q. Okay. Now, in looking at those two documents  
2 and looking at a calendar that I put in front of the  
3 witness -- if that's okay with Ms. Palmer?

4 A. And you want me to calculate the days?

5 MS. PALMER: Yes, I have no objection. I'll  
6 stipulate to the 14th if it'll expedite things.

7 THE WITNESS: One second.

8 MS. PALMER: I'll stipulate to the 14th of May.

9 MR. CAMPBELL: We're talking about April.

10 THE WITNESS: Yes, April.

11 MS. PALMER: April. I'm sorry.

12 THE WITNESS: Yeah.

13 MS. PALMER: I'll stipulate to the 14th of  
14 April.

15 THE WITNESS: Okay. April 14th.

16 BY MR. CAMPBELL:

17 Q. Yeah. So now looking back at it, was her  
18 statement in the email that April 9th was the due date  
19 correct?

20 A. No. Had I gone back and did the mathematical  
21 calculation of the calendar dates, I would have said,  
22 no, it's actually due on the 14th.

23 Q. But you don't remember whether you did that or  
24 not at that time?

25 A. I don't actually at that time. I don't

1 remember doing it. I probably did not do it, and that's  
2 probably why it was wrong.

3 Q. Okay. Now, other than this, this exhibit  
4 regarding the emails, Exhibit Number 6, I believe it  
5 was, after that last email with the -- I think, you sent  
6 on the --

7 A. Okay.

8 Q. So the last email string that you sent in that,  
9 in this exhibit, was when?

10 A. April 19th, 2016.

11 MS. BRADLEY: And just for the record, it's  
12 Exhibit 6, and it's, I think, page 000153.

13 THE WITNESS: Yes.

14 MS. PALMER: And that's C-6, right?

15 MR. CAMPBELL: C-6.

16 MS. BRADLEY: Yeah, C, Complaint Exhibit 3.

17 BY MR. CAMPBELL:

18 Q. After this email, as set forth, this email  
19 exchange, as set forth in Exhibit Number 6, did you have  
20 any future conversations with Ms. Palmer about any of  
21 the due dates on the payments?

22 A. Not about due dates.

23 Q. Okay. Did you have any conversations with  
24 Ms. Palmer about that late payments would be considered  
25 grounds to revoke the stipulation?

1 A. No.

2 Q. And you said you didn't have any, any other  
3 conversation with her about payments. Did you have  
4 subsequent conversations with Ms. Palmer about the  
5 stipulation?

6 A. About the stipulation? The only thing, I  
7 think, I may have talked to her verbally or may have  
8 sent an email related to Kevin Ingram visiting the ESI  
9 offices. That may have transpired after that. I don't  
10 know. I can't recall.

11 Q. Do you remember having a conversation with her  
12 about an ESI employee and not being firearms trained?

13 A. Yes, I think so.

14 Q. And what do you remember about that  
15 conversation?

16 A. If that was the -- if that's the employee that,  
17 I think, the Board was thinking about bringing a  
18 violation, but that Ms. Palmer told me that because the  
19 underlying facts giving rise to that violation occurred  
20 before the stipulation was signed, that she recommended  
21 against bringing that violation.

22 Q. Okay. Let's look back at that stipulation  
23 again. Do you remember that there was a -- I'll call  
24 it -- and we're looking at Exhibit Number --

25 A. This exhibit, right?

1 Q. No, this is Exhibit Number 1, I believe.

2 A. No, no, the Bates number on the bottom.

3 Q. Yes, the Bates number on the bottom of that.

4 A. So that -- I just lost my page. Yeah. Okay.

5 Bates number 00089.

6 Q. Before we get into that --

7 MS. PALMER: So this is C-1, C-1?

8 MR. CAMPBELL: Yes. It's the page with the  
9 complaint and the stipulation, I believe. It's 3, isn't  
10 it?

11 MS. BRADLEY: Actually, it's C-3, if that's  
12 what we're looking at, the settlement. The complaint is  
13 C-1.

14 BY MR. CAMPBELL:

15 Q. Okay. Excuse me. C-3.

16 A. Okay. You asked me to read this paragraph?

17 Q. Well, let me ask you first.

18 A. Okay.

19 Q. Generally, do you recall that there was a  
20 carve-out provision in the stipulation as to things that  
21 had happened prior to the stipulation and how they would  
22 be treated under the stipulation?

23 A. Yes.

24 Q. Okay. And what's your recollection of that?

25 A. My recollection of that is any facts that

1 occurred prior to the date the agreement was signed, or  
2 the stipulation was signed, could not be used as a basis  
3 for a violation that would count towards a revocation of  
4 a license.

5 Q. Okay. And is the exhibit, is this Bates page  
6 89, paragraph 12, does that refresh your recollection?  
7 Why don't you read that into the record.

8 A. For purposes of this agreement, in establishing  
9 whether an act that would constitute grounds for  
10 discipline has occurred, only those facts giving rise to  
11 a notice of violation that occur after the stipulation  
12 is entered into would be considered. Thus, while there  
13 are currently pending violations -- some numbers --  
14 outside of this disciplinary matter which, if not  
15 withdrawn --

16 MS. PALMER: Objection. Objection. If he's  
17 going to read it, he shouldn't leave out the  
18 parenthetical information. That's really important.

19 THE WITNESS: Okay. Do you want me to include  
20 it? That's fine.

21 MS. PALMER: Start over with "Thus," please.

22 THE WITNESS: Sure. Thus, comma, while there  
23 are currently pending violations, parenthetical, NOV  
24 numbers 1 dash 102 dash 15 and 1, or maybe it's an I,  
25 dash 010 dash 16, end parenthetical, outside of this

1 disciplinary matter which, if not withdrawn by the PILB  
2 fact, ESI may appeal, but the facts giving rise to the  
3 violations, if upheld by the PILB after the hearing,  
4 will not be considered in determining whether ESI  
5 committed an act which constitutes grounds for  
6 discipline in violation of the proposed settlement  
7 offer. However, if, after a hearing and any judicial  
8 review that might be taken on a matter is exhausted or  
9 waived, failure to comply with the terms ordered within  
10 the time set forth in such order would constitute new  
11 facts that would trigger the revocation provision of  
12 this agreement.

13 BY MR. CAMPBELL:

14 Q. So it was your understanding that this  
15 carve-out provision only related to those two notices of  
16 violation, or whatever that's listed in that paragraph?

17 A. No, not at all.

18 Q. And why is that?

19 A. Because I'm very clear on this one, because  
20 this was a provision, I think, that I requested  
21 initially in an email to Ms. Palmer, was that we did not  
22 want any facts that gave rise to any violations prior to  
23 the stipulation being used against ESI or Mr. Hendi.  
24 And that was important to me to protect my client, is to  
25 make sure any facts that could be used against him,

1 prior to entering into the stipulation, would not be  
2 used against him.

3           And the two provisions were simply because  
4 there was two provisions, or the two notices that were  
5 included in this were, my understanding, the two that  
6 were currently already outstanding. It didn't mean that  
7 there were not other facts that could give rise to  
8 violations, but that these were simply two, two  
9 violations that were just currently pending, based on  
10 prior facts, kind of like an example.

11           Q. If the intent was just to carve out certain  
12 notices of violation, would that have been drafted  
13 differently?

14           A. Absolutely. Absolutely. It would have just  
15 included those violations only. But we would never  
16 agree to that. I would not agree to that.

17           Q. And then the testimony you just gave about the  
18 conversation with Ms. Palmer about the firearms issue,  
19 the firearms instruction issue?

20           A. Yes.

21           Q. That was a preexisting fact, she told you?

22           A. Yes.

23           Q. And had there been a notice of violation issued  
24 on it?

25           A. Not to my knowledge.

1 Q. Okay. And this -- I'm going to go to Exhibit  
2 Number C-4, which is the transcript of the stipulation  
3 hearing. If you can read into the record starting at  
4 line 15 there.

5 A. And it's Bates number PILB 115, it's page 20 of  
6 the transcript: And the idea there is that we would be  
7 giving ESI Security and Mr. Hendi a fresh start from the  
8 time that the order is filed to comply with all of the  
9 rules and regulations.

10 Do you want me to stop there?

11 Q. Go ahead and read the rest.

12 A. Oh. Now, comma, after, whatever decision is  
13 made, if he then to pay the fine or comply with the  
14 Board's order, that, of course, would be a new fact that  
15 would trigger the revocation. Period.

16 Q. Okay. So this fresh start, that dealt with  
17 these existing facts?

18 A. Yes. Well, what the intent was, from my  
19 understanding, is when we drafted that stipulation, was  
20 that once the stipulation was signed, that this was  
21 going to be a fresh start with facts going forward from  
22 that point on. So any new facts arising after that date  
23 could be used to support a violation. Any facts before  
24 the Board signed the stipulation, or the order approving  
25 the stipulation, could not be used, because it was a

1 fresh start.

2 And I'm confident about this one, because this  
3 was an important provision that I recommended.

4 MR. CAMPBELL: Okay. That's all I have. Thank  
5 you, Mr. Smith.

6 BOARD CHAIRMAN ZANE: Ms. Palmer.

7

8 CROSS-EXAMINATION

9 BY MS. PALMER:

10 Q. Mr. Smith, have you had communications with  
11 Mr. Campbell outside of this hearing?

12 A. Yes.

13 Q. When did those communications occur?

14 A. The first one was while I was still on  
15 sabbatical, so, I think, it had to be in maybe July of  
16 2016, about the upcoming hearing. It may have been  
17 August, but I can't remember.

18 Or I take that back. There may have been a  
19 communication where he called me and told me that he was  
20 representing Mr. Hendi prior to that point and that, I  
21 think, he asked for my file on it. And, I think, I  
22 transferred my file and made a copy of my -- the file  
23 from my office and sent it to him. I think, that may  
24 have been the first communication, but I don't recall  
25 for sure.

1 Q. Okay. The question was all communications, not  
2 just the first one.

3 A. Oh, well, I'm trying to go. And then, I think,  
4 there was one over the summer where he said he wanted to  
5 call me as a witness. And then we talked about what my  
6 understanding of the stipulation was. And I told him  
7 what my understanding was regarding various provisions.

8 Q. And was it an open-ended question like that,  
9 that he asked you, or did he ask you, does your  
10 understanding mean that this would include an extra  
11 three days for mailing?

12 A. It was more open-ended. It was more  
13 open-ended. It was, what is your understanding of,  
14 given these provisions and the effective -- one says  
15 effective date, one says not effective date, it was what  
16 do you understand -- first of all, why was this two  
17 different dates, or two different uses of language  
18 included. And I told him I didn't draft that, and I  
19 don't recall it, when I read it, why those two different  
20 uses between the date or the signed effective date. And  
21 then he asked me what was my understanding between the  
22 two differences, and I told him, essentially, what I  
23 said today, is effective date would mean, to me, notice,  
24 and notice, it would be an extra three days, if it was  
25 mailed.

1 Q. That's today, you just said, your statement  
2 said today, your understanding today of what that means?

3 A. Well, what I said is it's consistent with what  
4 I said, testified to today, it was the same thing I told  
5 Mr. Campbell back in July or August last year, when he  
6 asked me what was my understanding, given the  
7 differences in language between the two paragraphs.

8 Q. At the time that the agreement was drafted,  
9 were you aware of the difference in language between the  
10 paragraphs?

11 A. As I sit here today, I cannot recall whether I  
12 was thinking about effective date or date from the order  
13 was signed. I was looking at more the provisions of  
14 protecting Mr. Hendi. That's what my focus was on, not  
15 on, you know, whether -- the specific date the payments  
16 were due. I wasn't focused so much on that as I was  
17 focused on the provisions that were protecting him.

18 Q. And as an attorney, when you're focused on  
19 protecting your client, isn't one of your obligations to  
20 ensure that there's no ambiguity if you see ambiguity?

21 MR. CAMPBELL: Now I'm going to object. She's  
22 calling for a legal conclusion. Or I mean she's calling  
23 for expert witness testimony. I didn't call him as an  
24 expert. He's a percipient witness here.

25 MS. PALMER: He's the attorney that signs the

1 agreement. And he just testified that he was concerned  
2 about protecting his client. So I'm asking him  
3 specifically if part of that protection would include  
4 ensuring that there were no ambiguities in the  
5 agreement.

6 MS. BRADLEY: I think, you just -- I mean if  
7 you rephrased it that way, I think that Mr. Campbell  
8 might withdraw his objection.

9 MR. CAMPBELL: I will.

10 MS. PALMER: I just did.

11 MS. BRADLEY: Okay.

12 MR. CAMPBELL: Do you understand the  
13 distinction on the two questions?

14 THE WITNESS: I do.

15 I think, if an ambiguity was glaring me in the  
16 face, and I was thinking about that, I would raise it.  
17 And now, in hindsight, maybe putting in a specific date  
18 of when payments were due would have been a good idea.

19 But I also recall that when I was proposing  
20 changes or provisions, the vast majority were outright  
21 rejected by you, counsel, wouldn't agree to any changes,  
22 except for a few, that I asked for. But I don't recall  
23 asking for a change, to be specific, in the language on  
24 the date of timing was due. That just wasn't that  
25 critical to me.

1 MS. PALMER: Would it be possible to take a  
2 break? I have some rebuttal documents that I would like  
3 to submit.

4 MR. CAMPBELL: Sure. Do we have copies?

5 MS. BRADLEY: Do we have copies of them up  
6 here?

7 MS. PALMER: Yes.

8 MS. BRADLEY: Okay.

9 MS. PALMER: Yes, Mrs. Klemme has copies of  
10 them.

11 MS. BRADLEY: And are these --

12 MS. PALMER: I can either communicate with  
13 her -- I think, they'll be new exhibits.

14 MS. BRADLEY: New exhibits. Okay. Has  
15 Mr. Campbell seen them?

16 MR. CAMPBELL: No.

17 MS. PALMER: No.

18 MS. BRADLEY: Okay. So, I think, maybe we  
19 should take a break, and Mr. Campbell should have a  
20 chance to look at them, so that we know if he has any  
21 objection.

22 MS. PALMER: Sure.

23 MS. BRADLEY: If he doesn't, maybe they could  
24 be admitted right after the break.

25 MS. PALMER: Sure.

1 MS. BRADLEY: Is that okay, Mr. Chair?

2 MS. PALMER: Maybe a half-hour?

3 BOARD CHAIRMAN ZANE: Half an hour?

4 MS. BRADLEY: Half an hour.

5 MS. RASUL: Can that be the lunch break?

6 MR. CAMPBELL: I'd like to get Mr. Smith out of  
7 here, if I could.

8 THE WITNESS: Yeah, given -- yeah. If we can  
9 do it now, I'd prefer to do it now, rather than keeping  
10 me around.

11 MR. CAMPBELL: I can look at them.

12 MS. PALMER: It won't take that long to get.

13 MR. CAMPBELL: Are they here? I can look at  
14 them.

15 MS. BRADLEY: I think, Mary has them right  
16 behind you, so.

17 MS. PALMER: But I have to communicate with her  
18 which ones I'm talking about.

19 MS. BRADLEY: Okay.

20 MS. PALMER: So we're going to have to go off  
21 record anyway.

22 MS. BRADLEY: Well, can we do a 15-minute  
23 break, rather than a half an hour? I mean I don't think  
24 a half an hour is enough for us to get lunch up here.

25 MR. CAMPBELL: No. Let's do 15 minutes.

1 MS. PALMER: Well, I mean the goal, I think,  
2 would be to continue this hearing today.

3 MS. BRADLEY: Oh, I agree. I'm just not --

4 MS. PALMER: Okay.

5 MS. BRADLEY: I think, if we're going to take  
6 lunch, I think, we need more than a half an hour,  
7 because I don't even know what's close by here.

8 MR. WOODRUFF: We're out in the middle of  
9 nowhere.

10 MS. BRADLEY: So I mean I feel like it's going  
11 to take us 10 minutes probably just to get anywhere.

12 MR. HENDI: Yes.

13 MS. BRADLEY: Yeah. So.

14 MR. CAMPBELL: Let's look at the document for  
15 15 minutes and then reconvene, see where we are.

16 MS. BRADLEY: Yeah, let's do 15 minutes.

17 Is that okay, Mr. Chair?

18 BOARD CHAIRMAN ZANE: We're on a break for 15  
19 minutes.

20 MS. BRADLEY: Thank you.

21 \* \* \* \* \*

22 (A break was taken, 11:30 to 11:45 a.m.)

23 \* \* \* \* \*

24 BOARD CHAIRMAN ZANE: Okay. Are we ready to  
25 go?

1 MR. CAMPBELL: Yes.

2 BOARD MEMBER COLBERT: Yes.

3 MS. PALMER: Are we good; I can start  
4 questioning?

5 BOARD CHAIRMAN ZANE: I believe, you're up.

6 MR. CAMPBELL: We're ready.

7 MS. PALMER: Are you ready for me to start  
8 questioning?

9 MR. CAMPBELL: Yeah.

10 MS. PALMER: Okay.

11 MR. CAMPBELL: We're ready.

12 MS. BRADLEY: Well, wait a minute. Are the new  
13 exhibits that you want admitted, are you willing to  
14 stipulate to those?

15 MR. CAMPBELL: No.

16 MS. BRADLEY: Okay.

17 MR. CAMPBELL: But I don't know if she's going  
18 to -- I'll make my objection when she starts going  
19 through them.

20 MS. BRADLEY: No, that's fine. I just wanted  
21 to, if we could, get that done first. But go ahead.

22 MS. PALMER: Okay. Are there any that you  
23 would stipulate to?

24 MR. CAMPBELL: No.

25 MS. PALMER: Okay.

1 MS. PALMER: Then, I would like you to show the  
2 witness proposed exhibit 194.

3 MR. CAMPBELL: Well, before we get into any  
4 discussion on these exhibits, I'm going to interpose an  
5 objection to having any of them, any of the contents  
6 even read in.

7 In the very first page of the exhibit, your  
8 email, at the bottom of the page, clearly underlined, a  
9 confidential settlement communication. This entire  
10 package, to me, appears to be settlement communications,  
11 which are inadmissible to be offered to prove something  
12 in this case. So these are all settlement documents, so  
13 they would be inadmissible for the purpose of this case.

14 Second, I don't think these are rebuttal. If  
15 they were documents that you wanted to use for  
16 Mr. Smith, you knew he was going to be a witness the  
17 entire time, and these documents, it's kind of late to  
18 provide them to me within minutes of this  
19 cross-examination.

20 So for those two grounds, I object to even  
21 going into these documents.

22 MS. PALMER: So the purpose for which these  
23 documents are being utilized, you specifically said  
24 that -- you specifically asked of this witness, and he  
25 testified that I drafted the agreement, that this was

1 authored by me, and this is very important to your  
2 defense, which is that the -- any ambiguities should be  
3 construed against the drafter.

4           There are approximately, I don't know, a dozen  
5 emails that show back and forth, back and forth, back  
6 and forth. And then the actual drafter of the agreement  
7 is not me, but a mutual joint effort. And that's what  
8 the documents show. So.

9           MR. CAMPBELL: Well, Ms. Palmer, these are  
10 settlement documents. They're clearly inadmissible. I  
11 offered, asked to call you as a witness in this case.  
12 You could have testified as to your understanding of the  
13 agreement. You decided that you were not going to  
14 disqualify yourself as a witness.

15           And, therefore, you're just stuck with what  
16 Mr. Smith contains. And you can't use settlement  
17 documents to cross-examine him. If you wanted to  
18 testify --

19           MS. PALMER: I can use settlement documents.  
20 But they're not being utilized for the purposes of the  
21 content of the documents. And you can see, I  
22 specifically excluded the actual document itself. It  
23 does show that Mr. Smith is sending redlined versions of  
24 the document.

25           Now, you opened the door on this. I didn't.

1 You chose to have Mr. Smith testify. And now you're  
2 trying to preclude me from cross-examining him on his  
3 testimony. And I think that that would be --

4 MR. CAMPBELL: You're precluding, you have  
5 precluded yourself by not taking up my offer when I  
6 asked. When I told you that I was going to call you as  
7 a witness, and you declined, said that, and, in fact,  
8 your boss came back and said that, no, she's not going  
9 to be a witness, she's going to try this case.

10 Therefore, you effectively precluded yourself  
11 from submitting any testimony about this agreement and  
12 the interpretation of it.

13 Now what you're trying to do --

14 MS. PALMER: And I'm not --

15 MR. CAMPBELL: -- is get the settlement  
16 documents into the record, that should not be allowed as  
17 part of this record.

18 MS. PALMER: The settlement documents are not  
19 in the record. The communications showing that  
20 Mr. Smith is communicating with me about the settlement  
21 documents is what's being put into the record. The  
22 purpose for which we are eliciting this testimony is  
23 directly to rebut his contention that Board counsel  
24 drafted this document.

25 MR. CAMPBELL: They're all clearly entitled

1 settlement document, inadmissible under the law.

2 MS. PALMER: Not inadmissible. Inadmissible  
3 for a specific purpose. The purposes for which we're  
4 intending to use them is not an inadmissible purpose.

5 MR. CAMPBELL: These will be highly prejudicial  
6 if they're admitted.

7 MS. BRADLEY: Well, okay. So, Mr. Chair, the  
8 objection's been made, and there's been a response. I  
9 am looking at Exhibit 3, Complaint Exhibit 3, which is  
10 stipulation is not evidence. This is on page 14 of the  
11 stipulation, lines 17 to 19. I don't know how much this  
12 helps or if it does. But it does say: Neither this  
13 stipulation nor any statement made concerning this  
14 stipulation may be discussed or introduced into evidence  
15 at the hearing of the amended complaint if PILB staff  
16 must ultimately prosecute a case based on the amended  
17 complaint filed in this matter.

18 Now, this is saying, if we're going to have a  
19 case on the underlying matter, it wouldn't be  
20 admissible. This is, I guess, a new matter, because  
21 it's saying that there was a violation of the agreement.

22 Normally, settlement discussions are  
23 confidential. I know that there have been some  
24 discussion, though, about, about them already.

25 I also am kind of concerned. I was trying to

1 look through the documents, because I have a list here  
2 of different ones.

3 I mean they can't be admitted for the truth of  
4 what they contain. I don't know if there's any  
5 stipulation that the parties can reach as to whether  
6 there were discussions or what those might have  
7 contained. That might help alleviate Ms. Palmer's  
8 concerns without admitting the documents themselves. Is  
9 there a possibility of that?

10 MR. CAMPBELL: I don't have any problems with  
11 her asking questions --

12 MS. BRADLEY: Okay.

13 MR. CAMPBELL: -- about communications. But I  
14 don't want to get any of the details. If she's poking  
15 into who drafted the document, she can ask him questions  
16 about that. But to allow confidential settlement  
17 negotiations on the parties' positions is clearly -- I  
18 mean that's about as ironclad rule as you can get under  
19 the law. And these would be prejudicial to let a trier  
20 of fact see the underlying negotiations leading up to a  
21 stipulation.

22 MS. BRADLEY: I agree.

23 Ms. Palmer, are you able to ask Mr. Smith the  
24 questions that you want to ask without introducing the  
25 documents for the Board to review?

1 MS. PALMER: Well, first of all, I would like  
2 Mr. Campbell to provide his authority for the fact that  
3 these documents are inadmissible.

4 MR. CAMPBELL: Well, I think, I already have.  
5 They're settlement documents. And Mr. Smith marked them  
6 as settlement documents. Nevada Revised Statute 48.105  
7 is the statutory authority, that he actually marked that  
8 in one of his emails to you.

9 MS. PALMER: Right, and we can read 48.105,  
10 because we've already looked at that. We had the same  
11 concerns, whether or not this would be admissible. And  
12 we have vetted this, and we believe that it is  
13 admissible.

14 So unless you have some counterauthority, I  
15 think that you're wrong.

16 MR. CAMPBELL: These are settlement documents.  
17 They should not be admitted.

18 MS. BRADLEY: Well, I'm looking at NRS 48.105,  
19 and it says evidence -- so it's titled "Compromise;  
20 offers to compromise." Which is usually like -- means  
21 settlement.

22 Number one says: Evidence of furnishing or  
23 offering or promising to furnish or accepting valuable  
24 consideration to compromise a claim is not admissible to  
25 prove liability or validity of a claim or its amount.

1 Evidence of conduct or statements made in compromised  
2 negotiations is likewise not admissible.

3 And then number two says: This section does  
4 not require exclusion when the evidence is offered for  
5 another purpose, such as proving bias or prejudice of a  
6 witness, negating a contention of undue delay, or  
7 proving an effort to obstruct criminal investigation or  
8 prosecution.

9 So I don't think we have the exception there  
10 where it's biased. I mean I don't think I hear you  
11 saying you think Mr. Smith was biased. Do I?

12 MS. PALMER: Oh, definitely. Definitely.

13 MS. BRADLEY: Okay. Okay. And then undue  
14 delay or obstructing an investigation. I mean I don't  
15 see that.

16 So you're saying that there's bias. Because I  
17 thought you are wanting to talk about the fact that the  
18 communications went back and forth. I mean, obviously,  
19 he has an allegiance to his client. I mean so he's  
20 biased, I guess, supposedly. I mean he has a position.  
21 I don't know if that's a bias.

22 MS. PALMER: I'm utilizing these documents --

23 MS. BRADLEY: Okay.

24 MS. PALMER: -- to show that it was not -- see,  
25 their whole case rests on the idea that there's an

1 ambiguity in the contract and that I created that  
2 ambiguity, the Board's counsel created that ambiguity,  
3 and, therefore, it must be construed against Board's  
4 counsel. Without the ability to defend against their  
5 defense, the Board would be stuck with that. So we have  
6 to be able to rebut his contention that this was a  
7 document drafted by Board's counsel.

8 MR. CAMPBELL: And, Ms. Palmer, that's why I  
9 notified you as a witness, so you could rebut that  
10 without having to --

11 MS. PALMER: I don't have to testify to that.  
12 You are the one who opened the door by bringing in prior  
13 counsel. I would have said, no, leave it out. Leave it  
14 out. We have a document. But, no, you wanted to bring  
15 counsel in to testify as to what something meant and  
16 what it didn't mean and what he thought and how he  
17 thought it.

18 And so I have the ability and the right to  
19 cross-examine him on that and the veracity of his  
20 testimony. And now you're trying to deny the Board the  
21 ability to do that.

22 MR. CAMPBELL: No, I offered --

23 MS. PALMER: And you're utilizing the fact that  
24 I didn't come in as a witness.

25 MS. BRADLEY: All right. Well, let's not --

1 MS. PALMER: I didn't allow you to call me as a  
2 witness.

3 MR. CAMPBELL: Yeah.

4 MS. BRADLEY: Okay. Well, let's not argue. I  
5 don't think that -- so let's...

6 I mean, I guess, Mr. Chair, I'd be concerned  
7 about admitting these, because I do know that, I think,  
8 a court would be concerned about admitting settlement  
9 documents. It's not something that I've normally had  
10 ever occur. And so I'm just concerned that a court's  
11 not going to look at it favorably. And it may be that a  
12 court will be reviewing this in the future. And there  
13 are, you know, generally accepted reasons why it's not  
14 allowed.

15 I understand Ms. Palmer's concern about wanting  
16 to rebut the allegation that the document was drafted  
17 wholly by her. You know, I mean, I think, there's been  
18 enough discussion, I mean there has been some anyway,  
19 that would allow her to rebut that. Mr. Smith did  
20 testify that he had changes, and he submitted those. I  
21 mean there's been some.

22 I don't know. I think it's just concerning to  
23 admit these. And erring on the side of caution, I  
24 think, is that I would advise that these not be  
25 admitted.

1 MS. PALMER: Ms. Bradley, the rules of evidence  
2 allow it. We specifically excluded the attachments that  
3 actually show the communication. If these emails, if  
4 part of these emails should be redacted in any way, we'd  
5 have no problem with that.

6 But, for example, they're one-liners, they're  
7 one-line things that say, "Ms. Palmer, here's my  
8 redlined version." How is that prejudicial? How is  
9 that? I don't understand. We have a right to  
10 demonstrate.

11 I mean I'm happy to read those things without  
12 disclosing any of the settlement communications, with  
13 the exception of I will -- we can reserve 182 and 183,  
14 and I can -- that can be a different argument.

15 But I think that the documents would simply  
16 show, here's my redlined version. It's absolutely  
17 admissible. There's nothing prejudicial about it. And  
18 it goes directly to rebut his contention that he didn't  
19 draft it, have an equal part in drafting the agreement.

20 MR. CAMPBELL: Well, these are not one-line  
21 provisions. These are detailed discussions regarding  
22 settlement.

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

24 MS. PALMER: I'm happy to redact. We can  
25 redact. We can redact, because most of them are -- or

1 we can go with just the ones that are clearly one line,  
2 if you want.

3 MS. BRADLEY: Is there a way to maybe just  
4 include in the record from and to and the date, I mean  
5 the fact, like the number of communications, who sent  
6 them?

7 MS. PALMER: Okay. Allow me to ask him  
8 questions about it --

9 MR. CAMPBELL: I said I'd do that.

10 MS. PALMER: -- without disclosing --

11 MR. CAMPBELL: Yeah, I would agree to that:  
12 Did you send Mr. Smith an email regarding changes to the  
13 agreement?

14 MS. BRADLEY: So, I think, yeah, I think, if we  
15 talk about the number and the date and maybe, you know,  
16 the fact that it was regarding the settlement, but not  
17 the details, I think, that might alleviate  
18 Mr. Campbell's concerns.

19 MR. CAMPBELL: (Nodded head affirmatively.)

20 MS. BRADLEY: And does that allow you, then, to  
21 accomplish what you need, Ms. Palmer?

22 MS. PALMER: I think, it may. We can certainly  
23 try it.

24 MS. BRADLEY: Okay.

25 MS. PALMER: I mean my objection is noted that

1 I believe that we have a right under the rules of  
2 evidence to do this. But I may be able to accomplish  
3 what I want just by asking Mr. Smith about it.

4 MS. BRADLEY: Okay. And then, so, Mr. Chair,  
5 would you make a ruling, I guess, then, that we, I  
6 suppose, proceed the way that we're suggesting. I mean  
7 I'm just concerned that there's been an objection and  
8 there hasn't been a ruling made.

9 MR. CAMPBELL: I'd like a ruling that these are  
10 settlement documents, not admissible.

11 MS. BRADLEY: Yeah.

12 MS. PALMER: They're not admissible for certain  
13 purposes.

14 MR. CAMPBELL: At all.

15 MS. PALMER: And then you've already read what  
16 NRS 48 says. And I've already told you that I am  
17 utilizing it for an exception outside of NRS, one of the  
18 exceptions listed in NRS 48, which is bias. And that's  
19 what I'm getting to. He has testified in a certain way,  
20 and I have the right to test him and question him on his  
21 veracity of that statement.

22 MR. CAMPBELL: I don't think there's any bias.

23 BOARD CHAIRMAN ZANE: I think, the objection by  
24 Mr. Campbell is overruled.

25 MS. BRADLEY: Okay.

1 BOARD CHAIRMAN ZANE: I would appreciate it  
2 that the documents be the last resort, or the attempt to  
3 admit. You can make another objection at that time if  
4 it's necessary.

5 MR. CAMPBELL: Wait a minute.

6 MS. BRADLEY: So, I think, you're saying it's  
7 sustained, then. Because if you're saying is overruled,  
8 that means you're not agreeing with Mr. Campbell. And  
9 it sounds like you want to --

10 MS. PALMER: Well, he's overruling.

11 BOARD CHAIRMAN ZANE: I'm not agreeing with  
12 Mr. Campbell.

13 MS. BRADLEY: Okay.

14 MR. CAMPBELL: So you're letting the documents  
15 in over my objection?

16 BOARD CHAIRMAN ZANE: Yes. Correct.

17 MR. CAMPBELL: Okay.

18 BOARD CHAIRMAN ZANE: If they're offered. If  
19 they're offered.

20 MR. CAMPBELL: Well, my objection, reading any  
21 part of the record, any part of these, the documents,  
22 into the record is objectionable, also.

23 BOARD CHAIRMAN ZANE: It my impression that you  
24 just said that that was all right.

25 MR. CAMPBELL: It's all right to ask questions

1 related to some of the communications back and forth  
2 without reading the documents themselves.

3 MS. PALMER: That's what I'm going to try to  
4 do, Mr. Chairman. But my understanding is, if  
5 necessary, we can admit the documents.

6 BOARD CHAIRMAN ZANE: I'm sure there'll be  
7 another objection at that moment in time.

8 MS. BRADLEY: Well --

9 MS. PALMER: But, I think, you've already.

10 MS. BRADLEY: Yeah, I mean he's already made  
11 the objection. You've already said they can be  
12 admitted. So I don't know that he would make -- I mean  
13 he might make it again just for the record. But it's  
14 already been ruled on.

15 MR. CAMPBELL: I'm going to put a standing  
16 objection on the record that these should not be  
17 admitted and no parts of them should be read into the  
18 record, but that I'll allow the questions on them, I'll  
19 allow the questions on them --

20 BOARD CHAIRMAN ZANE: If by something other  
21 than just the reading of the NRS 48.105, yes, your  
22 objection is overruled.

23 BY MS. PALMER:

24 Q. Okay. Mr. Smith?

25 A. Yes.

1 Q. I would ask that Mr. Campbell provide you with  
2 a copy of the records at this time. And I'm just going  
3 to attempt to ask you questions about them without  
4 admitting them into the record.

5 A. Okay.

6 Q. Do you have the first document marked PILB 185?

7 A. I do.

8 Q. And the communication at the top of that  
9 document dated February 26th, 2016?

10 A. Yes.

11 Q. That's a document or an email from you to me;  
12 is that correct?

13 A. Correct.

14 Q. To Board counsel?

15 A. Correct.

16 Q. And what does it say; with that, I mean  
17 generally speaking, without disclosing anything?

18 A. I don't know if I can say that.

19 Q. Well, I'll just ask you. I'll ask you a  
20 question, to make it easier. I'll ask you a question  
21 without -- to make it easier. Does this communication  
22 indicate that you believe we're getting close to  
23 reaching an agreement and that you have some proposed  
24 changes and additions to the Board's settlement outline,  
25 that you think are reasonable?

1           A. I do recall, based on this email, that we did  
2 have discussions or communications via email and that I  
3 did say that I think we're getting close to reaching an  
4 agreement in this case and that I did have some proposed  
5 changes or additions to a settlement outline that you  
6 had provided me.

7           Q. Okay. And if you would, do you have exhibit  
8 number 187?

9           A. I do.

10          Q. There's a communication on February 26th. It's  
11 that second communication on the page at 12:04 p.m.?

12          A. Yes.

13          Q. What do the first three lines say?

14                 MR. CAMPBELL: Again, I'm going to object to  
15 reading those into the record.

16                 THE WITNESS: Do you want me to read them? I  
17 mean if it's overruled, then I can read them into the  
18 record. But if you're asking me --

19 BY MS. PALMER:

20          Q. You can paraphrase. You can paraphrase, if  
21 you'd prefer.

22          A. It's the same thing. But the gist of it is, is  
23 that you had sent me, based on this -- this is  
24 refreshing my memory, that you sent me an outline of  
25 settlement terms. It wasn't the stipulation that you

1 later drafted. This is just settlement terms that you  
2 sent me, an outline of settlement terms. And the  
3 outline of settlement terms, I sent some changes back to  
4 you. I am not sure, based on this, whether you agreed  
5 to any of them. Because my recollection is at one point  
6 I did send some changes.

7 Q. That's not my question. That's not my  
8 question.

9 A. And you rejected them all.

10 Q. That is not my question. Okay. That is not my  
11 question. You're just adding testimony I didn't ask you  
12 about. Your counsel can ask you that on redirect, if he  
13 chooses to do that.

14 At this point in time, you know what, I'm just  
15 going to go ahead and read it and ask you if that is  
16 what it says, because I'm -- we're running out of time,  
17 and it's getting frustrating.

18 A. Great, you can read it.

19 Q. You indicate in here --

20 A. It'll get overturned by the court.

21 Q. -- "Attached is a redline" -- "Attached is a  
22 redline version of the outline of settlement terms. As  
23 you can see, we agreed to about 90 percent of what you  
24 proposed. We do, however, have some additional  
25 paragraphs we would like to add."

1           Does the document communication from you to me  
2 say that?

3           A.    The first two sentences do.  But you want to  
4 read the rest of it?

5           Q.    Sure.  That's up to you.

6           A.    No.

7           Q.    This is where your counsel has an --  
8 Mr. Hendi's counsel.

9           A.    You're already, you're already subjecting  
10 yourself to being overturned by a court.  So if you want  
11 to keep reading, go ahead.

12           MR. CAMPBELL:  Wait, hold on a second.

13           THE WITNESS:  If you want to keep reading and  
14 keep committing error, go ahead.

15           MS. PALMER:  Okay.  That --

16           MR. CAMPBELL:  I object to this.  I don't think  
17 anything -- I don't think the rest of that adds anything  
18 to this colloquy.  So I would object to him reading any  
19 more of that.

20           MS. PALMER:  I don't want to read any more.  
21 Your witness wants to read more.

22           THE WITNESS:  No.

23           MS. PALMER:  I don't want to read any more.

24           THE WITNESS:  I'm saying you are reading part.  
25 You asked me is this is what this document says.  I'm

1 saying it said, that's part of what it says. You're  
2 right, that's part of what it says.

3 BY MS. PALMER:

4 Q. Yeah. Okay. Page 195?

5 A. Okay.

6 Q. The second communication, February 26th, at  
7 12:48 p.m.?

8 A. Okay.

9 Q. It's addressed to Mr. Ingram?

10 A. Yes.

11 Q. And it says "Kevin, in case Raelene is over at  
12 your office, I thought I would send the attached to you  
13 and the email below. I look forward to hearing from you  
14 and Raelene to see how close we are to getting this  
15 revolved."

16 Is that a correct reading of that statement?

17 A. I believe so, yes.

18 Q. Do you have page 196?

19 A. I do.

20 Q. PILB 196?

21 A. Yes.

22 Q. Does that, does that first sentence on February  
23 26th at 12:04 p.m. say "Raelene, attached is a redline  
24 version of the outline of settlement terms"? I'm sorry.  
25 That's a repeat of the other document.

1 A. Right. Correct.

2 Q. Which was with just page 187.

3 A. Okay.

4 Q. PILB 200?

5 A. Okay.

6 Q. Does it indicate "Attached is the revised  
7 proposed settlement agreement, still needs to be cleaned  
8 up a little bit and stipulated facts added"?

9 A. Yes, that's what it says.

10 Q. And you indicate that if we want to see the  
11 redline of the changes, that you can send that to us,  
12 that you believe it contains everything that we  
13 discussed?

14 A. Yes, that's what it says.

15 Q. Does it also indicate that you're not sure we  
16 need to include everything before the Board, like Kevin  
17 agreeing to talk to ESI sometime in the future, but you  
18 included it in the draft as it was something that had  
19 been discussed and something that ESI really wanted to  
20 have happen?

21 A. Yes.

22 Q. Okay. PILB 208, March 1st, 2016, is this a  
23 communication from Board counsel to you?

24 A. Is it an email from you to me? Yes.

25 Q. And does it say "Attached is a draft of the

1 proposed final agreement. Look it over and provide any  
2 thoughts" -- well, it says "and" but should have said  
3 "any thoughts or comments that you might have. I did  
4 not PDF the document, so that you will be able to make  
5 track changes and comments"?

6 A. That's what it says.

7 Q. Okay. Page 225?

8 A. Okay.

9 Q. There's a communication from you to Board  
10 counsel dated March 1st, 2016?

11 A. Yes.

12 Q. And this -- well, let me go down one further.  
13 There's a communication from Board counsel to you dated  
14 March 1st, 2016 at 1:34 p.m. indicating "Attached is a  
15 draft of the proposed final agreement"?

16 A. Yes.

17 Q. So this is just a repeat of the communication  
18 we just discussed in PILB 208. And you respond at  
19 1:53 p.m. "Thanks. We'll review and get back to you as  
20 soon as I and my client talk. Thanks for putting this  
21 together." Does it say that?

22 A. That's what it says.

23 Q. And was my response, Board counsel's response  
24 to you one minute later, "It was a team effort. Thank  
25 you for your work on it, too"?

1 A. That's what it says.

2 Q. And these are communications that you received  
3 and responded to; is that correct?

4 A. Obviously.

5 Q. Just wanted that for the record.

6 PILB 228? Oh, never mind. That's a duplicate  
7 of another one.

8 PILB 246?

9 A. Okay.

10 Q. Does that indicate "Raelene and Kevin, attached  
11 are my rerevisions to the settlement agreement"?

12 A. Yes, that's what it says.

13 Q. And it indicates that you modified a paragraph  
14 that you believe would be palatable to both sides?

15 A. That's what it says.

16 Q. And that's dated March 2nd, 2016?

17 A. Correct.

18 Q. PILB 264, on March 2nd, 2016, does that  
19 indicate that you're sending a redline version of the  
20 ESI settlement agreement to Board counsel?

21 A. Yeah, as you have indicated before, there's no  
22 document attached, but the -- underneath the subject  
23 line, where it says "attachment," it says "ESI  
24 settlement agreement redline."

25 Q. Okay.

1           A.    That's what it says.  I'm assuming that means  
2 there was a redlined settlement agreement attached.

3           Q.    And then PILB 300?

4           A.    Okay.

5           Q.    That's March 2nd, 2016?

6           A.    Yes.

7           Q.    Is that correct?

8           A.    Yes.

9           Q.    And this is a document sent from you to  
10 Director -- well, it's sent to Board counsel, but  
11 Director Ingram is also copied on this document; is that  
12 correct?

13          A.    That's correct.

14          Q.    And does it indicate that your client has  
15 agreed to the changes that were discussed and that you  
16 had made some modifications to the agreement?

17          A.    I don't see where it says I made modifications.  
18 I see where it says my client has agreed to the changes.  
19 Oh, it says I took out paragraph 14 about the acts of  
20 employees.  So, yeah, I took out that.

21                And all of these things, in which you're saying  
22 that are changes that I proposed, I don't know if any of  
23 those were agreed to by you.  I just don't know, because  
24 I don't have the documents.

25          Q.    Right, and I didn't ask you that question.  I

1 didn't ask you that question. I am asking you if you're  
2 submitting documents back and forth.

3 A. What I was, I was submitting documents to you  
4 to incorporate. These were our suggested changes. I  
5 can't, as I sit here today, know which ones you actually  
6 accepted, rejected, if you accepted any of them,  
7 rejected all of them. I just don't know, because I  
8 don't have the documents.

9 Q. Fair enough. Obviously, there were changes  
10 going back and forth or it wouldn't have required so  
11 many communications back and forth. And I'm sure the  
12 Board will recall how much delay there was during those  
13 proceedings while we negotiated this agreement.

14 A. Are you testifying? Because it sounds like  
15 you're testifying as a witness right now.

16 Q. Well, I don't know where counsel is to object,  
17 but I just --

18 A. Well, I'll object. You're testifying.

19 Q. I'm just following up on what you said.

20 A. I'm just saying testifying as a witness.

21 Q. You can't object. You can't object. But we'll  
22 go to PILB -- the last one is 318.

23 A. Okay.

24 Q. And does this indicate that on March 2nd, 2016,  
25 that you were submitting the release that was going to

1 be an attachment to the agreement?

2 A. Yes, I did prepare the release related to John  
3 Zsenyuk. I don't know how to pronounce his last name.  
4 But I did, I was the one that prepared that lease.

5 Q. Okay. So is it your testimony, as you sit here  
6 today, that this was a document drafted by Board  
7 counsel?

8 A. The document called the stipulation, the  
9 stipulation was originally, that was drafted by you,  
10 sent to me. I had -- so, yes, if that's your question,  
11 you drafted it originally. I submitted proposed  
12 changes. I don't know exactly what changes I proposed,  
13 as I sit here. I do recall, when I initially  
14 proposed -- I think, how it started, counsel --

15 Q. Mr. --

16 A. -- was --

17 Q. Mr. Smith, my question --

18 MR. CAMPBELL: Let him answer.

19 BY MS. PALMER:

20 Q. My question was a pretty simple question. It  
21 didn't require a long explanation.

22 A. Well, then, my answer is yes.

23 Q. My question was --

24 A. Go ahead.

25 Q. So your answer, then, is, yes, that this was a

1 document that was --

2 A. Drafted by you.

3 Q. -- done by Board counsel?

4 A. Yes.

5 Q. Okay. I'd like to turn your attention back to  
6 exhibit PILB 194.

7 A. Okay.

8 Q. And I'm going to ask that this document be  
9 admitted into the record. And I'm going to read it  
10 right now and ask you if that's what it says.

11 It's dated February 29th at 11:35 a.m. It's  
12 from you to Board counsel and to Kevin Ingram: "Raelene  
13 and Kevin, just a quick update. I put together the  
14 proposed agreement with everything I think we discussed  
15 on Friday. I sent it to Mr. Hendi to review this  
16 morning. I am just waiting to hear from him with any  
17 comments or questions he may have. I will then send to  
18 you to see if you have any comments, changes or issues.  
19 Hopefully, we can get the final language nailed down  
20 today."

21 Is that what that email communication says?

22 A. That's what it says, but I don't know if that  
23 proposed settlement agreement --

24 Q. That's not what I asked.

25 A. -- that proposed agreement is the stipulation.

1 MR. CAMPBELL: Yeah, that's what you asked.

2 THE WITNESS: You're asking me if this, you  
3 asked me, Ms. Palmer, if you prepared the stipulation.  
4 That document, I believe, was prepared by you. When I  
5 say I proposed agreement with everything, I don't know  
6 if we're talking about the same document here, because I  
7 don't know, I can't recall. Because when I put a  
8 settlement agreement together, it doesn't look anything  
9 like that, like the stipulation. That wouldn't be me on  
10 my computer putting an agreement together like that.  
11 You put the stipulation together. I don't know when I  
12 was here, because there's nothing --

13 BY MS. PALMER:

14 Q. Mr. Smith?

15 A. Yes.

16 Q. Would you agree that this was part of the  
17 communications that resulted in the final settlement  
18 agreement?

19 A. Part of the communications. Can you repeat  
20 that for me?

21 Q. Would you agree that this email dialogue, this  
22 exchange, was part of the communications that ultimately  
23 resulted in a stipulated agreement. I am not trying --

24 A. Yes.

25 Q. -- to put --

1 A. Yes.

2 Q. I'm not -- okay. Thank you.

3 A. Yes, these were.

4 Q. Thank you.

5 A. Yes, these were settlement discussions.

6 Q. And it says that you put together the proposed  
7 agreement with everything that you think we discussed on  
8 Friday. And this is dated Monday, February 29th?

9 A. That's what it says.

10 Q. Okay. And we have the other communications  
11 which follow, that go all the way up to March 2nd?

12 A. Right, but that could have included, when I say  
13 I'm putting together the settlement, everything we  
14 discussed. I mean I could have been saying I'm putting  
15 it together, meaning I've attached the release, or I put  
16 the release with it. I don't, without looking at the  
17 document, I don't know what that means. I can't recall  
18 what that means.

19 Q. Mr. Smith, you can go back to PILB 318.

20 A. Okay.

21 Q. That says "Attached is the release we discussed  
22 to attach to the agreement"?

23 A. Okay.

24 Q. Does that help refresh your recollection that  
25 that's when the release was sent?

1           A.    Yeah, that's -- okay.  When the release was  
2 sent, yeah, that is when the release was sent.

3           Q.    Okay.  And then going back, going back to 194,  
4 the statement says "I put together the proposed  
5 agreement with everything I think we discussed on  
6 Friday."  Is that correct?

7           A.    That's what it says, yes.  But, again --

8           Q.    That would indicate that it's more than just  
9 the release, right?

10          A.    Again, I don't know.  When I'm talking about  
11 agreement, it's the same thing as the stipulation that  
12 was actually signed.  I think, the stipulation that was  
13 actually signed was put together by you.  And then, with  
14 things that I proposed, and I can't remember what things  
15 you included, that I proposed, and how many things you  
16 rejected, I just don't know.

17          Q.    So let me refresh your recollection about what  
18 was finally proposed.  Mr. Smith, the exhibit of the  
19 stipulated agreement is Exhibit 3.  That's C-3.

20          A.    Okay.

21          Q.    Bates-stamped 78.

22          A.    Or -- 78?

23          Q.    Through 94.

24          A.    Okay.

25          Q.    That's the stipulation for settlement, right?

1 A. Yes.

2 Q. And if you turn specifically to Bates stamp 93  
3 of that exhibit?

4 A. Yes.

5 Q. Is that your signature?

6 A. Yes.

7 Q. And it says "Approved as to form," right?

8 A. Correct.

9 Q. So you read the final agreement?

10 A. I did.

11 Q. And you approved of the final agreement?

12 A. I did, the form of it, yes.

13 Q. Including any ambiguities in the agreement?

14 MR. CAMPBELL: Objection. That's -- there's no  
15 foundation for that.

16 MS. PALMER: Thank you. I appreciate that,  
17 Mr. Campbell. There is no foundation for that.

18 MR. CAMPBELL: That he agreed to ambiguities.

19 MS. PALMER: He agreed to the form of the  
20 document; is that not correct?

21 MR. CAMPBELL: That's what he testified to.

22 MS. PALMER: Okay.

23 MS. BRADLEY: So just so the record's clear, I  
24 don't know if we're -- I heard you, Ms. Palmer, say that  
25 you wanted PILB 000194 admitted.

1 MS. PALMER: Yes.

2 MR. CAMPBELL: I don't have an objection to  
3 that particular one.

4 MS. BRADLEY: Oh, there's no objection to that  
5 one?

6 MR. CAMPBELL: To that one. Let me just  
7 double-check here.

8 MS. BRADLEY: Okay. That's good news.

9 MR. CAMPBELL: I don't have any objection to  
10 that particular page.

11 MS. BRADLEY: Okay. So, Mr. Chair,  
12 Mr. Campbell says he doesn't have an objection. So, I  
13 think, you can admit PILB 00194 without objection, if  
14 you'd like.

15 BOARD CHAIRMAN ZANE: Okay. It'll be admitted.

16 MS. BRADLEY: And should we designate it with  
17 an exhibit number?

18 MS. PALMER: Yeah, it doesn't have an exhibit  
19 number, so that's probably not a bad idea.

20 MS. BRADLEY: Where did you leave off in your  
21 numbering?

22 MS. PALMER: So that would be Exhibit 13.

23 (Exhibit C-13, Bates PILB 000194, was marked  
24 and admitted.)

25 MS. BRADLEY: Okay. And then, if copies could

1 be provided of Exhibit 13 to all the parties, or all the  
2 Board members and the reporter.

3 (There was a brief discussion off the record.)

4 MS. BRADLEY: Yeah, I think, do you have extra  
5 copies of page 194 over there?

6 MS. KLEMME: How many copies?

7 MS. BRADLEY: I need one for each Board member  
8 and the court reporter.

9 MS. KLEMME: Okay.

10 MS. BRADLEY: I think, Mr. Campbell has a copy.  
11 You might want one for the witness, because I know  
12 they're sharing one. So.

13 MS. KLEMME: 194?

14 MS. BRADLEY: 194 only, yes.

15 BOARD CHAIRMAN ZANE: What number do we give  
16 this?

17 MR. INGRAM: 13.

18 MS. PALMER: 13.

19 MS. BRADLEY: Ms. Klemme is making copies. I  
20 don't know if we can continue without her. I don't  
21 think we're off the record, but.

22 MR. CAMPBELL: Is she going to --

23 MS. PALMER: We can continue, if that's the  
24 Board's preference.

25 BOARD CHAIRMAN ZANE: Fine with me.

1 MS. PALMER: Okay.

2 BY MS. PALMER:

3 Q. Mr. Smith, there's been a lot of testimony  
4 about paragraph seven, eight and nine of the stipulated  
5 agreement, which, I believe, are on pages 88 and 89,  
6 PILB 88 and 89, of Exhibit C-3. This was part of the  
7 agreement that you approved as to form; is that correct?

8 A. Correct.

9 Q. Did you ever raise any questions about your  
10 understanding of when the dates, when they were due?

11 A. I don't believe so.

12 Q. I'd like to have you turn your attention to the  
13 email communication which is Exhibit C-6.

14 A. Okay.

15 Q. PILB 155. And you've testified that this was  
16 Board counsel's communication to you that the Board had  
17 not received the \$15,000 in legal fees that was due but  
18 the email indicates would have been due April 11th,  
19 which was a Monday. The email's dated April 12th. Is  
20 that correct?

21 A. Yes, that's correct. Well, what's correct is I  
22 received the document, let's put it that way, or the  
23 email, yes.

24 Q. And that the email says "The PILB did not  
25 receive the \$15,000 in legal fees due yesterday"?

1 A. That's correct.

2 Q. Would you agree to that? Okay.

3 A. I agree that's what it says.

4 Q. And you respond to that on the same date,  
5 right, a little over six hours later?

6 A. Yes.

7 Q. That's PILB 154?

8 A. Yes.

9 Q. Does your communication indicate that the  
10 payment isn't late?

11 A. Does my communication say whether or not the  
12 payment's late, is that what you're asking?

13 Q. Correct.

14 A. No.

15 Q. No, I'm asking you, does it -- no, listen to my  
16 question. My question is, does your communication say  
17 the payment's not late, or does it dispute that the  
18 payment is late in any way, the April 12th response?

19 A. Which one is your question? It's compound.  
20 You've asked me two questions. Which one would you  
21 like?

22 Q. Well, we'll take them in separate questions.  
23 So the first one is, does it indicate, does your  
24 response indicate that the payment isn't late?

25 A. My response says it's on its way. I don't know

1 if that indicates it's late or not. It doesn't say one  
2 way or the other.

3 Q. But you didn't dispute the communication that  
4 was sent to you saying the legal fees due yesterday  
5 weren't received, correct? Nothing about -- you're not  
6 disputing the statement that they were due on the 11th?

7 A. No, I didn't address that statement at all.

8 Q. And your communication, just like you  
9 indicated, as you testified, that payment's on its way?

10 A. Correct.

11 Q. So there's a communication after that, correct?

12 A. From you to me, yes.

13 Q. Indicating "What does 'on its way' mean?"

14 A. That's what --

15 Q. And further indicating "Please call me to  
16 discuss the reason for the breach. My client needs to  
17 understand what happened." Is that what that  
18 communication says?

19 A. That's what your email says.

20 Q. And what does breach mean to you?

21 A. Breach of the document.

22 Q. The document being?

23 A. The stipulation. Your allegation that there's  
24 a breach, that's what I understood. You're alleging  
25 that there was a breach.

1 Q. Exactly. And on page 153, is that, the header  
2 at the very bottom of the page, is that a communication  
3 from you to me?

4 A. Yes.

5 Q. And that's dated April 14th, right, so it's the  
6 day after the alleged -- the email alleging the breach;  
7 is that correct?

8 A. Yes.

9 Q. Do you in any way discuss, dispute, there's no  
10 breach, in that communication?

11 MR. CAMPBELL: Asked and answered. And, I  
12 think, the document -- --

13 THE WITNESS: No.

14 MR. CAMPBELL: -- speaks for itself. I don't  
15 know what we're -- why we're going down this. The  
16 document speaks for itself.

17 MS. PALMER: It hasn't been asked and answered.

18 MR. CAMPBELL: Yes, it has.

19 MS. PALMER: It has not been asked and  
20 answered. This is my very first inquiry regarding this  
21 communication. There's no way it could have been asked  
22 and answered.

23 MR. CAMPBELL: He just answered. He said the  
24 document says what it says. That's asked and answered.

25 MS. PALMER: It may have been asked and

1 answered by you, but it hasn't been asked and answered  
2 by me. I have a right to cross-examine him on his  
3 testimony.

4 MR. CAMPBELL: And he said the document said  
5 what it said.

6 MS. PALMER: I'd like to hear what he said. We  
7 haven't heard what he said. Maybe you heard it up in  
8 the north, but we certainly haven't heard it in the  
9 south.

10 MR. CAMPBELL: Ask the question again.

11 BY MS. PALMER:

12 Q. So my question was, does your testimony -- I'm  
13 sorry, not testimony. Does your written communication  
14 on April 14th, in response to "Please call me to discuss  
15 the reason for the breach," does it indicate, in any  
16 way, oh, I don't agree, there's not a breach?

17 A. I don't address that issue at all. I simply  
18 respond to you saying that -- what your first question  
19 was, what it means, "What does 'on its way' mean?"  
20 That's what I responded. I said, "It means it was  
21 overnighted Tuesday. You should receive it, you should  
22 have received it yesterday." And then I said what  
23 Mr. Hendi's interpretation of the agreement was.

24 That's -- I don't address, and I don't even  
25 think we -- I don't even think we had a telephone call

1 to discuss your alleged breach. So, you know, the  
2 document speaks for itself, but I didn't discuss with  
3 you breach or not a breach. I just told you what "on  
4 its way" means.

5 Q. Mr. Smith, isn't that a bit odd that you  
6 said -- you testified earlier that your concern was with  
7 protecting your client. You have counsel on the other  
8 side of that agreement making a written statement that  
9 there has been a breach of the agreement. And you don't  
10 address that. Isn't that a bit odd; isn't that  
11 inconsistent with your statement that you were doing  
12 everything you could to protect your client?

13 THE WITNESS: Absolutely --

14 MR. CAMPBELL: Objection. That's  
15 argumentative.

16 THE WITNESS: It's absolutely incorrect as  
17 well. Because I was protecting him. I called him up,  
18 in response to your -- because if you recall from the  
19 stipulation, you and I are supposed to discuss any time  
20 that an issue pops up, before taking any action.

21 MS. PALMER: I -- no, no. I'm going to  
22 disagree with that.

23 THE WITNESS: Okay. Fine.

24 MS. PALMER: I'm going to disagree with that.

25 THE WITNESS: But you called me, or you emailed

1 me. I called Mr. Hendi, because I'm protecting him,  
2 saying, hey, they're asking where the check is. I'm  
3 responding back and saying it's, basically, in the mail.  
4 My understanding is, you got the check, and the check  
5 was cashed. So I don't even know why we're even here  
6 arguing about it, because that's not a breach. That's  
7 not a material breach. So I don't know.

8 BY MS. PALMER:

9 Q. But you don't say that, do you, you don't say,  
10 you don't say "That's not a breach"; do you?

11 A. I don't have to say it.

12 Q. You don't say that?

13 A. I don't have to say it, because it's not a  
14 breach. You got the money, within days. If you're  
15 going to argue that's a material breach, good luck.

16 Q. Wouldn't, wouldn't your silence on that issue  
17 indicate that you're in agreement with the fact that  
18 there's been a breach?

19 MR. CAMPBELL: Objection.

20 THE WITNESS: No.

21 MR. CAMPBELL: Lacks foundation. It's  
22 argumentative.

23 THE WITNESS: It actually indicates that I'm  
24 not addressing it at all because I disagreed that  
25 there's a breach. Do you see, Ms. Palmer, do you see

1 anywhere in there where it says "Hey, I agree with you  
2 that it's a breach"? No, you don't. I can ask the same  
3 reverse question on you. Ms. Palmer, you and I are just  
4 as smart --

5 MS. PALMER: You don't get to ask questions.

6 THE WITNESS: You and I are just as smart. I  
7 know what you're trying to do.

8 BOARD CHAIRMAN ZANE: Stop, stop, stop.

9 Okay. Start again, please.

10 MS. PALMER: Well, he was responding, but.

11 BY MS. PALMER:

12 Q. I agree, it's correct, you do not address at  
13 all the fact that there has been an allegation that  
14 there's a breach. And you've testified that you don't  
15 address it?

16 A. That's correct.

17 Q. Right?

18 A. Because there was no breach, correct.

19 Q. No, that's not what I asked you. You've  
20 testified that you did not address the allegation that  
21 there was a breach; is that correct?

22 MR. CAMPBELL: Asked and answered, now that's  
23 several times. And the document speaks for itself.

24 MS. PALMER: No, he hasn't answered that.

25 MR. CAMPBELL: Yes, he has asked that now, and

1 answered that.

2 MS. BRADLEY: Okay. So, Mr. Chair, there's an  
3 objection.

4 BOARD CHAIRMAN ZANE: Objection sustained.

5 BY MS. PALMER:

6 Q. Okay. Mr. Smith, in the communication on page  
7 154, PILB 154, and, I think, you just testified to this  
8 sentence, that Hendi told you that he calculated 30 days  
9 from the date he received the agreement, rather than  
10 when the agreement was actually signed by the Board.  
11 That says that, right?

12 A. Correct.

13 Q. It doesn't say that you calculated it. It says  
14 that he calculated it. Is that correct?

15 A. That's correct, that's what it says.

16 Q. But you've testified today that your  
17 understanding, now you've come up with a date certain by  
18 which you agree that his calculation was correct?

19 A. That wasn't my testimony.

20 Q. That --

21 A. No, that wasn't my testimony. My testimony  
22 was, when Mr. Campbell asked me what is my  
23 interpretation of this language, I gave you what my  
24 interpretation of that as we sit here today. I also  
25 testified I didn't go back at this time and do the

1 mathematical calculation back in two thousand --  
2 whatever the date is, April 2016.

3 Q. Okay. So on page 154, there's no mathematical  
4 calculation in that sentence; is that correct?

5 A. That's correct.

6 Q. So it's simply a statement that he calculated  
7 30 days from the date he received the agreement; is that  
8 correct?

9 A. That's correct.

10 MR. CAMPBELL: When he received this, the order  
11 and the stipulation, for the record.

12 THE WITNESS: Yeah, when he received -- from  
13 the time -- what did I say -- that he received the  
14 agreement.

15 MS. PALMER: No, no. No, no. I'm going to  
16 object. I'm going to object. It doesn't say the order.  
17 It says "Hendi told me that he calculated 30 days from  
18 the day he received the agreement, rather than when the  
19 agreement was actually signed by the Board." Correct?

20 A. Yes. Yes.

21 Q. It doesn't say "order," it says "agreement,"  
22 right?

23 A. That's what it says, correct.

24 Q. And we have his signature, we have his  
25 signature on the agreement, right, so we know when he

1 actually received the agreement?

2 A. You know that's not what we're talking about.  
3 You know, Ms. Palmer. That's ridiculous. He's talking  
4 about --

5 Q. Objection. You're not a lawyer here. You're a  
6 witness.

7 A. No, I'm telling you your question's ridiculous,  
8 because you know for a fact that has not --

9 Q. You don't --

10 A. That email has nothing to do with --

11 MS. PALMER: Objection. Will you instruct the  
12 witness.

13 BOARD CHAIRMAN ZANE: Stop, stop, stop.

14 MS. BRADLEY: Uh-oh, we lost them.

15 MS. PALMER: No, we're here. I'm sorry. I'm  
16 trying to find a document.

17 BY MS. PALMER:

18 Q. Mr. Smith?

19 A. Yes?

20 Q. I would ask you to look at PILB 93.

21 MR. CAMPBELL: What exhibit are we in?

22 MS. PALMER: That would be Exhibit C-3.

23 MS. BRADLEY: While we turn there, I just want  
24 to say for the record that Exhibit 13 was provided to  
25 the Board members, I believe both north and south, just

1 so the record shows that.

2 THE WITNESS: Did you say exhibit 74? Or I'm  
3 sorry.

4 BY MS. PALMER:

5 Q. 93.

6 A. 93. Okay.

7 Q. And when does that indicate that Mr. -- well,  
8 first of all, does Mr. Hendi sign this document?

9 A. Well, I can't testify to that. Is that his  
10 signature? If that's what you're asking me, I can't  
11 verify his signature. But I will say for the record,  
12 yes, he did sign the agreement the same day I signed the  
13 agreement, when we were at -- I believe, when we were at  
14 the hearing.

15 Q. And that indicates March 3rd, 2016?

16 A. Yes.

17 Q. As the date he signed the agreement?

18 A. Yes.

19 Q. Okay. Thank you.

20 Okay. Moving on to the communication between  
21 you and Board counsel, after you indicated that  
22 Mr. Hendi told you he calculated 30 days from the day he  
23 received the agreement, rather than when the agreement  
24 was actually signed by the Board, there's a  
25 communication from Board counsel to you on the same day,

1 right, about less than two hours later?

2 A. Did you have a number?

3 Q. 153. And that's C-6, Exhibit C-6.

4 A. And can you repeat your question, again?

5 Q. Is there a communication from Board counsel to  
6 you directly after your statement that how Mr. Hendi  
7 calculated the date that the payment was due, in his  
8 mind?

9 A. Yes.

10 Q. And that communication says that the 9th of the  
11 month is the actual day that payments are due; is that  
12 correct?

13 A. That's what you write, yes.

14 Q. That is what I write. And it says "payments,"  
15 right, with an S, payments, plural?

16 A. That's what it says.

17 Q. What payments, what do you understand that to  
18 mean?

19 A. I didn't write your email. I'm not -- what did  
20 you understand it to mean? I understood it to mean that  
21 you're saying that his payment was due on the 9th, that  
22 it didn't arrive on the 9th, that because the 9th fell  
23 on a Saturday, you are now saying that the payment was  
24 due on the 11th. So that's what I understood you to  
25 mean.

1 Q. Okay. So, Mr. Smith, you're referring to one  
2 payment, and I appreciate that, and I appreciate your  
3 understanding of that one payment. What is your  
4 understanding of the S on the end of "payments"?

5 A. I didn't have an understanding.

6 Q. Did you not care to understand?

7 A. That's not -- no, I just didn't have an  
8 understanding. I didn't. Maybe it was a typo. I  
9 didn't even, I wasn't thinking of that. I was referring  
10 to one payment, because that's what you referred to in  
11 the prior email. And your email is telling me that the  
12 9th of the month is the actual day the payments are due  
13 and this particular one fell on the 11th, or it fell on  
14 a Saturday, so, therefore, it was due the next day.  
15 That's what I understood it to be, what you were saying.

16 Q. Right. So I want to key in on your phrase  
17 "this particular one." So what is your understanding  
18 about future payments, as far as your understanding of  
19 what the Board's counsel believes?

20 A. If you go back to the stipulation, and I'm  
21 not --

22 Q. No, no. No. I'm not asking you about the  
23 stipulation. I'm asking you about this email  
24 clarification.

25 A. Oh, I didn't have -- I didn't know if that was

1 the correct date or not. I didn't, I didn't calculate  
2 whether the 9th was correct or not. I don't know.

3 Q. Mr. Smith, weren't you under an obligation  
4 pursuant to the stipulated agreement that if there was  
5 any issues or concerns or things needing clarification,  
6 that you have an obligation to rectify any  
7 misunderstanding?

8 A. No, I think, you did, but. But maybe. I mean  
9 I can't recall. But if there was, sure. But I wasn't  
10 looking at whether or not the 9th was the date or not.  
11 I did not calculate the dates.

12 Q. Well, Mr. Smith, if you had an obligation, then  
13 why is it that -- well, I'm going to withdraw the  
14 question, or the started question.

15 BOARD CHAIRMAN ZANE: Thank you.

16 MS. PALMER: I'm not done, though,  
17 Mr. Chairman.

18 BY MS. PALMER:

19 Q. Mr. Smith, would you please turn to  
20 Exhibit C-3, page 90, PILB 90, paragraph 14.

21 A. Okay.

22 Q. What does that paragraph say?

23 A. It says "The parties agree that counsel for  
24 each will make reasonable efforts to communicate to the  
25 extent necessary to obtain clarification or opinion on

1 any matter within the scope of this agreement."

2 Q. And I appreciate your inflection on the word  
3 "each," right. That means that counsel for Mr. Hendi  
4 and counsel for the Board has a duty to do that, right?

5 A. Yes, we both do.

6 Q. And would you agree that the communication at  
7 153 from Board counsel to you is an attempt to do just  
8 that, the 9th of the month is the actual day that  
9 payments are due?

10 A. Do I agree that that was an attempt to clarify  
11 some issue with the agreement? I don't agree that  
12 that's what it says.

13 Q. To clarify, to clarify any misunderstanding  
14 with the agreement?

15 A. No, I don't.

16 Q. As to when payments are due?

17 A. No, I don't agree that that's what you were  
18 doing with me. I think, you were saying the payment was  
19 late, the payment was due on the 9th, and this  
20 particular payment was due on the 11th, and why is late.  
21 That's what I understood that communication to mean, to  
22 be. And I told you what Mr. Hendi's interpretation was  
23 and that the check was in the mail, which I understand  
24 you got.

25 Q. So you're saying that you completely ignored

1 the S on "payments" in the communication and the word  
2 "this" modifying the month, but "this" month the 9th  
3 landed on a Saturday. Is that what you're telling me,  
4 Mr. Smith?

5 A. That's what I'm telling you.

6 Q. It's unusual for a lawyer not to --

7 A. Are you testifying?

8 MR. CAMPBELL: Objection. That's argumentative  
9 and testimony. Come on, counsel, you need to stop.

10 BOARD CHAIRMAN ZANE: Sustained.

11 BY MS. PALMER:

12 Q. Would you agree that there was no communication  
13 from you in this email regarding that communication  
14 about the date the 9th of the month as being due?

15 MR. CAMPBELL: Asked and answered several  
16 times.

17 MS. PALMER: No, after this date. It hasn't  
18 been. This is my first questioning of this document.  
19 So there's no way this could have been asked and  
20 answered.

21 BOARD CHAIRMAN ZANE: Overruled.

22 THE WITNESS: So the question, again,  
23 Ms. Palmer, please.

24 BY MS. PALMER:

25 Q. That there was no communication from you,

1 following this statement, about the particular statement  
2 that the 9th of the month is the actual day that  
3 payments are due and that this month the 9th landed on a  
4 Saturday. Would you agree there's no further  
5 communication in this email about that?

6 A. Yes.

7 Q. So would you agree that without some type of  
8 communication from you or from Mr. Hendi, that the  
9 clarification that the payments are due on the 9th, that  
10 there would be no obligation on the part of Board's  
11 counsel to, again, communicate, did you get that email,  
12 do you understand that payments are due on the 9th,  
13 right?

14 A. No, I disagree with that.

15 Q. So --

16 A. I disagree, because I put forth our opinion, or  
17 Mr. Hendi's opinion, which it was due 30 days after he  
18 received the document. I say "agreement." But I meant,  
19 when I say "agreement," meant the order that attached  
20 the agreement. It was one document. After he received  
21 it, I put forth my understanding. You then put forth  
22 your understanding. It was never resolved one way or  
23 the other. We have one position. You have one  
24 position. And then I don't discuss it.

25 Q. And there was silence?

1 A. And then --

2 Q. There was silence?

3 A. Correct.

4 Q. You put forth, you put forth Mr. Hendi's  
5 position?

6 A. Yep.

7 Q. The Board put forth the Board's position  
8 through their counsel?

9 A. Correct.

10 Q. And there was no intent on your part to ensure  
11 a mutual understanding. Is that correct?

12 A. I don't know if that, I don't know if I would  
13 agree with the way you phrased that. But I'm saying we  
14 put fourth ours, you put forth yours, and then I did not  
15 address yours after that. All I said was --

16 Q. Okay. Thank you.

17 A. I only addressed part of that question, part of  
18 your email.

19 Q. Okay. Turning to page 114, and, I believe,  
20 this is C-2, Exhibit C-2?

21 A. Okay.

22 Q. And this was testimony regarding the fines  
23 itself?

24 MR. CAMPBELL: I think, you have the wrong one.

25 ///

1 BY MS. PALMER:

2 Q. Is that correct?

3 A. No, I'm not sure.

4 Q. The due date of the fines?

5 A. What, what's -- what document are you looking  
6 at? I don't think I have the right one.

7 Q. Page 114.

8 MR. CAMPBELL: You said C-2, counsel. Do you  
9 mean C-3?

10 MS. PALMER: I'm sorry. I meant C-4 actually.

11 THE WITNESS: Okay. I'm there. If you could  
12 repeat the question.

13 BY MS. PALMER:

14 Q. So this is generally talking about -- I'm just  
15 looking for your agreement on this or your disagreement  
16 that we're generally talking about the time that the  
17 payment -- would pay one-half of the fines and fees, and  
18 remaining half will be paid in 12 equal installments?

19 A. Correct.

20 Q. Now, if you would turn to page 144.

21 A. Okay.

22 Q. And this, this was the testimony where we were  
23 going over the agreement; is that correct, that we had  
24 reached an agreement and what it says in the agreement?  
25 I'm meaning this whole document, that this was what was

1 happening at this Board meeting, that we were going over  
2 the stipulated agreement, that we have reached an  
3 agreement?

4 A. I'm assuming so. Without me going back and  
5 getting some context, I'm assuming that's what this is,  
6 or actually rereading it.

7 Q. Okay.

8 A. But I'm going to assume so.

9 Q. Okay. And so, on page 144, beginning at line  
10 13, Board counsel, Ms. Bradley, says, "Yes, I was just  
11 going to tell Mr. Smith." And then it says, "So,  
12 normally, what would happen next is we would, the Board  
13 would do an order approving the settlement agreement,  
14 and the settlement agreement becomes an exhibit to that  
15 order. And I think that the Chairman signs that order  
16 on behalf of the Board. So that will -- and that, of  
17 course, starts the dates when everything starts becoming  
18 due."

19 Would you agree that's what that says?

20 A. Yes.

21 Q. And what was your response to that?

22 A. "Okay."

23 Q. Did you indicate that there was uncertainty as  
24 to when things were due?

25 A. No, I just say, "Okay."

1 Q. All right. Thank you.

2 Now, Mr. Smith, I believe that Mr. Campbell  
3 asked you what your understanding was of the remedy if  
4 payments weren't made or weren't made timely?

5 A. Yes.

6 MS. PALMER: The Board's indulgence for just  
7 one moment.

8 I'm going to withdraw that question.

9 BY MS. PALMER:

10 Q. Mr. Smith, I believe that you testified, in  
11 regards to payments, that you -- your understanding is  
12 that a late payment would not result in a revocation; is  
13 that correct?

14 A. That's correct.

15 Q. And you said, as long as it's paid, then it  
16 wouldn't result in a revocation?

17 A. I don't believe, even if it wasn't paid, it  
18 would result in a revocation. My understanding of the  
19 agreement was, and I was pretty adamant about this, that  
20 fines or violations, or statutory grounds for violations  
21 would give rise to a revocation. Breaches of the  
22 agreement, especially the payment provision, would not.  
23 I think, there was a separate provision about remedies,  
24 that the remedy was that you would bring a separate  
25 action for that.

1           That was my understanding.

2           MS. PALMER: I'm going to ask that -- well, I'm  
3 going to ask that I be allowed to question him regarding  
4 PILB proposed exhibit 182 through -- it's 182 through  
5 185 is the complete email communication. But if counsel  
6 has an objection to that, I'm okay with 182.1 and 182.2.

7           MR. CAMPBELL: No, I'm going to object to it.  
8 These are clearly settlement negotiations about the  
9 intent of the parties, the mindset of the parties in  
10 negotiations. I think, it's highly prejudicial. I  
11 don't see where it falls under any exception to any of  
12 the rule.

13           MS. PALMER: Okay. I'm going to -- I'm going  
14 to put forth the following offer of proof, that being  
15 that there's been a lot of communication about being a  
16 few days late, being late, period, never paying, that  
17 that's absolutely not going to be grounds for  
18 revocation. I believe that this communication helps  
19 clarify that, helps clarify the Board's understanding,  
20 helps clarify where the Board was coming from, and will  
21 go specifically to your defense of time of the essence.

22           And that's the purpose for which this  
23 communication is being submitted.

24           MR. CAMPBELL: I don't think that's an  
25 exception to the settlement bar.

1 MS. BRADLEY: So we've already kind of had this  
2 discussion, Mr. Chair. And, I think, you ruled that  
3 they would be admitted, if it came to that. I noted NRS  
4 48.105, which is Nevada's rule of evidence on this  
5 issue, for the record. And so I think it's up to you to  
6 make the call whether you want to admit this or not.

7 BOARD CHAIRMAN ZANE: I believe, it's  
8 admissible under section 2 of 48.105. And I don't  
9 believe that it's being offered for evidence of the  
10 compromise that existed, any failure to mitigate any  
11 damages, any jurisdictional issue. And, I think, those  
12 are the common prohibitions.

13 So unless there be an offer for it, I don't see  
14 where it's just automatically kept out. So it'll be  
15 admitted.

16 (Bates PILB 182.1 and 182.2 were admitted and  
17 included with Exhibit C-13.)

18 MS. PALMER: Okay. Would you please give the  
19 Board documents 181 -- 182.1 and 182.2. And if  
20 Ms. Klemme would do the same.

21 (There was a period off the record while the  
22 exhibits were copied and passed out.)

23 MS. PALMER: Mr. Chairman, are you waiting on  
24 me?

25 BOARD CHAIRMAN ZANE: I believe so.

1 BY MS. PALMER:

2 Q. Okay. If everybody -- Mr. Smith, take a few  
3 minutes to read the communication.

4 A. I did. The first two pages, right, 182.1 and  
5 182.2?

6 Q. Yes, that's correct.

7 A. Okay.

8 Q. Do you recall this communication?

9 A. I do.

10 BOARD MEMBER NADEAU: We haven't got copies.

11 MR. CAMPBELL: They haven't got copies.

12 MS. BRADLEY: She's making copies.

13 MR. CAMPBELL: The Board hasn't got copies yet.

14 MS. BRADLEY: So if you want the Board members  
15 up here to look at them, we'll need to maybe take a  
16 recess. Ms. Klemme is making the copies now.

17 MS. PALMER: Okay.

18 BOARD CHAIRMAN ZANE: Five? Ten?

19 THE WITNESS: No, not that long.

20 BOARD MEMBER COLBERT: Five.

21 MR. CAMPBELL: Five.

22 BOARD CHAIRMAN ZANE: Five minutes, please.

23 \* \* \* \* \*

24 (A break was taken, 1:00 to 1:07 p.m.)

25 \* \* \* \* \*

1 MS. BRADLEY: So we have our copies up here, if  
2 that's helpful. We can go back on the record, if you'd  
3 like, Mr. Chair.

4 BOARD CHAIRMAN ZANE: Please. Thank you.

5 MS. BRADLEY: And I would ask Ms. Palmer, just  
6 for the record. So we've got 182.1 and .2. And do we  
7 want to label that 14?

8 MS. PALMER: Yes, that's fine. Or it could  
9 just be under Exhibit 13. Whatever the preference is.

10 MS. BRADLEY: Whichever you prefer, I think,  
11 the court reporter is happy to do for us. So.

12 MS. PALMER: Put them all under one, under  
13 Exhibit 13. These are rebuttal documents.

14 MS. BRADLEY: Okay. So we'll include it  
15 with 13.

16 MR. CAMPBELL: And I want to make one more  
17 statement for the record related to this document.  
18 Ms. Palmer's offer of proof was somehow this document  
19 related to the intent of the agreement for late payments  
20 to be grounds for revocation. I don't see anything in  
21 that document related to that. This document is more of  
22 a self-serving rant by Ms. Palmer as to her being upset  
23 with Mr. Hendi, including all kinds of allegations that  
24 are unfounded and untrue.

25 So, I want that part of the record.

1 MS. PALMER: Is that an objection or testimony?

2 MR. CAMPBELL: That's an objection, further  
3 objection based on your foundation that you said somehow  
4 this document relates to the negotiation regarding late  
5 payments being grounds for revocation. This document  
6 doesn't even address that.

7 MS. PALMER: Well, it also, it also relates to  
8 the revocation provision and the reason that the  
9 revocation was put in there and the importance of  
10 compliance with all of the terms of the agreement. This  
11 lays the foundation that started the negotiations that  
12 ultimately led to the stipulated agreement.

13 MR. CAMPBELL: Your offer of proof was that  
14 this document somehow shows that the late payment of the  
15 fines of the stipulation were, in fact, grounds for  
16 revocation. And this doesn't do anything even close to  
17 that.

18 MS. PALMER: Well, I'm going to clarify that my  
19 objection, or my rationale for providing this document  
20 related to your defense of time being of the essence.  
21 So that was part of it.

22 MR. CAMPBELL: I don't find any time of the  
23 essence in here, either.

24 MS. PALMER: Okay. Well, then, I'll --

25 MR. CAMPBELL: We're talking here about a

1 specific violation under the language of the  
2 stipulation. This doesn't relate to that.

3 BY MS. PALMER:

4 Q. Okay. Mr. Smith?

5 A. Yes?

6 Q. On page 182.2?

7 A. Yes.

8 Q. Well, first of all, let me ask you this. You  
9 said you recalled this communication. Do you recall  
10 that this communication was sent in response to a  
11 counteroffer that you made?

12 A. What I recall is you sent me terms for a  
13 resolution. I sent a counteroffer. You then rejected  
14 the counteroffer outright and said, said something to  
15 the effect that we're going to go forward with the  
16 hearing. I'm not -- you weren't going to even consider  
17 the counterproposals. I then wrote you back and said,  
18 I'm sorry, I misunderstood that your offer was a  
19 take-it-or-leave-it offer. And then you wrote this in  
20 response to my email. And then --

21 Q. Okay. Thank you.

22 A. -- this is your email. Yes.

23 Q. And when you read this email, you understood  
24 that the Board was very frustrated with the  
25 counteroffer; is that correct?

1 A. No.

2 Q. Okay. Can I refresh your recollection without  
3 having to admit a document, that being PILB 185?

4 A. Sure.

5 Q. Do you have that document?

6 A. I do.

7 Q. Oh, hang on. I'm not sure I gave you the right  
8 one. Page 183.

9 A. Okay. Yes.

10 Q. And do you understand that this is in response  
11 to document 182?

12 A. I don't know if this is in response to 182 or  
13 not, because it looks like a standalone email. But it  
14 is, it is a subsequent date. So I don't know the answer  
15 to the question.

16 Q. Okay. But you would agree that the first line  
17 of that document says "Ms. Palmer, after speaking to  
18 Mr. Hendi about your latest email, Mr. Hendi understand  
19 your and the PILB's frustration and understands why you  
20 would arrive to conclusions you mentioned in your  
21 email"?

22 A. That's what this says.

23 Q. Okay. So moving on --

24 A. But you asked, but you asked me if I  
25 understood.

1 Q. Yeah, thank you. Thank you. You answered.

2 A. That's what Mr. Hendi understood, by the way.

3 Q. Yeah, right. That's what I read. That's what  
4 I read.

5 A. Yeah.

6 Q. Okay. Thank you. So, turning now to page  
7 182.2?

8 A. Yes.

9 Q. And the third paragraph up from the bottom?

10 A. Yes.

11 Q. Indicating, beginning with -- I think, it's the  
12 last sentence -- "But the cherry on top of all that"?  
13 I'm just asking you to find that paragraph. I'm not  
14 asking you to read it. I'm just asking you to find it.

15 A. Yeah, I'm looking for it. You said 182.2?

16 Q. Yes.

17 A. Third paragraph from the bottom?

18 Q. Yes.

19 A. It starts, that paragraph starts "Mr. Hendi  
20 also"?

21 Q. Right. So the last sentence of that paragraph,  
22 beginning with "But the cherry on top of all that"?

23 A. Oh. Yes, I have it. Thank you.

24 Q. And this was correspondence regarding Board  
25 staff's position regarding the negotiations and that it

1 was unreasonable for Mr. Hendi to be allowed to pay his  
2 agreed \$7,325 at that time on a payment plan, as if he  
3 was deserving of such creditworthiness, especially  
4 considering that Mr. Hendi has taken full advantage of  
5 this unilateral interest-free payment plan for too long  
6 already.

7           Would you agree that that was an expression of  
8 frustration with the negotiations at that point and the  
9 Board's concern that he had asked for a payment plan?

10           MR. CAMPBELL: Objection.

11           THE WITNESS: No.

12           MR. CAMPBELL: Objection. I'm going to make an  
13 objection here that there's lack of foundation. I don't  
14 see the Board copied on this. And if the Board had  
15 communications with you, Ms. Palmer, regarding these  
16 settlement negotiations, we've got a real problem.

17           So I don't know what you're talking about, this  
18 is the Board's frustration.

19           MS. PALMER: No, I said Board --

20           MR. CAMPBELL: This is your frustration.

21           MS. PALMER: I said "Board staff."

22           MR. CAMPBELL: No, you said "the Board."

23           MS. PALMER: I specifically said "staff."

24           MR. CAMPBELL: The objection is that there's no  
25 foundation that the Board was involved in this. And I

1 hope there wasn't.

2 MS. PALMER: Well, the Board -- okay.

3 MS. RASUL: You meant Board staff.

4 MS. PALMER: Yeah, it's fine. I meant Board  
5 staff.

6 But I'll also indicate that the Board is  
7 bringing forth the complaint. So it's staff, but the  
8 Board ultimately is hearing the complaint. But it's the  
9 Private Investigator's Licensing Board that is bringing  
10 forth the complaint. So it was the Board negotiating.  
11 Not this Board, not this Board that's deciding this  
12 matter on judicial review, but the operative Board,  
13 which is headed by Mr. Ingram.

14 BY MS. PALMER:

15 Q. Do you remember my question, Mr. Smith?

16 A. I don't. I'm sorry.

17 MS. BRADLEY: Has there been a ruling on the  
18 objection, Mr. Chair?

19 MR. CAMPBELL: I think, she's clarified that  
20 she didn't mean --

21 MS. BRADLEY: Oh, okay.

22 MR. CAMPBELL: She meant staff. She didn't  
23 mean the Board. So.

24 MS. BRADLEY: Okay. So, then, the objection, I  
25 guess, is withdrawn.

1 MR. CAMPBELL: Yeah.

2 MS. PALMER: The Board staff including the  
3 Director, primarily that's what I'm referring to.

4 MS. BRADLEY: Okay.

5 BY MS. PALMER:

6 Q. So do you need me to repeat the question?

7 A. Yes.

8 Q. So is it your understanding that this was the  
9 expression of -- through their counsel, the frustration  
10 in asking for a payment plan and whether or not he would  
11 stick to the payment plan?

12 A. No, I didn't have any understanding of what the  
13 Board's position is. What I understood was this was  
14 your email to me just setting forth all sorts of issues  
15 you had with --

16 Q. Okay.

17 A. -- the Board or the Board staff, the issues the  
18 Board staff may have had with Mr. Hendi. That's what I  
19 understood this to be. And this was --

20 Q. Okay. But, but you also recognize that your  
21 email communication in 183 said that after speaking to  
22 Mr. Hendi, he understands your, meaning Board counsel,  
23 and the PILB's frustration and understands why you would  
24 arrive to conclusions you mentioned in your email?

25 A. Well, when I said "your," I meant you

1 personally.

2 Q. Right. I said that, Board counsel.

3 A. Okay. You and the PI -- yes, you individually  
4 and the PILB's frustration, he understood the  
5 frustration that they were having.

6 Q. Okay. So it wasn't just me, it wasn't just me,  
7 you understood staff's frustration as well, or at least  
8 that's what you said at that time in that email?

9 A. No. No. You keep changing me with him. I  
10 didn't understand and had no knowledge of what the  
11 Board's staff's --

12 Q. Fair enough. Fair enough. But you're saying  
13 that Mr. Hendi understands?

14 A. Yes, because he had the prior communications,  
15 then coupled with your self-serving email here, yeah.  
16 And I was trying to -- and if you really want to know  
17 what I'm saying, that what my thought process was, is  
18 I'm trying to ratchet down the animosity between  
19 everyone, the parties involved there, and was trying to  
20 say, hey, look, I understand the frustration, let's see  
21 if we can still get this resolved. That was the intent  
22 of that particular sentence.

23 Q. Fair enough. Okay. I would like to turn your  
24 attention to -- and I'm almost done now. This is  
25 Exhibit C-3, PILB 89, paragraph 11.

1 A. Okay.

2 Q. Would you agree that beginning with line 14,  
3 that it says "If it is determined that ESI engaged in  
4 any act that constitutes grounds for discipline, as  
5 described in paragraph three above, or" -- and this is  
6 the part that I want you to focus on -- "otherwise  
7 failed to comply with the terms of this agreement during  
8 this 18-month period of probation, the stay of  
9 revocation will be lifted, and ESI's license will be  
10 revoked"?

11 A. Are you asking me is that what it says?

12 Q. Yes.

13 A. Yes.

14 Q. And was paying fines timely one of the terms of  
15 the agreement?

16 A. Was paying fines timely? Yeah, yes, paying  
17 fines timely was a term of the agreement.

18 Q. So if there was a breach of timely paying the  
19 fine, according to this paragraph, the stay of  
20 revocation will be lifted, and ESI's license will be  
21 revoked?

22 A. I would disagree with that based on the  
23 immediately preceding paragraph, that's a standalone  
24 paragraph, that talks about the payments, and if the  
25 payments aren't made, that the remedy is that you can

1 seek a separate action against ESI. So I --

2 Q. And so, Mr. Smith --

3 A. I disagree with that.

4 Q. Okay. Fair enough. Focusing on that paragraph  
5 10, what's your understanding of the word "may"?

6 A. Can. Could. Might.

7 Q. Could, right?

8 A. Yeah.

9 Q. Right. Not has to, correct?

10 A. Yeah, absolutely. You can waive it. You don't  
11 have to accept payment. You don't have to do anything.

12 Q. No, no, we're only -- right. We're only  
13 focusing on the agreement, right?

14 A. Right.

15 Q. This is not the Board must?

16 A. Right.

17 Q. The Board may do this, right?

18 A. Yeah, or they could just waive it, not pursue  
19 it at all if they don't want to.

20 Q. As opposed to line 17 of paragraph 11 --

21 A. Yeah.

22 A. -- "the stay of revocation will be lifted." Is  
23 "will" optional language?

24 A. I would assume that the Board doesn't have to  
25 if it didn't want to. Are you saying that you have

1 to --

2 Q. I'm asking you about, I'm asking you about the  
3 word "will."

4 A. No, you're asking about the word "will" in this  
5 agreement. And you're saying the Board has no --

6 Q. Well, let's just talk about -- okay. Let's  
7 talk about the word "will," let's talk about the word  
8 "will" in isolation of the agreement. I asked you what  
9 can means or may means. And you said can, could. What  
10 does will mean?

11 A. Will means it can, it could, it should, it  
12 will, it must, it shall, all the ones that you know,  
13 just like I do, Ms. Palmer. I know exactly what you're  
14 trying to do, is get the legal statements of shall  
15 typically --

16 Q. When you looked at -- like shall.

17 A. Shall, in legislation, means will. Will, in  
18 legislation, means shall. It doesn't mean the same  
19 thing in a document. If that's what you're trying to  
20 get at.

21 Q. Okay. Thank you.

22 A. In case law.

23 Q. Thank you. Thank you. Well, what does it mean  
24 in contract language?

25 A. It means you can, might, could, should, you

1 don't have to if you don't want to. If you're telling  
2 me that you have no, the Board has absolutely no  
3 discretion --

4 Q. Objection.

5 A. That's not what I interpret that to mean.

6 Q. Objection. That's not what I asked you.

7 A. You asked me a question. I just answered it.

8 Q. Two more things, and then I'll be done.

9 Exhibit 4. And this is page 115, PILB 115.

10 A. Okay.

11 Q. And this relates to, as you put it, the  
12 carve-out.

13 A. Okay.

14 Q. Where the idea that in the agreement it states  
15 that certain things would not be used for revocation.

16 A. Okay.

17 Q. So between -- on this page, lines 15 through  
18 18.

19 A. Okay.

20 Q. It says the idea would be giving ESI a fresh  
21 start from the time the order is filed. Is that  
22 correct?

23 A. Correct.

24 Q. And I believe that you testified that that  
25 meant that any preexisting facts prior to the agreement

1 being signed would not count against Mr. Hendi in terms  
2 of a revocation.

3 A. Correct.

4 Q. Is that correct?

5 A. Correct.

6 Q. Or would you like to say it differently?

7 A. No, I think, I think, that's fair.

8 Q. Okay. I want to turn specifically to that  
9 language.

10 A. I think, it's 89.

11 Q. Okay. And that's, yeah, 89. So is it your  
12 contention that the parenthetical in there, on line 23,  
13 and that sentence begins at line 22 --

14 A. Yes.

15 Q. -- "Thus, while there are currently pending  
16 violations" -- and then it specifies the violations --  
17 "outside of this disciplinary matter which, if not  
18 withdrawn by PILB staff, ESI may appeal"; but the facts  
19 giving rise to the violation will not be considered in  
20 determining whether that would constitute grounds for  
21 discipline?

22 A. What's the question?

23 Q. It was a bad question, and I apologize. That  
24 the parenthetical there is not operative to explaining  
25 exactly what this paragraph means?

1           A. Well, if I understand your question correctly,  
2 I'm agreeing that it does not limit it just to those  
3 violations, because the first sentence clearly explains  
4 that only those facts giving rise to a notice of  
5 violation that occur after the stipulation is entered  
6 into will be considered.

7           And then the second sentence, in which the  
8 parenthetical is identified, are examples of current  
9 violations that are existing, that will not be  
10 considered as giving rise, will not be considered as  
11 giving rise to a violation, because those facts occurred  
12 before the order was entered.

13           So that is my understanding, that these were  
14 not dispositive or the only -- these were not the only  
15 violations or facts that were out there, that there  
16 could have been some other facts that no one had  
17 discovered yet, that were, you know, still pending or  
18 still under investigation, but a violation had not been  
19 issued. Absolutely, that's my understanding.

20           Q. Okay. So. So, in essence, if I can just sum  
21 it up in one sentence, and tell me if I have it correct,  
22 that your position is these are just examples for this  
23 paragraph and not what it relates to?

24           A. Correct. It relates to those violations.  
25 Those violations are included amongst the general that

1 there are no -- that no facts existing prior to the  
2 order would be considered in any subsequent violations,  
3 including those two violations.

4 Q. Okay. But you would agree that there's an  
5 absence of language such as e.g., which would indicate  
6 for example, correct?

7 A. Oh, in that second sentence, yes, I agree that  
8 there's no e.g.

9 Q. But you didn't seek that clarification,  
10 correct?

11 A. No, because I thought the first sentence was  
12 very clear.

13 Q. Okay. So let's focus just on those, that  
14 paragraph. Based on your understanding, would you agree  
15 that if there were a continuing violation that predated  
16 the agreement such that the Board found out about the  
17 violation, didn't know about it beforehand, but  
18 discovered that Mr. Hendi was in violation, and it  
19 continued to go past the date of the agreement, that he  
20 would get a pass simply because the facts were  
21 preexisting at the time of the agreement, so he could  
22 continue to be in violation of the agreement; is that  
23 your reading of that statement?

24 A. I don't know. It's a hypothetical that I'm not  
25 sure I understand. But what I would point out, that,

1 yes, my understanding is, if the facts giving rise to  
2 that occurred prior to the agreement, that they could,  
3 those facts could not be used against him. Now, if  
4 those -- now, if there was a continuing violation that  
5 arose from facts prior to the order, then those, those  
6 facts cannot be used. If separate facts existed after  
7 the order, then those could be used. That's my  
8 understanding.

9 Q. So, Mr. Smith, then, for example, if a new  
10 employee were hired after the date of the agreement, and  
11 that employee was not registered pursuant to the  
12 statute, did not have a work card, then you would agree,  
13 even under this provision, as you interpret it, that  
14 that would be a fact that could give rise --

15 MR. CAMPBELL: I'm going to --

16 BY MS. PALMER:

17 Q. -- to a violation that --

18 No, no, don't. Hang on. Let me finish my  
19 question.

20 MR. CAMPBELL: I thought you finished, Counsel.

21 MS. PALMER: That it's a hypothetical. It's a  
22 hypothetical question based on exactly what he just  
23 said, that if such facts existed, and they occurred  
24 after the order -- in other words, it wasn't somebody  
25 who was already working in the capacity, that someone

1 who was hired after the date of the agreement, that that  
2 fact could give rise to a violation that would trigger  
3 the revocation provision of the agreement.

4 MR. CAMPBELL: I'm going to object as to lack  
5 of foundation, and there's too many assumptions in the  
6 hypothetical.

7 THE WITNESS: There are assumptions. But  
8 assuming --

9 MS. BRADLEY: Wait, wait.

10 THE WITNESS: Oh, sorry.

11 MS. BRADLEY: It should be ruled on by the  
12 Chair.

13 MR. CAMPBELL: Yeah, I think, it's just a lack  
14 of foundation. It goes on and on. There's just so many  
15 assumptions in the hypothetical.

16 MS. PALMER: Well, I can set the foundation, if  
17 you want me to. It'll take, you know, a few minutes,  
18 but I can do that. Or you can just allow him to answer  
19 the question.

20 MR. CAMPBELL: I want a ruling on the  
21 objection.

22 MS. BRADLEY: So, Mr. Chair, do you want him to  
23 answer the question?

24 BOARD CHAIRMAN ZANE: No, I believe that I need  
25 to sustain the objection.

1 MS. PALMER: The Board's indulgence.

2 BOARD CHAIRMAN ZANE: Sure.

3 MS. PALMER: All right. Thank you. I'm ready.

4 BY MS. PALMER:

5 Q. Mr. Smith, would you please look at  
6 Exhibit C-12, page 179. This is the complaint, the  
7 complaint book.

8 A. I'm not sure. Oh, 179 is an email.

9 Q. Yes.

10 A. Okay. Yeah, I'm there.

11 Q. Okay. And do you see a communication from  
12 May 10th there; it says from Lori Irizarry to Amanda  
13 Hegdahl?

14 A. I do.

15 Q. And do you see the second question there,  
16 "Could you please tell me Sarah's and C.A.'s hire date"?

17 A. I do.

18 Q. And do you see the response directly above it,  
19 where it indicates C.A. Magri's start date, 4-25-16?

20 A. I see it.

21 Q. And would you agree that 4-25-16 was after the  
22 day of the agreement?

23 A. I would.

24 Q. It's also after the effective date, as you  
25 interpret the agreement?

1           A.    Yeah, the effective date, the mailing date, but  
2 yeah.

3           Q.    Okay. Does my hypothetical make sense now?  
4 Have I laid the foundation that you're looking for? We  
5 can talk specifically about this, if you want to. I'll  
6 change it from a hypothetical to the actual facts.

7           A.    No, you can ask me what you want to ask. I'm  
8 not sure I can answer it, but. And I'm not on this  
9 email chain, so I don't know what that's about, but I'm  
10 agreeing with what you said.

11          Q.    So we were going through the interpretation of  
12 the statute, and you said that your understanding was  
13 preexisting facts that predate the agreement, there's a  
14 special carve-out that wasn't limited to the notices of  
15 violation contained in the parenthetical, and that it  
16 referred to any facts that existed prior to the date of  
17 the agreement, and a continuing violation would not  
18 result in a fine.

19                    So my hypothetical example was facts that arise  
20 after the agreement, you would agree that the carve-out  
21 exception wouldn't apply?

22          A.    I would agree with that.

23          Q.    Thank you. Very last question. And do you  
24 have before you PILB 320?

25                    MR. CAMPBELL: Is it in a particular exhibit?

1 THE WITNESS: I don't.

2 MS. PALMER: It would have been with the stack.  
3 You don't have it?

4 MS. BRADLEY: The stack of what? Was this  
5 Mr. Campbell's exhibit? Because I don't see it in the  
6 book.

7 MS. PALMER: No, no. These were the exhibits,  
8 the rebuttal documents, exhibits, the new ones.

9 MS. BRADLEY: Oh, okay. Okay. Got it.

10 THE WITNESS: All right.

11 MS. BRADLEY: So this hasn't been admitted yet.

12 THE WITNESS: What number was it?

13 MS. PALMER: 320.

14 THE WITNESS: No, mine goes up to 318.

15 MS. PALMER: I'm not sure. Maybe I -- I may  
16 not have indicated that as one of the exhibits.

17 MS. BRADLEY: It's not on the list, no.

18 MS. PALMER: Maybe Ms. Klemme could show it to  
19 Mr. Campbell.

20 MS. BRADLEY: Yes, it's not on the list of  
21 those she gave me.

22 (Ms. Klemme showed the document to  
23 Mr. Campbell.)

24 MR. CAMPBELL: I don't have any objection to  
25 it.

1 MS. BRADLEY: Can it be admitted?

2 MR. CAMPBELL: Yeah.

3 MS. BRADLEY: So it sounds like -- yeah, does  
4 Mr. Smith have that?

5 THE WITNESS: I do.

6 MS. BRADLEY: He does have it. So do you want  
7 that admitted, Ms. Palmer?

8 MS. PALMER: Yes, please.

9 MS. BRADLEY: Okay. So, Mr. Chair, we have an  
10 offer to -- or request to admit, no objection from  
11 Mr. Campbell.

12 BOARD CHAIRMAN ZANE: It'll be admitted.

13 MS. BRADLEY: Okay. And that's page 320. And  
14 then do we want to include that in Exhibit 13, or should  
15 it become 14?

16 MS. PALMER: We can include it in. Well, make  
17 it -- should we make it 14? We'll just include it in  
18 13, make it easy.

19 (Bates PILB 000320 was admitted and included  
20 with Exhibit C-13.)

21 MS. BRADLEY: Okay. And I don't know that  
22 anybody up here has copies of it yet. Yeah, we don't  
23 have copies.

24 MS. PALMER: Does Ms. Klemme have a copy of it?

25 MS. BRADLEY: She has the original that the

1 witness has.

2 MS. PALMER: Okay. Maybe we can just pass it  
3 around. It's simple. We can just pass it around to the  
4 Board.

5 BY MS. PALMER:

6 Q. And so, Mr. Smith, my only question about this  
7 document is this was the date that the signed order and  
8 stipulated agreement was sent to you on March 11, 2016  
9 at 9:19 a.m.; is that correct?

10 A. Yes, I believe, this is the first time, on  
11 March 11th, 2016 is when I received a copy of the signed  
12 order with the stipulation.

13 Q. Okay. And if you would, just read aloud what  
14 the second sentence says.

15 A. This will be sent to you and to ESI Security  
16 via regular and certified mail today, but because of the  
17 short time frames, I wanted to be sure to send this to  
18 you via email right away.

19 MS. PALMER: Thank you. I'm through, I  
20 believe. Just let me consult with co-counsel.

21 (There was a brief discussion off the record.)

22 MS. PALMER: Pass the witness. Thank you.

23 MS. BRADLEY: Okay.

24 BOARD CHAIRMAN ZANE: Mr. Campbell.

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REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Yeah, Mr. Smith, at the beginning of your cross-examination, you were asked about the drafting of the stipulation?

A. Yes.

Q. And your testimony on direct examination was that Ms. Palmer drafted that stipulation; is that correct?

A. Correct.

Q. And you're not changing that, that testimony, through the cross-examining, right?

A. Right.

Q. And what you did testify on direct is that you suggested some changes, she accepted some changes but didn't accept all of them?

A. Correct.

Q. Okay. Do you remember specifically, as we sit here today, as to certain changes that you were adamant on getting into the agreement?

A. I don't. As I sit here today, I don't.

Q. Okay. Would it refresh your recollection if we went through a couple of the provisions that we've been focusing on today that seem to be ambiguous and the parties are having difficulty in understanding what they

1 mean?

2 A. Sure.

3 Q. Okay. So let's first go to the -- let's start,  
4 we'll kind of start backwards. So go to -- I think, it  
5 was paragraph 10 of the stipulation, which would be  
6 Exhibit 3.

7 Before we get there, I wanted to ask you one  
8 quick question.

9 A. Okay.

10 Q. And, I believe, it's PILB 194, which is part of  
11 Exhibit 13?

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

13 BY MR. CAMPBELL:

14 Q. Okay. And in that email that you sent to  
15 Ms. Palmer, you said "Raelene and Kevin, just a quick  
16 update. I put together the proposed agreement." Did  
17 you put together the stipulation from the get-go?

18 A. No.

19 Q. Could this be pertaining to some other, the  
20 outline or something different?

21 A. It may be related to the outline. It may be  
22 that we had a different draft of some, some settlement  
23 agreement that was entitled Settlement Agreement. That  
24 seems to be a recollection of mine, that we had  
25 something entitled Settlement Agreement. And then that

1 changed or got transferred into the stipulation that was  
2 different. The stipulation had background information,  
3 all sorts of stuff that the settlement agreement that I  
4 was referring to did not.

5 Q. Okay. Let's look back now to paragraph  
6 number 10, I believe it is. I'm going to have to. It's  
7 your opinion that paragraph 10 was the provision related  
8 to nonpayment and that that's the remedy that the Board  
9 had?

10 A. Correct.

11 Q. Okay. Were there any other -- well, do you  
12 remember whether or not you drafted that provision?

13 A. I did not draft that provision.

14 Q. Did you make any changes to that provision?

15 A. I don't recall.

16 Q. Let's look back at the agreement in general.  
17 What was your understanding of how the Board could  
18 revoke this stipulation?

19 A. My understanding is the Board could revoke the  
20 stipulation if Mr. Hendi is found to have violated one  
21 of the disciplinary grounds listed in various statutes  
22 after the order was signed, based on facts after the  
23 order was signed.

24 Q. Is there a provision in there that relates to  
25 that, do you know?

1           A. I believe, there is. I believe, at the  
2 beginning of the -- well, first of all, I think, it's  
3 under -- on page 10 or PILB 87. I think, where it  
4 says -- under Proposed Settlement, right at the top,  
5 second paragraph, it says that if the Board finds that a  
6 licensee, if a licensee has engaged in any activity that  
7 is grounds for disciplinary action, the Board may revoke  
8 the licensee's license or suspend it. And it goes on.

9           And so that was my understanding, is that there  
10 had to be grounds for disciplinary action. And then, I  
11 recall, yeah, the second page, it says -- and that's  
12 PILB 88, paragraph three, "ESI will not engage in any  
13 act that constitutes a grounds for discipline"; and then  
14 it lists out the various statutes.

15           So my understanding -- and then it says, under  
16 paragraph 12, which is PILB 89, "For the purposes of  
17 this agreement, in establishing whether an act that  
18 would constitute grounds for discipline has occurred,  
19 only those facts giving rise to a notice of violation  
20 that occur after the stipulation is entered into will be  
21 considered."

22           So those three paragraphs, beginning with the  
23 first introductory language that says only those  
24 grounds, only if he's found to have violated the grounds  
25 for disciplinary action, which is subsequently defined

1 by statutes, would give rise to revocation.

2 Q. And then, if revocation could be, take place  
3 because of a nonpayment or a late payment, wouldn't that  
4 have been in there?

5 A. Oh, I would make sure that was in there. I  
6 would not have agreed that a late payment, you know, one  
7 day late, two days late, three days late, is grounds to  
8 lose a person's license. I would never agree with that.

9 Q. Okay. And you're pretty confident that  
10 paragraph number 10 was something that you did not  
11 draft?

12 A. I'm pretty confident I didn't draft it.

13 Q. Okay. Let's go to the carve-out paragraph,  
14 which, I believe, is paragraph number 12.

15 A. Okay.

16 Q. Do you remember drafting that agreement, that  
17 part of the stipulation?

18 A. I didn't draft that language, but I may have  
19 modified that or included, asked for that provision in  
20 the initial negotiations, when we were just emailing  
21 terms back and forth. I may have asked Ms. Palmer or  
22 said here is a provision we want, is that any facts  
23 arising before the order -- or the settlement agreement  
24 at the time, I think, we were talking about -- not be  
25 included towards any violations. I may have suggested

1 that.

2 Q. Okay. Let's go back to Exhibit Number 4, page  
3 144.

4 A. Okay.

5 Q. Ms. Palmer asked you some questions about  
6 Ms. Bradley's statement on the record that -- well, let  
7 me just read it: And I think that the Chairman will  
8 sign that order on behalf of the Board. So that will --  
9 and that, of course, starts the dates when everything  
10 starts becoming due.

11 A. Right.

12 Q. Did you read that to mean that the -- that  
13 somehow there's something due on March 10th?

14 A. No.

15 Q. Okay.

16 A. No, that's just the -- that's the date when the  
17 agreement became effective.

18 Q. Well --

19 A. Or not -- that's the date it was signed, and  
20 everything starts being calculated. I don't know, it  
21 was -- I don't even remember, frankly, the transcript.  
22 But my understanding is that's when, you know. It's  
23 just what the agreement was at that point.

24 Q. Would that be better classified as a starting  
25 date on the clock?

1           A.   Starting date.  When everything would become  
2 due?

3           Q.   No, just a stating date on the very timelines  
4 that were going to be, that are in the agreement?

5           A.   Yeah, the date it was signed.  I can't  
6 remember.  The date the order -- I can't remember what  
7 it says.  "And I think that the Chairman signs that  
8 order."

9           Q.   So, in essence, would that start the clock  
10 running on various other dates in the agreement?

11          A.   I'm trying to think, I'm trying to think of  
12 what dates in the agreement.

13          Q.   Well, let's look at paragraphs seven, eight and  
14 nine in the stipulation.

15          A.   Would those start the dates from whatever they  
16 said in the agreement?  Because I can't remember all the  
17 dates in the agreement.

18          Q.   Let's look at paragraphs seven, eight and nine  
19 and see if that refreshes your recollection.  I think,  
20 that's Exhibit Number 3.  I believe, they start on page  
21 88 and go over to 89.

22          A.   Right.  So that's the 30 days, 30 days from the  
23 effective date of the order approving the agreement.  
24 And then there is, and then an accounting will be mailed  
25 within 15 days from the date of the order approving the

1 agreement.

2           So what's the question, it's my  
3 understanding --

4           Q.    So Ms. Bradley's statement in there was that  
5 the date the Chairman signed was just like the clock was  
6 turned on?

7           A.    Yes.

8           Q.    Well, on my phone, I push my timer and it  
9 starts.

10          A.    That's the date it started.

11          Q.    Okay. But it doesn't change the effective date  
12 as to when something is due at the back end of that  
13 clock, when the clock is turned off or when the timer is  
14 turned off, right?

15          A.    That would be correct.

16          Q.    Okay. And let me ask you this. Paragraph  
17 seven, that specific provision, about 30 days from the  
18 date the order is signed, do you remember drafting that  
19 provision?

20          A.    I don't.

21          Q.    How about paragraph number eight; do you  
22 remember drafting that provision?

23          A.    I don't.

24          Q.    Paragraph nine?

25          A.    I don't remember drafting that.

1 Q. Okay. Do you remember any discussion related  
2 to these kind of timelines as to changing or having one  
3 date as an effective date, one day as a monthly date,  
4 one day as the date of the order?

5 A. No, I don't recall any discussion regarding  
6 timing of payments. I may have. I just don't recall  
7 them. We didn't have discussions about effective date  
8 or no effective date. I don't recall any discussions  
9 about that. We may have had discussions about 30 days.  
10 But my understanding would have been always, you know,  
11 the clock, on the timing, would be after he received it,  
12 not when the order was actually signed. Because I  
13 didn't know how long it would take to get the notice  
14 that the order was signed. It could have taken a week.  
15 It could have taken two weeks. And that would have  
16 eaten into that 30-day clock, that wouldn't have made  
17 any sense to me.

18 So that's not the way I read that. It was 30  
19 days, essentially, from the time it was received.

20 Q. And then just one final question. I think,  
21 it's on that last page. It was the last page in Exhibit  
22 Number 13, which was --

23 A. Is that the --

24 Q. The three hundred number?

25 A. 320 or 318?

1 Q. 320.

2 MS. BRADLEY: 320. There's copies now  
3 Ms. Klemme provided to you. I think, yours is right  
4 here by me.

5 THE WITNESS: Oh, thank you.

6 BY MR. CAMPBELL:

7 Q. So, Mr. Smith, Ms. Palmer apparently emailed  
8 you a copy of the signed order on the 11th?

9 A. Yes, that's what this document shows.

10 Q. Okay. Did you forward that email to Mr. Hendi?

11 A. On the 11th? Honestly, I don't recall. My  
12 practice would be to generally do so within a day or  
13 two, if I was even in the office that day. But I'm sure  
14 I would have forwarded it to him some point, you know,  
15 after that. Whether it was that day or whether it was  
16 the next day, I don't know.

17 Q. Well, you have no knowledge as to whether  
18 Mr. Hendi actually got it on the 11th?

19 A. I don't. Because I don't have that email. My  
20 forwarding email, I don't have.

21 MR. CAMPBELL: Okay. That's all I have. Thank  
22 you.

23 MS. BRADLEY: And just so the record's clear,  
24 page 320 has been provided to the Board members in the  
25 north and to the witness and Mr. Campbell, and that page

1 320 is part of 13.

2 MR. CAMPBELL: One more question. One more  
3 question, I'm sorry, before I finish.

4 BY MR. CAMPBELL:

5 Q. The e-mail, though, that page 320, it clearly  
6 indicates that the Board was going to go ahead and both  
7 send it regular mail and certified mail to Mr. Hendi, in  
8 addition to what they had sent you via email, right?

9 A. My understanding was that Ms. Palmer was  
10 sending the executed order, along with the stipulation,  
11 and then we had a release, that was going to be sent to  
12 me and Mr. Hendi via regular mail and certified mail on  
13 the day she wrote this email, which was March 11th. So,  
14 you know, I think, I got it maybe several days later,  
15 maybe March 14th, 13th, somewhere, probably within two  
16 days.

17 Q. Through the mail?

18 A. Through the mail. I probably got it within a  
19 couple days.

20 MR. CAMPBELL: Okay. Thank you. That's all I  
21 have.

22 THE WITNESS: And, I think, then I probably, or  
23 my office, my assistant probably mailed a hard copy to  
24 Mr. Hendi.

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

1 THE WITNESS: Okay.

2

3 RECROSS-EXAMINATION

4 BY MS. PALMER:

5 Q. Mr. Smith, would you turn to Exhibit C-1,  
6 PILB 68. No. I apologize. That's not the right  
7 reference.

8 Okay. I'll move on for a minute while  
9 co-counsel's locating the correct document.

10 On PILB 89, which Mr. Campbell just questioned  
11 you about, which is Exhibit C-3. No. I'm sorry. Not  
12 89. 87.

13 A. Okay.

14 Q. And he was asking you about line 12 where it  
15 says if the Board's licensee has engaged in activity,  
16 the Board may revoke the licensee's license?

17 A. Yes.

18 Q. Okay. And this is just a recital of the  
19 Board's jurisdiction, correct?

20 A. Oh, I don't agree with that.

21 Q. Okay. Then, I'd like to direct your attention  
22 to line 17.

23 A. Okay. Oh, line 17. Okay.

24 Q. Right. So beginning at 11, you have these  
25 various paragraphs that are set off by semicolon. And

1 there's a semicolon immediately before the word  
2 "however" on line 17; is that correct?

3 A. Yes.

4 Q. So the actual terms of and conditions of the  
5 agreement begin at line 19, right; it says the parties  
6 desire to compromise and settle the controversy upon the  
7 following terms and conditions, correct?

8 A. Well, the actual terms, that these are the  
9 terms and conditions, yes, followed, then follow on.

10 Q. Right. So the language, so the language before  
11 that, as I indicated when I first asked you the  
12 question, that's just a jurisdictional statement that  
13 sets forth the basis for being able to enter into the  
14 agreement; is that correct, Mr. Smith?

15 A. Well, it's not necessarily my understanding.  
16 It's my understanding, as read as a whole, is that it  
17 was saying that if the licensee, meaning ESI or  
18 Mr. Hendi, engages in activity that is grounds for  
19 discipline, this is what the Board can do, these, can  
20 take these steps, including revoke his license.

21 Q. Right. And that pertains to the underlying  
22 agreement. In other words, if we were to litigate the  
23 underlying original complaint that ultimately resulted  
24 in the stipulation, this is what the Board could do. Is  
25 that your understanding, Mr. Smith?

1           A.    That is pursuant to statute, yes.

2           Q.    Okay.  So it's not one of the terms of this  
3 agreement, correct?

4           A.    I don't know if I would agree it's not a term,  
5 but it's certainly -- but if you're asking me, it is  
6 something the Board could do if the underlying case was  
7 pursued, and instead of going that route, we agreed to  
8 certain terms.

9           Q.    Thank you.  When Mr. Campbell was questioning  
10 on you redirect, he asked you about various paragraphs  
11 and if you remembered, you know, writing that or  
12 changing that.  And, I think, several of your answers  
13 were that you didn't recall.  Is that correct?

14          A.    That's correct.

15          Q.    Do you remember signing the document approving  
16 it as to form?

17          A.    I do.

18                MS. PALMER:  And just one more question if we  
19 can locate.

20                So, Mr. Campbell, what I was trying to locate  
21 was the actual certificate of service for the  
22 stipulation, the order approving the stipulation.  And,  
23 apparently, it's not -- I mean we can't.  We've been  
24 trying to locate it in the exhibits.  I don't know if  
25 it's included in the exhibits or not.

1 THE WITNESS: Are you referring to PILB 76?

2 MR. CAMPBELL: Exhibit 3, C-3.

3 MS. PALMER: Yes. Thank you.

4 BY MS. PALMER:

5 Q. I just wanted that clarified. So Mr. Campbell  
6 had questioned you about it indicates that it would be  
7 mailed and sent certified letter. And would you agree,  
8 then, that this document, 76, evidences the mailing of  
9 that document via certified mail, or through a  
10 certificate of service at least, on the 11th of March?

11 A. Yes.

12 Q. And it does indicate that it was put both in  
13 the U.S. mail and U.S. mail with certified return  
14 receipt requested?

15 A. That's what this document indicates, yes.

16 Q. And it indicates that it was sent to both you  
17 and to Mr. Hendi; is that correct?

18 A. That is correct.

19 MS. PALMER: Thank you.

20 BOARD CHAIRMAN ZANE: Anything else?

21 MS. PALMER: Not from me.

22 BOARD CHAIRMAN ZANE: Mr. Campbell.

23 MR. CAMPBELL: I'm fine.

24 THE WITNESS: Thank you.

25 BOARD CHAIRMAN ZANE: Can the witness be

1 excused?

2 THE WITNESS: Thank you.

3 MR. HENDI: Does the Board have questions?

4 MR. CAMPBELL: Yes, the Board may have  
5 questions for you.

6 THE WITNESS: Oh, I'm sorry.

7 MS. BRADLEY: Thank you, Mr. Hendi. We were  
8 conferring. But, yeah, if there's any questions of the  
9 witness by the Board.

10 BOARD MEMBER FLYNN: I do. Mr. Smith, you  
11 mentioned a couple times the term "date certain." What  
12 does it mean to you, or can you give me your definition  
13 of it?

14 THE WITNESS: Oh, a date certain would be a  
15 specific date put in an agreement. Like today's date,  
16 for instance. Or, an example, March 15th, something is  
17 due by March 15th, 2017. So instead of saying a payment  
18 is due -- this happens in a lot of settlement agreements  
19 or other types of agreements that lawyers draft. Some  
20 say payment is due within 30 days of either an effective  
21 date, and, typically, an effective date is identified in  
22 the agreement, or 30 days from some event. It could be  
23 the signing of the document. It could be receipt of a  
24 document. So those types of things are put in there.  
25 And then sometimes a date certain is put in there.

1 Payment will be made by March 12th, April 17th, whatever  
2 the date you decide that payment is due.

3 So that's, that's what I mean by that. There  
4 would be --

5 BOARD MEMBER FLYNN: You answered my question.

6 THE WITNESS: Oh, I'm sorry.

7 BOARD MEMBER FLYNN: Thank you. You answered  
8 my question. Thank you.

9 THE WITNESS: You're welcome.

10 BOARD MEMBER FLYNN: I have one other question  
11 for you. You made the statement that everybody knows  
12 what civil process 6(e) is. I don't. So could you  
13 explain that one to me?

14 THE WITNESS: I think, I said every --

15 BOARD MEMBER FLYNN: I'm probably the only  
16 person in the north and south that doesn't know. But  
17 I'd like to know.

18 THE WITNESS: No, I said what every civil  
19 litigator knows. I didn't think any -- I didn't think  
20 people that didn't do litigation, that aren't familiar  
21 with the civil rules, would know. People like that  
22 wouldn't know. But lawyers who practice in the courts  
23 would know. I'd be surprised if they don't.

24 But that rule lays out the timing provisions of  
25 when things become what are considered served, and

1 notice, things, documents, like motions and pleadings,  
2 become effective, other documents that are exchanged  
3 between counsel.

4 And that allows a three-day mailing when  
5 there's an effective date. You get an additional three  
6 days on top of that, just because they count that for  
7 mailing time, essentially, is what the courts do, is  
8 give people three extra days when a document is actually  
9 mailed. Because they're assuming that it's going to  
10 take a few days to get that notice.

11 BOARD MEMBER FLYNN: Okay. And then, regarding  
12 the testimony today, Ms. Bradley, I do have a question.  
13 Is there an NRS or an NAC that defines "effective date"?

14 MS. BRADLEY: Not that I'm aware of, no.

15 BOARD MEMBER FLYNN: Okay. Thank you.

16 BOARD CHAIRMAN ZANE: Any other Board  
17 questions?

18 BOARD MEMBER NADEAU: Mr. Chair, I would. I  
19 have a question, Mr. Chair.

20 BOARD CHAIRMAN ZANE: Mr. Nadeau.

21 BOARD MEMBER NADEAU: Mr. Smith, other than the  
22 April 9th, or that exchange that you had during April as  
23 far as the check and the certified check, or the  
24 overnight being sent back, did you and Board counsel  
25 have any conversation about, about whether there are

1 late payments, or anything of that nature, other than  
2 that, that three-day exchange of emails during the  
3 beginning of April?

4 THE WITNESS: No, following that, I don't think  
5 I communicated with Ms. Palmer about any further  
6 payments, whether she received the payment, whether the  
7 payment was deposited. I don't recall any conversations  
8 with that.

9 BOARD MEMBER NADEAU: Okay. Thank you.

10 BOARD CHAIRMAN ZANE: Any other Board  
11 questions?

12 BOARD MEMBER COLBERT: No.

13 BOARD MEMBER COLLINS: No.

14 BOARD CHAIRMAN ZANE: Thank you.

15 THE WITNESS: Thank you.

16 MS. BRADLEY: The only reference I can find for  
17 "effective date" is regarding legislation, in 218D. And  
18 so it wouldn't be relevant. It's talking about like  
19 when --

20 BOARD MEMBER FLYNN: Okay.

21 MS. BRADLEY: -- a new law would be effective.  
22 And it's usually specified. Yeah. So that's the only  
23 reference I can find.

24 BOARD MEMBER FLYNN: All right. Thank you.

25 MS. PALMER: Ms. Bradley?

1 MS. BRADLEY: Yeah?

2 MS. PALMER: I don't know if NRS 238.100 may be  
3 helpful, if that's the call of the question. And maybe  
4 Mr. Campbell would want to look at that as well.

5 MS. BRADLEY: 238, I don't know what that is.

6 MS. PALMER: NRS 238.100.

7 MS. BRADLEY: Yeah, that's date of postmarking,  
8 date of filing, or payment. I mean it's a date. I was  
9 looking specifically for "effective date" defined.

10 MR. CAMPBELL: Yeah, that date pertains to --  
11 and I plan on addressing this. That date pertains to  
12 when something is actually deemed served. It's the date  
13 of postmark.

14 MS. BRADLEY: Like the mailbox rule.

15 MR. CAMPBELL: Yes, that's basically what that  
16 is.

17 MS. BRADLEY: Yeah. I was going to look at  
18 Chapter 0. But I'm fairly certain it's not in here.

19 Yeah, it's not in Chapter 0, either. And just  
20 so the Board knows, Chapter 0 is like a preliminary  
21 chapter that has some definitions that apply to all of  
22 the NRS. It's not there. Like I said, when I did  
23 search for it, the only thing that came up was  
24 "effective date of legislation," which I don't think  
25 would even be helpful to us.

1 MS. PALMER: What about "operative date," or do  
2 you think that's different?

3 MR. CAMPBELL: It's a different term I don't  
4 think you can extrapolate anything from.

5 MS. BRADLEY: Yeah, I was just looking for that  
6 specific term, because that's what the Board member  
7 asked for. I guess, if you guys --

8 BOARD MEMBER FLYNN: And that was my question,  
9 that specific term.

10 MS. BRADLEY: Yeah. So, you know, I mean, I  
11 guess, you guys can talk about maybe some of those other  
12 definitions in closing perhaps.

13 MR. CAMPBELL: The Board's preference about  
14 proceeding with the next witness now, or a break, or?

15 BOARD CHAIRMAN ZANE: Pleasure of the folks.  
16 Do we need a break?

17 MR. CAMPBELL: I think, the court reporter  
18 could use a break, probably more than any of us.

19 BOARD MEMBER NADEAU: I think, I can use a  
20 break.

21 BOARD CHAIRMAN ZANE: Same for me. Ten  
22 minutes?

23 BOARD MEMBER NADEAU: We're going to need 20  
24 minutes.

25 BOARD CHAIRMAN ZANE: Twenty? Okay.

1 BOARD MEMBER NADEAU: Yeah.

2 BOARD CHAIRMAN ZANE: Twenty minutes, please.

3 \* \* \* \* \*

4 (A break was taken, 2:10 to 2:32 p.m.)

5 \* \* \* \* \*

6 BOARD CHAIRMAN ZANE: Okay. Got a witness  
7 coming in?

8 MR. CAMPBELL: Yeah.

9 (There was a brief period off the record while  
10 Mr. Campbell brought in the next witness.)

11

12 K I B B I E K O C H E L,  
13 having been first duly sworn/affirmed by the Reporter,  
14 was examined and testified as follows:

15

16 DIRECT EXAMINATION

17 BY MR. CAMPBELL:

18 Q. So could you please state your name for the  
19 record, spell your last name.

20 A. Kibbie Kochel, K-O-C-H-E-L.

21 Q. And where are you currently employed,  
22 Ms. Kochel?

23 A. Events Services.

24 Q. Okay. And what do you do for Events Services?

25 A. Bookkeeping, accounting and office

1 administration.

2 Q. Okay. As far as bookkeeping and accounting, do  
3 you process checks that come out of Events Services?

4 A. Yes.

5 Q. Okay. How about checks for ESI Security?

6 A. Yes.

7 BOARD CHAIRMAN ZANE: Excuse me. Mr. Campbell?

8 MR. CAMPBELL: Yes?

9 BOARD CHAIRMAN ZANE: Can we -- what are we  
10 going to do, move the camera so we can see, or if she  
11 can move in a little bit?

12 MR. INGRAM: Yes. We can't see the witness at  
13 all.

14 MR. CAMPBELL: Okay.

15 (The witness moved over.)

16 MR. INGRAM: There we go. Thank you. That  
17 would be great.

18 BY MR. CAMPBELL:

19 Q. So you're responsible for writing checks,  
20 processing and bookkeeping, all that kind of thing?

21 A. Yes.

22 Q. Okay. Do you have authority to sign the  
23 checks?

24 A. No.

25 Q. And how does that process work, as far as

1 normal checks that you have to process every month?

2 A. I process them, get them ready to be mailed,  
3 and I send them over to Mr. Hendi for signature. He  
4 brings them back, and I mail them.

5 MR. CAMPBELL: Can you hear her okay? I just  
6 want to make sure.

7 BOARD CHAIRMAN ZANE: Yes.

8 BY MR. CAMPBELL:

9 Q. How many checks a month are you responsible for  
10 processing and getting out the door, so to speak?

11 A. Average is about 908.

12 Q. A month?

13 A. A month.

14 Q. Were you familiar that last quarter of 2015,  
15 the first quarter of 2016, that there was a disciplinary  
16 proceeding against ESI Security?

17 A. Yes.

18 Q. In fact, did you attend the hearing on March  
19 3rd, 2016?

20 A. Yes.

21 Q. Okay. Were you familiar that as a result of  
22 that, that hearing, that a stipulation was entered into?

23 A. Yes.

24 Q. Okay. And did you know that that stipulation  
25 required that ESI had to make certain payments to the

1 PILB?

2 A. Yes.

3 Q. Okay. And were you the one responsible for  
4 processing those payments, making sure they got out the  
5 door?

6 A. Yes.

7 Q. Okay. I just asked you about the stipulation.  
8 Did you ever get a copy of that stipulation that set  
9 forth the terms of when payments were made and other  
10 things that had to be done under the stipulation?

11 A. There was a copy, which, I think, may have been  
12 Mr. Hendi's, that I got on the 3rd, when I left. But  
13 that was just so I could see what the fines and such  
14 were.

15 Q. Uh-huh (affirmative). Do you ever remember  
16 receiving a copy that had an order attached to it with  
17 the Chairman's signature on it?

18 A. No, I don't recall.

19 Q. Okay. So your recollection is that there was a  
20 certain number of payments that had to be made on a  
21 certain date?

22 A. Correct.

23 Q. Okay. Do you remember when you made that first  
24 payment?

25 A. I remember that Mr. Hendi came to me and told

1 me that he had -- that it was time to make the first  
2 payment. And it was around, sometime in March.

3 Q. Do you remember what that, what that payment  
4 was for?

5 A. Well, there were two checks, one to a prior  
6 employee and one that, I think, was half of -- oh, thank  
7 you (for glass of water) -- half of the fees.

8 Q. Okay. And those payments were -- does March  
9 17th sound about right?

10 A. Yes.

11 Q. And told when those, when those payments, you  
12 know, had to be made by?

13 A. No, he just said it's time to make them. So I  
14 went and made them right then.

15 Q. Okay. Is there usually a little bit of a time  
16 lag when he says make the payment and when they go out  
17 the door?

18 A. Yes, a little bit. But for this, I got up, I  
19 input all the information into my accounting program and  
20 ran off the check.

21 Q. Okay.

22 A. Gave it to him for signature and sent it  
23 certified mail.

24 Q. Okay. And then there was a -- you know, there  
25 was a subsequent payment that was required under the

1 stipulation, right?

2 A. The large payment.

3 Q. 15,000?

4 A. The 15, yes.

5 Q. \$15,000?

6 A. Yes.

7 Q. Okay. And when did you -- when were you told  
8 to make that payment?

9 A. I want to say it was in April, Mr. Hendi, once  
10 again, said it's time to make the large payment. So I  
11 went in and ran the check and sent it.

12 Q. Does April 10th sound about right as to when  
13 that --

14 A. Yes.

15 Q. -- that payment was processed?

16 A. Yes.

17 Q. Okay. And then did it go out on April 10th?

18 A. I think, it waited -- he -- I think, he had to  
19 sign it, and then I sent it FedEx.

20 Q. And did you send it FedEx on April 12th; does  
21 that refresh your recollection?

22 A. Yes. I think, by the time it got signed, into  
23 the envelope and delivered, that it was the 12th.

24 Q. Okay. And then you knew after that April  
25 payment there were some additional payments that had to

1 be made to the PILB, right?

2 A. Right.

3 Q. What was your understanding of those additional  
4 payments that had to be made?

5 A. They were equal payments what were supposed to  
6 be disbursed out within 12 months. So they were all the  
7 same amount. So I would -- I had the information in the  
8 program. So I would go and kind of figure like in the  
9 middle of the month that they had to be out for that  
10 month.

11 Q. Was your understanding that there was a certain  
12 day in the month that they had to be processed?

13 A. No, I didn't have an exact date. I just knew  
14 that I had to make that payment every month. And what I  
15 would normally do is, because we do payroll every two  
16 weeks, which takes up a lot of time, on the off payroll  
17 weeks I would go in and process my accounts payable.  
18 And that would come up. And I would bring it up, round  
19 off the payment, make it a little more, and put it in  
20 with the certified and send it to be signed with the  
21 rest of his checks, and then mail them out.

22 Q. Okay. When you said you paid a little more,  
23 what does that mean?

24 A. Well, I rounded off the payment, because  
25 Mr. Hendi had stated, you know, to send as much as

1 possible to get it paid off as quickly as possible.

2 Q. So the payment was supposed to be split in 12  
3 equal installments?

4 A. Right.

5 Q. But you paid more each installment?

6 A. Yeah, I paid 2,000.

7 Q. Okay. And to your knowledge, though, Mr. Hendi  
8 never told you that make sure these are out the door by  
9 a date certain each month?

10 A. No. After the 15, after the large one, it just  
11 kind of fell to me, that like, okay, this is a monthly  
12 payment. So I always tried on keep it within the middle  
13 of the month, to be safe, because I knew, if I was in  
14 the month, I would be okay. And so I would just process  
15 them when I did my regular payables.

16 Q. And so you made a payment in May?

17 A. M-hm (affirmative).

18 Q. And do you recall if that payment was made on  
19 or about May 12th; does that sound about right?

20 A. Yes. I tried to stay in the middle. So, yes,  
21 I'll say.

22 Q. And that was a \$2,000 payment?

23 A. M-hm (affirmative).

24 Q. And then you made another payment; does June  
25 17th sound about right?

1 A. Yes.

2 Q. Okay. And, again, for 2,000?

3 A. Right.

4 Q. And then another one on July 15th?

5 A. M-hm (affirmative).

6 Q. Again, for 2,000?

7 A. Yes.

8 Q. And did Mr. Hendi have to remind you each month  
9 to make these, or did you just have these in your system  
10 and were doing them during the regular course of  
11 business?

12 A. They were in my system, and they were part of  
13 my payables. So, no, he never said anything about them.

14 Q. Okay. When you got -- you would get the  
15 checks, once they were cashed by the PILB, you would get  
16 them back, right, so you can see that they've been  
17 endorsed and run through the bank account?

18 A. Yes. Well, they would show up on my statement.  
19 We don't get our checks back.

20 Q. Okay. Did you ever -- you could pull those  
21 checks electronically off the website?

22 A. Yes.

23 Q. Did you ever pull those checks electronically  
24 and actually look at when they were endorsed and when  
25 they were cashed and everything?

1 A. Each month?

2 Q. Well, ever.

3 A. Later, when this issue came up, I went to look,  
4 and it showed that they had all been received and  
5 cleared.

6 Q. Okay. And do you know what a restricted  
7 endorsement is on a check?

8 A. I do now. I didn't at the time.

9 Q. Well, was there any writing on the check that  
10 said --

11 A. No.

12 Q. -- you know, partial payment or anything like  
13 that?

14 A. No.

15 Q. Or not full payment?

16 A. No.

17 Q. Okay. And then you made a final payment, I  
18 believe, on August 1st of 2016?

19 A. Yes.

20 Q. And that was for about \$15,587?

21 A. Yes.

22 Q. Okay. Why did you make that payment on August  
23 1st for 15,000 plus dollars?

24 A. Mr. Hendi came to me and made a comment that he  
25 had just been told that we were delinquent on the

1 payments, to which I said, "No, I've made a payment  
2 every month." And he said, "Well, just to be safe, get  
3 the whole thing paid off, send them a check." So I did.  
4 And then I proceeded to go back and check and make sure  
5 that a check came every month and it was -- that none  
6 were missed or not cashed. And I did.

7 Q. So they all had been cashed?

8 A. Yes.

9 Q. Okay. And then, so the \$15,587 and 50 cents, I  
10 think, was --

11 A. The remainder.

12 Q. -- that was the balance that was due over the  
13 twelve-month period?

14 A. Correct.

15 Q. Okay. Did anybody from the PILB ever contact  
16 you and say, hey, you're sending out these checks late?

17 A. No.

18 Q. Did Mr. Hendi ever tell you, look, don't worry  
19 about when these checks need to be sent, or they need to  
20 be sent on such and such a date, but don't worry about  
21 it, just send them out when you want?

22 A. No.

23 Q. He was pretty adamant he wanted them sent on a  
24 regular basis?

25 A. Yes, along with the rest of his bills.

1 Q. Yeah. So you processed those bills, and that's  
2 your job, to make sure that everything kind of goes out  
3 timely?

4 A. Yes.

5 Q. Mr. Hendi never told you to put a slow ball on  
6 these checks, right?

7 A. Never.

8 MR. CAMPBELL: That's all I have. Thank you  
9 very much.

10 THE WITNESS: M-hm (affirmative).

11 MR. CAMPBELL: Ms. Palmer's going to  
12 cross-examine you up here. She's in the red dress.

13

14 CROSS-EXAMINATION

15 BY MS. PALMER:

16 Q. Good afternoon, Ms. Kibble. Or Kochel. I'm  
17 sorry. Right, is that what it is?

18 A. Yeah.

19 Q. How do you spell your last name?

20 A. K-O-C-H-E-L.

21 Q. Thank you. And who are you employed by?

22 A. Events Services.

23 Q. So, and that's distinguishable from ESI  
24 Security?

25 A. Correct.

1 Q. And how long have you been employed by Events  
2 Services?

3 A. Well, I was independent at first. So maybe  
4 three years. But I've been with Mr. Hendi for over 20.

5 Q. And what do you mean by independent?

6 A. I was an independent contractor. I had other  
7 clients. So I wasn't necessarily employed by him. He  
8 was my client.

9 Q. Did you have a business that you were operating  
10 under?

11 A. Yes.

12 Q. And what was that business?

13 A. Crystal Lynn Enterprises (phonetic spelling).

14 Q. Were you owner of that business?

15 A. Yes.

16 Q. Thank you.

17 A. M-hm (affirmative).

18 Q. And you said that your functions were  
19 bookkeeping, accounting, and, I think, there was a third  
20 thing that you mentioned?

21 A. Well, later, when I came in, a little office  
22 administration, filing, that sort of thing.

23 Q. And do you perform that function for all of  
24 Mr. Hendi's companies?

25 A. The accounting, yes, and the bookkeeping.

1 Q. What is your title?

2 A. Well, bookkeeper.

3 Q. And do you employ, are there other people that  
4 are -- do you supervise other people?

5 A. I have one person that works with me with  
6 payroll.

7 Q. Who is that?

8 A. Sarah Shuster.

9 Q. Who do you report to?

10 A. Mr. Hendi.

11 Q. Do you work certain days of the week?

12 A. Yeah.

13 Q. What's your normal work schedule?

14 A. Monday through Thursday.

15 Q. So how does the accounting process work for the  
16 check-processing work; when you have a check that you  
17 want posted on a certain day, just can you walk through  
18 that procedure of how things work?

19 A. Are we talking accounts payable or payroll?

20 Q. Accounts payable.

21 A. On the off weeks, I will go in and make sure  
22 that all my payables have been input into my program and  
23 that they're correct. Then I will bring them up. And  
24 since I'm paying multiple bills at one time, I will  
25 check to make sure it's the right amount, right vendor.

1 I would print all the checks off. I would put them in  
2 the respective envelopes with the stubs. Then they  
3 would go to Mr. Hendi's office to be signed, which he  
4 usually did usually right then or by the next day, and  
5 then puts them back on my desk. I seal the envelopes,  
6 put the postage on, and they get mailed out.

7 Q. Okay. And so part of that processing, you're  
8 going in and you're performing computerized functions,  
9 but can you -- I'm trying to understand that automated  
10 function. From when you decide that you're going to be  
11 making a payment, and then when that check is actually  
12 processed, how does that work?

13 A. If I am going to make a payment, I go to the  
14 accounts payable, bring up -- are you talking about all  
15 of them or just one? Like --

16 Q. Well, let's use this as a specific example, for  
17 this, the payments that were made to the Private  
18 Investigator's Licensing Board.

19 A. Okay. The very first one, when Mr. Hendi told  
20 me it was time to make the first one, I went in and set  
21 up the invoice into my accounting program. And then I  
22 went out and printed the check that was to go out. And  
23 he signed it. And I put it in an envelope, and I put  
24 certified mail, and I sent it to Carson City. The --

25 Q. So you're physically -- oh, I'm sorry. I

1 didn't realize you were still --

2 A. Oh, no.

3 Q. Go ahead.

4 A. For that first one. And then, when it was time  
5 for the large payment, he came and said that it's time  
6 for the big payment. And I went in and brought up that  
7 invoice, put in the amount of 15,000, printed it, and  
8 put it in the envelope. And, because this time it was  
9 going to Vegas -- because I wasn't sure where at first;  
10 I thought it was going to go to Carson -- I put a FedEx  
11 on it and sent it.

12 Subsequent payments after that, they were  
13 equal, and I would just, when I got ready to run my  
14 payables, usually within the middle portion of the  
15 month, after a payroll, because payroll takes so much of  
16 my time, I would generate all of the bills, bring them  
17 up and then mark, you know, who and how much, and then  
18 print all the checks at the same time, and then, like I  
19 said, put them in the envelopes, send them for  
20 signature, and then mail them out.

21 Q. And are those checks dated on the day that you  
22 do the run?

23 A. Yes.

24 Q. And you're printing the checks out. So that  
25 the day that's reflected on the check is the day that

1 they're printed?

2 A. Yes.

3 Q. So, in looking at the checks that are in  
4 question in this case, where we've alleged that they're  
5 late, there is an April 10th --

6 A. Do you know which ones those are?

7 MR. CAMPBELL: Do you want her to look at an  
8 exhibit, counsel?

9 MS. PALMER: We can. I don't know that it's  
10 necessary, but if it helps her, we'll just do it that  
11 way.

12 THE WITNESS: How much was the April check for?

13 MR. CAMPBELL: I'll get you that.

14 Do you have an exhibit number, counsel?

15 MS. PALMER: Right, 157, and that's  
16 Exhibit C-7.

17 THE WITNESS: Oh, the large check. You're  
18 talking about the large check?

19 MS. PALMER: Right.

20 THE WITNESS: Okay.

21 BY MS. PALMER:

22 Q. And the date on that check is April 10th, 2016,  
23 right?

24 A. Correct.

25 Q. Do you know what day of the week that was?

1 A. Nope.

2 Q. If I were to tell you that that was a Sunday,  
3 would that surprise you?

4 A. No. I -- when -- I get behind. So I like it  
5 when the office is quiet. I will sometimes go in at  
6 night or go in on the weekend. Especially back in  
7 April, because we were processing checks for Shred-it,  
8 so my husband would come in and process checks while I  
9 got caught up on work.

10 Q. So would you say, then, that April was an  
11 unusual month, or did you get behind a lot?

12 A. No. I just was in there catching up.

13 Q. Do you know, is this the only check processed  
14 on that date in accounts payable?

15 A. I don't recall.

16 Q. So if it were the only thing, I mean if that  
17 was all you did on that date, would you recall, then, or  
18 would you think?

19 A. No, are you saying I did, I went in there to do  
20 just that one?

21 Q. That's what I'm asking you, yes.

22 A. No. I wouldn't have gone in there to do just  
23 that. I would have been doing other things and --

24 Q. Process?

25 A. Process, hopefully, other checks or deposits or

1 payroll. So I'm sure I didn't make a point of going in  
2 on Sunday to do the one check.

3 Q. And would that be true of all of the ESI  
4 payments, that you didn't go in and make a specific  
5 check just for -- I mean, I'm sorry, the Private  
6 Investigator Licensing Board payments from ESI Security,  
7 you wouldn't have done any of them just in isolation,  
8 they were all done with other routine things that you  
9 were doing?

10 A. Not, not that first check. That first check, I  
11 stopped what I was doing and purposely ran that one.  
12 But the others --

13 Q. That first check being this April 15th check,  
14 on 157, or are you talking about the very first check --

15 A. The very first.

16 Q. -- where you talked about making it? Okay. So  
17 not the one in question in this case?

18 A. No.

19 Q. Okay. So this one would have been done with a  
20 group of other checks?

21 A. Possibly. I can't say for sure, because I  
22 don't recall that day. So it may have been.

23 Q. But didn't you testify that you wouldn't have  
24 just gone in and done this one check?

25 A. Yes. If I'm going in to work, I'm not going in

1 there usually for like, oh, I got to go run this one  
2 check. I'll be going in to work to like file, do  
3 quarterlies, finish, clean up payroll, make FICA pay.  
4 So I mean I'm -- what I'm saying is I didn't go in on a  
5 Sunday to write this check. I was there on a Sunday.  
6 If there were payables, I may have done them then, along  
7 with deposits or anything else I felt I needed to try to  
8 get caught up on.

9 Q. Okay. So, I think, I understand what you're  
10 saying is that you were there doing other work, which  
11 may have included this one payable and other work, or it  
12 may have included other work, this payable and other  
13 payables. Is that a correct summation of my  
14 understanding?

15 A. It's possible, because I don't know what I was  
16 working on during that day.

17 Q. Okay. So it's possible that this was the only  
18 payable that was done, but not the only work that you  
19 did on that day?

20 A. It's possible, yes.

21 Q. Was it frequent that your payables were done on  
22 the weekends?

23 A. Well, it's really -- you can't. It's hard to  
24 say. I do go in a lot of weekends. Sometimes I'll go  
25 in late at night. So I can't say absolutely definitive.

1 I mean I'm fortunate enough that Mr. Hendi allows me to  
2 set my own times, and I kind of come and go, come in,  
3 get things done, leave. The state works Saturday.

4 Q. But, typically, typically, your schedule is  
5 Monday through Thursday?

6 A. Yes.

7 Q. Okay. Would you turn to Exhibit C-9. And  
8 that's PILB 162. Was this check run on June 17th, 2016?

9 A. I'll have to assume.

10 Q. Well, I don't want you to assume.

11 A. Oh.

12 Q. You've talked about your procedure.

13 A. Well, that's the date on it.

14 Q. Is it possible -- in your procedure, you said  
15 that the check would be printed the same day that you  
16 ran it. So I'm asking you, is there an exception?

17 A. Not normally, no. If I bring up the program to  
18 run the checks, that's the date. So I have to --

19 Q. So you can't preset the program to run in your  
20 absence, can you?

21 A. No.

22 Q. Okay. So do you know what day of the week  
23 June 17th was?

24 A. No.

25 Q. If I told you it was a Saturday, would that

1 surprise you?

2 A. No.

3 Q. And would you turn to Exhibit C-10, please.

4 And this check is dated July 15th, 2016; is that

5 correct?

6 A. Uh-huh (affirmative).

7 Q. Do you know what day of the week that was?

8 A. No, but I bet you're going to tell me.

9 Q. Saturday?

10 A. Okay.

11 Q. And I'll just represent to you that the May  
12 check, which is C-8, that's PILB 160, it's dated May the  
13 9th, that one was done on a Tuesday.

14 A. Wow. Okay.

15 Q. So of the four checks, three of them were done  
16 on the weekend.

17 A. Okay. Yeah.

18 Q. And does that seem to be outside of your normal  
19 practice?

20 A. No. No. I can get my husband on the phone if  
21 you want to talk to him. He spends a lot of time. I'm  
22 at work too much. I go down there too often, and I  
23 usually drag him with me. So to be there on a Saturday,  
24 Sunday or even until 11:00 o'clock at night is not  
25 abnormal. Nor is it abnormal for --

1 Q. Were you --

2 A. -- me to come in at 10:00 o'clock in the  
3 morning.

4 Q. Were you ever made aware of a communication  
5 between Mr. Hendi's counsel, Rob Smith, and the Board's  
6 counsel discussing the timing of payments?

7 A. No.

8 Q. So I will direct your attention to Exhibit -- I  
9 apologize for the moment.

10 It's Exhibit C-6, page 153. Do you see that?

11 A. Which part, the whole thing?

12 Q. No. So it's the second box up from the bottom.

13 MR. CAMPBELL: This page.

14 THE WITNESS: This page?

15 MR. CAMPBELL: Yeah.

16 THE WITNESS: That someone was in Vegas?

17 BY MS. PALMER:

18 Q. I'm sorry. Were you asking --

19 A. The one that says he was in Las Vegas?

20 Q. I'm not seeing that. I'm sorry. I don't. Are  
21 you looking at PILB 153?

22 A. Yes.

23 Q. Oh, yes, at the top. No. Okay. So, no, the  
24 second one up from the bottom.

25 A. Okay. Oh, from you to Mr. Smith.

1 Q. Do you see where it says --

2 A. Okay.

3 Q. -- where it says the 9th of the month, that  
4 it's the actual day that payments are due?

5 A. That's the first I've seen that.

6 Q. Well, you testified that you normally do the  
7 payments about the middle of the month; is that correct?

8 A. For PILB? Or all --

9 Q. Yes.

10 A. -- my bills? Yes. I wanted to -- I didn't  
11 really have an actual due date. So I felt that if I  
12 stayed in the middle of the month, I was in a safe zone.  
13 It wasn't too close to where it could have fallen into  
14 the next month and been technically late. I was in the  
15 month.

16 Q. So is May 9th the middle of the month?

17 A. No, it's the top part of it. But, technically,  
18 it could be, because it's close to the 10th.

19 Q. So the 10th is the middle of the month for you?

20 A. Well, I try to go like not the first week, kind  
21 of like in the middle, because I have payrolls. So when  
22 I'm doing payrolls, that takes up all my time. So I try  
23 to go anywhere within there, so I'm in the middle.

24 Q. So it seems that the June payment and the July  
25 payment are about in the middle, as you're testifying.

1 But the April payment was made on the 10th and sent out  
2 on the 12th, following this communication on 153. And  
3 the May payment, which is one immediately afterwards,  
4 was sent out on May the 9th, which --

5 A. Okay.

6 Q. -- coincidentally, is the same, the same date  
7 that it says that payments are due. And the May payment  
8 is the only one that was actually made on a weekday.  
9 Everything else was processed on the weekend.

10 A. Okay. Are -- yeah.

11 Q. Well, I'm confused, because you say that your  
12 typical work days are Monday through Thursday.

13 A. Yeah.

14 Q. That you only go in and process things on the  
15 weekend when you get behind, but it's not typical for  
16 you to get behind.

17 A. I didn't say that.

18 Q. It seems -- I asked that question. I think,  
19 you did.

20 A. Yeah, I do sometimes get behind. I have a  
21 pretty busy workload.

22 Q. Are you the person who put the checks in the  
23 mail?

24 A. Usually, yes.

25 Q. So it also looks like, with the exception of

1 the April payment, which was sent FedEx two days after  
2 the check was printed, that it looks like it takes about  
3 three days from the time you print the check until you  
4 put it in the mail. Is that pretty typical?

5 A. It really does depend on when Mr. Hendi's  
6 around to sign it. Are we talking, are you basing that  
7 on the one that was going in the FedEx?

8 Q. Well, the April payment was the one that went  
9 into the FedEx, and that was just two days.

10 A. Right.

11 Q. And that was FedEx'd on the day that I  
12 communicated with Mr. Smith about the payment being  
13 late.

14 A. Okay.

15 Q. But the other payments are all three days after  
16 they were processed.

17 A. Then, that would be possibly right. It  
18 wasn't -- the FedEx one was because I wasn't going to  
19 Carson City. I was told to go to Vegas. So that's why  
20 I FedEx'd it. Two days would have been, because by the  
21 time I ran it, and he signed it, I got it in the FedEx  
22 and then found a FedEx box, two days would be right.

23 Three, for the others, yeah, if I ran it on the  
24 day, then he came in and signed it, then he gave it back  
25 to me, I put it in the envelope, I stamp it, and then

1 I'll put it out into our mail downstairs. Sometimes the  
2 mail lady -- you know, I don't get there in time. So  
3 there was, you know, there's no like rigid.

4 Q. Would you take a look at PILB 154.

5 A. Yes. Okay.

6 Q. And you may want to look at 155, too, so that  
7 you have a point of reference.

8 A. Okay.

9 Q. So on April 12th, Board counsel communicated to  
10 ESI Security counsel that the Private Investigator's  
11 Board didn't receive the \$15,000.

12 A. Okay.

13 Q. And then, on page 154, the attorney says,  
14 "Okay, Mr. Hendi says payment is on its way."

15 A. Okay.

16 Q. Do you see that?

17 A. Yeah.

18 Q. And then Board counsel followed with a  
19 question, "What does 'on its way' mean? Please call me  
20 to discuss the reason for the breach. My client needs  
21 to understand what happened." Do you see that?

22 A. Oh, up above it. Yes.

23 Q. Right.

24 A. Yeah.

25 Q. And then, and then the communication after

1 that, it says "Sorry for the delay"; but you can ignore  
2 that. That has to do with the counselors. "You should  
3 have received the payment yesterday." And this, on the  
4 next page, you'll see it's dated April 14th. So it's  
5 saying you should have received it on the 13th.

6 A. Where is -- okay. On where, on this fax?

7 Q. And then he says --

8 A. Or I mean on this? Okay.

9 Q. Well, it says "yesterday"; but it's dated, this  
10 email communication is dated April 14. So that would  
11 mean that we would have received it, the PILB should  
12 have received it on the 13th.

13 A. Okay.

14 Q. Then it says "Hendi told me that he calculated  
15 30 days from the day he received the agreement, rather  
16 than when the agreement was actually signed by the  
17 Board."

18 A. Where does it say that?

19 Q. Right after "yesterday."

20 A. Oh, after, he was, yeah, he was out of town.  
21 Okay.

22 Q. Well, he was the attorney who was out of town.

23 A. Right.

24 Q. So. So I'm confused. Is this communication  
25 error, because it says that he calculated the day, and

1 you're saying that you just automatically sent them in  
2 the middle of the month?

3 MR. CAMPBELL: Objection.

4 BY MS. PALMER:

5 Q. Until the middle of the month?

6 MR. CAMPBELL: That misstates her testimony,  
7 counsel. She says she did that on the monthly payments  
8 starting in the month of May. Her testimony was that  
9 Mr. Hendi specifically told her to cut this check, that  
10 it was time to do that.

11 THE WITNESS: And I didn't have this, this  
12 email. So I don't know what --

13 BY MS. PALMER:

14 Q. I understand that. I understand that.  
15 Nobody's passing blame on you.

16 A. Okay.

17 Q. I'm just trying to understand the course of  
18 events.

19 A. Okay. So you're talking, all of what you're  
20 asking about is the \$15,000 payment?

21 Q. Well, I'm asking about this communication, so  
22 on the 15,000, yes, we're asking, "What does 'on its  
23 way' mean?" And it says "that he calculated 30 days  
24 from the day he received the agreement, rather than when  
25 the agreement was actually signed."

1 A. Okay.

2 Q. So this is suggesting that Mr. Hendi had  
3 something to do with the timing of this payment.

4 MR. CAMPBELL: Objection. I think, that calls  
5 for speculation to, in fact, my evidence.

6 MS. PALMER: That's what we're trying to get  
7 at, Mr. Campbell. I'm trying to understand the facts.

8 MR. CAMPBELL: Well, I don't think this witness  
9 should be expected, what Mr. Hendi's suggested language  
10 is in this email that this witness has never even seen.

11 MS. PALMER: I'm asking her if Mr. Hendi  
12 communicated to you.

13 BY MS. PALMER:

14 Q. I think, you said that he did, he said it's  
15 time --

16 A. To make the payment.

17 Q. -- to write this check?

18 A. To make the payment.

19 Q. Do you know --

20 A. The big payment.

21 MS. BRADLEY: Well, there was an objection on  
22 the floor. And the objection hasn't been ruled on yet  
23 by the Chair. So.

24 MR. CAMPBELL: I think, she rephrased the  
25 question.

1 MS. BRADLEY: Okay. So, then, we withdraw the  
2 objection. Okay. I just want to make sure we have them  
3 all answered, if we can, on the record, because that is  
4 here for the judge, whether or not there is a judge  
5 looking at it.

6 MS. PALMER: Right. And I apologize, counsel.

7 BY MS. PALMER:

8 Q. So did Mr. Hendi communicate with you to --  
9 that it was time to write this check?

10 A. He said it's time to make the big payment. It  
11 would be the 15,000.

12 Q. Do you recall when he told you to do that?

13 A. I do not recall, no.

14 Q. Would it have been on, would he have told you  
15 on Sunday, April the 10th?

16 A. Only if I was in the office and he came in for  
17 something. But I honestly don't recall the day.

18 Q. Well, did it precede April the 10th?

19 A. Well, he had to have told me some time prior so  
20 I could do the check.

21 Q. So he didn't tell you on April 11th or  
22 April 12th?

23 A. I don't believe so, no.

24 Q. And, I think, you testified to this, but I may  
25 not have asked this question. Is there anybody else

1 doing any of the accounting work for ESI Security, or do  
2 you do all of that?

3 A. I do all of the office. We do have a CPA that  
4 things go to at the end of the year. But I do all the  
5 checks and payrolls.

6 Q. And, but you're an employee of Events Services?

7 A. Yeah. I also do it for Hope Holdings,  
8 personal, and Shred-it.

9 Q. And is all of your -- your wages are paid out  
10 of Events Services?

11 A. Correct.

12 Q. Do you account for the time that you spend on  
13 ESI Security?

14 A. No, I just do it. I just do what needs to be  
15 done. Are you asking if -- are you asking, like you as  
16 a lawyer, you track your time for what you're working  
17 on? Is that what you're asking?

18 Q. Right. What I'm asking is --

19 A. No.

20 Q. -- is do you keep track of your time separate  
21 from the different companies?

22 A. No.

23 Q. When you're working on one company versus  
24 another company?

25 A. No.

1 Q. Or do you -- is all of your payroll and your --  
2 just accounted for out of Events Services?

3 A. Yeah, I -- if somebody come in, and it has to  
4 do with one of the other companies, I deal with it. So  
5 I don't have any slot time. And, yes, I do have a PILB.

6 Q. Okay. Do you have -- do you have a work card,  
7 are you registered, a registered work card with the  
8 Private Investigator's Licensing Board?

9 A. Yes.

10 Q. And when did you obtain that work card?

11 A. Just recently.

12 Q. And what, can you be more specific?

13 A. Well, I just got it in the mail yesterday.

14 Q. So you've been processing the checks for ESI  
15 Security for three years, doing the accounting work for  
16 three years, and you just got a work card yesterday?

17 A. Yes. I'm not -- I don't do security. I'm not  
18 an employee of ESI or Hope. I am an employee of Events  
19 Services.

20 Q. But you do the clerical work for ESI Security,  
21 correct?

22 A. I do the payroll and the accounting, yes.

23 Q. And that would come under the classification of  
24 clerical, correct?

25 A. And I do the accounting and payroll for ESI and

1 for Shred-it, and I do his personal. So any of his  
2 companies.

3 Q. So if you're an employee --

4 A. Also, cleaning the toilets.

5 Q. Oh, go ahead.

6 A. I could also clean the toilet.

7 Q. Janitorial services?

8 A. Yes.

9 Q. So if you're an employee of Events Services,  
10 why are you getting a work card for ESI Security?

11 A. Because Mr. Hendi requested that we all do that  
12 after our last meeting.

13 Q. Your last meeting?

14 A. With you guys.

15 Q. What meeting are you referring to?

16 A. Your last meeting about the HR, so we would be  
17 in compliance.

18 Q. The last meeting after December the 8th, is  
19 that the meeting you're referring to?

20 MR. CAMPBELL: The hearing, she's talking  
21 about.

22 THE WITNESS: Right. Was that December 8th?

23 MR. CAMPBELL: Yeah.

24 THE WITNESS: Yes. Yes. Yes.

25 ///

1 BY MS. PALMER:

2 Q. Do you have any idea how many employees got  
3 work cards after that meeting?

4 A. No.

5 Q. That's not part of your function, is keeping  
6 track of that?

7 A. No.

8 MS. PALMER: All right. Thank you. No further  
9 questions.

10 THE WITNESS: Thank you.

11

12 REDIRECT EXAMINATION

13 BY MR. CAMPBELL:

14 Q. I just have a couple questions, Ms. Kochel.

15 A. Yes.

16 Q. Did Rob Smith ever call you and say, hey,  
17 Kibbie, that April 5th payment's late, make sure you get  
18 on it right now?

19 A. No.

20 Q. Did Mr. Hendi ever tell you, hey, Rob Smith  
21 just told me that our April payment's late, make sure  
22 you process that today?

23 A. No.

24 Q. Okay. He just told you --

25 A. You need to make --

1 Q. -- it's time to make, time to make the big  
2 check payment?

3 A. Right.

4 MR. CAMPBELL: Okay. That's all I have.  
5 Thanks.

6 THE WITNESS: M-hm (affirmative).

7 MS. PALMER: Very, very quick, just two quick  
8 questions.

9

10 RE-CROSS-EXAMINATION

11 BY MS. PALMER:

12 Q. So are you still doing work for Shred-it?

13 A. No. Fortunately, it was sold.

14 Q. Okay. And do you do the payroll for Quick  
15 Prints?

16 A. There is no payroll for Quick Print. There's  
17 no payroll.

18 Q. So -- okay. There are people doing work for  
19 Quick Print, isn't there?

20 A. Not very often. But I would go down and do  
21 fingerprints. But there's no employee for Quick Print.

22 Q. Okay. So the employees that do the work for  
23 Quick Print come from which company?

24 A. It depends on who's doing it. There's only a  
25 few of us who have permission to go in there. So I'm

1 one. And Mr. Altheide goes and does -- he does a lot of  
2 prints. And Ms. Hegdahl did prints.

3 Q. So it's just the three of you, that you're  
4 aware of?

5 A. Yeah. And it wasn't very often, so. We would  
6 just do it as needed.

7 Q. Okay. And those people, are they all employed  
8 under Events Services?

9 A. No. No.

10 Q. Who are they employed by?

11 A. Well, Ms. Hegdahl is, and myself. And  
12 Mr. Altheide is with ESI.

13 Q. Security?

14 A. Yes.

15 MS. PALMER: Okay. Thank you.

16 THE WITNESS: M-hm (affirmative).

17 MR. CAMPBELL: Nothing further.

18 BOARD CHAIRMAN ZANE: Are there any Board  
19 members that have questions?

20 THE WITNESS: Am I done?

21 MS. BRADLEY: The Board might have questions.

22 THE WITNESS: Oh, of course.

23 BOARD MEMBER COLLINS: I just wanted to ask a  
24 question, if Ms. Kochel was paid salary, or are you an  
25 hourly worker?

1 THE WITNESS: Salary.

2 BOARD MEMBER COLLINS: Exempt or not exempt?

3 Excuse me?

4 THE WITNESS: Salary.

5 BOARD MEMBER COLLINS: Salary worker?

6 THE WITNESS: M-hm (affirmative).

7 BOARD MEMBER COLLINS: Thank you.

8 THE WITNESS: Is that all?

9 BOARD CHAIRMAN ZANE: Any other Board  
10 questions?

11 BOARD MEMBER COLBERT: No, no questions.

12 BOARD MEMBER NADEAU: Mine was asked and  
13 answered.

14 THE WITNESS: Where do I go now?

15 MR. CAMPBELL: You can go home.

16 THE WITNESS: Okay.

17 MS. BRADLEY: You can watch if you want.

18 THE WITNESS: Okay.

19 MR. CAMPBELL: Yeah, you can watch if you want.

20 I assume the witness is excused and can remain  
21 in the room if she wants to?

22 MS. PALMER: That's fine.

23 BOARD CHAIRMAN ZANE: Yes, sir.

24 MR. CAMPBELL: I'll call Mr. Hendi as my next  
25 witness.

1 MS. BRADLEY: I mean if the Board is fine, I  
2 think, you can stay there if you want to.

3 MR. CAMPBELL: Yeah.

4 BOARD CHAIRMAN ZANE: As long as we can hear.

5 MS. BRADLEY: Yeah. The microphone is closer  
6 to us. Maybe I should move it.

7

8 M A H M O U D H E N D I,  
9 having been duly sworn/affirmed by the Reporter,  
10 was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. CAMPBELL:

14 Q. Okay. Mr. Hendi, can you give me your current  
15 occupation?

16 A. I'm the CEO for ESI Security, Events Services,  
17 and Hope Holdings and Quick Print.

18 Q. Okay. You've sat through this, now the fourth  
19 day of this proceeding. So you know this part of the  
20 proceeding is regarding the complaint that was filed  
21 against you?

22 A. Yes.

23 Q. Some of the allegations in the complaint are  
24 about the timing of the payments that you made. Do you  
25 understand that?

1 A. Yes.

2 Q. Okay. And you were at the hearing on March 3rd  
3 of 2016, you heard the testimony, right?

4 A. Correct.

5 Q. And you reviewed that stipulation on March 3rd  
6 and signed it?

7 A. Yes.

8 Q. Okay. And what was your understanding as to  
9 what had to happen next in the sequence of events for  
10 the stipulation to move forward?

11 A. I understood, what we were told at that time,  
12 after I signed right there, that it would be taken back  
13 to Las Vegas for the Board to review, sign, execute  
14 their copy, and send it back to us.

15 Q. Okay. And so March 3rd you didn't view as any  
16 critical date when some kind of clock was running or  
17 anything?

18 A. No.

19 Q. Okay. And then, what were the understanding of  
20 the different payments you had to make pursuant to the  
21 stipulation?

22 A. It certainly was confusing, because there's  
23 several languages that we have to go by. The first one  
24 was 30 days from the effective day.

25 Q. Would you like to look at the stipulation?

1 A. Sure.

2 Q. Would that help you?

3 I'm showing the witness Exhibit C-3, starting  
4 at page 88.

5 So, I think, paragraph four, it looks like,  
6 that starts the payments, right, starts talking about  
7 payments, right?

8 A. Correct.

9 Q. Okay. So what was your understanding of when  
10 you had to make the very first payment under the  
11 stipulation?

12 A. We had to make sure that we make the first  
13 payment within 30 days of when we received the actual  
14 document.

15 Q. Okay. When you say when you received the  
16 actual document, what was your belief that you -- when  
17 you received the actual document, that's when the 30  
18 days start?

19 A. Correct.

20 Q. Okay.

21 A. That's exactly. Because as several people  
22 testified, there's some changes that actually went into  
23 it, even on the 3rd. So, you know, there could have  
24 been some changes that we had to deal with till we  
25 received it and looked at it.

1 Q. Okay. So when did you make the very first  
2 payment due under the agreement, the stipulation?

3 A. I think, around March 17th.

4 Q. You and Ms. Kochel?

5 A. Correct.

6 Q. Okay. And in looking at these payment  
7 provisions in the stipulation, is that, was that under  
8 paragraph eight?

9 A. Yes.

10 Q. Okay. And that payment, and that provision  
11 says that you have to pay within 30 days from the date  
12 of the order approving the agreement, right?

13 A. Correct.

14 Q. So did you understand, on that one, the clock  
15 actually started, not when you received it, but from the  
16 date of the order?

17 A. From that part, yes.

18 Q. Okay. And did you make that payment within 30  
19 days from the date of the order?

20 A. Yes.

21 Q. And that's March 17th?

22 A. Right.

23 Q. Okay. And then what was your understanding as  
24 to when your next payment was going to be made?

25 A. Due on paper within 30 days from the effective

1 date of the PILB order approving this agreement.

2 Q. Okay. And that's different than paragraph  
3 eight, right?

4 A. Yes, because it's the order versus effective  
5 date.

6 Q. Okay. And is that where your belief about that  
7 when you received it is when your 30 days started?

8 A. Yes.

9 Q. Okay. Do you know when you actually received  
10 the order?

11 A. I know it's after the 11th.

12 Q. Okay. The 11th was a Friday, I believe,  
13 subject to check?

14 A. Correct.

15 Q. And did you get it on the 12th, do you know,  
16 the next day?

17 A. Possibly, yes.

18 Q. But it could have been --

19 A. It could have been Monday.

20 Q. Okay. Do you usually work on the weekend?

21 A. In the field but not in the office.

22 Q. Okay. So your normal course of operation is  
23 that you're in the office Monday through Friday, but out  
24 in the field working events during the weekend?

25 A. Correct.

1 Q. Okay. But you don't know for sure whether you  
2 got it on Saturday or Monday?

3 A. Correct. Our office is closed on Saturday. So  
4 there won't be any deliveries to our office on Saturday.

5 Q. No mail?

6 A. No mail.

7 Q. Okay. So Monday would be the -- Monday  
8 following the 11th would be the first day that your  
9 office received any mail?

10 A. Correct.

11 Q. Okay. And then the next payment provision was,  
12 I think, was under -- the monthly payment, what was your  
13 understanding of when a monthly payment was going to be  
14 due?

15 A. Every month, 60 days from what we paid first.

16 Q. So was it 60 days from the effective date; is  
17 that what the stipulation requires?

18 A. Yes.

19 Q. Okay. Did the stipulation say that it was  
20 going to be due on the 60th day; did you interpret it  
21 that?

22 A. No, the 60 days of the time, and it could be  
23 more.

24 Q. Okay. So your understanding was that it was  
25 going to be, it had to be made every month, but not on a

1 date certain?

2 A. Correct.

3 Q. And is that when you instructed Ms. Kochel to  
4 process the checks?

5 A. Yes.

6 Q. Okay. And do you know that she made those  
7 payments, it would have been starting in May, June,  
8 July?

9 A. Yes. I signed all of them.

10 Q. Okay. Now, let's go back to that, the April  
11 payment that we were just talking about. You've heard  
12 that and seen exhibits where there was an email string  
13 between Mr. Smith and Ms. Palmer?

14 A. Yes.

15 Q. Okay. And it looks like that first one was  
16 sent sometime in, you know, April 10th or somewhere  
17 around there, April 12th. Exhibit Number 6, I think, is  
18 the exhibit number.

19 A. It's this one (pointing).

20 Q. So if you look at page 153 of Exhibit C-6. Go  
21 back one page. So this page, this is from Rob Smith --  
22 to Rob Smith from Ms. Palmer. So, I think, we have to  
23 go back to page 154. So that was, that first email was  
24 sent on April 12th, right?

25 A. Correct.

1 Q. Okay. So did Mr. Smith call you on April 12th?

2 A. Yes. He told me, "The PILB thinks that your  
3 payment's late."

4 Q. And you didn't believe that?

5 A. No, because we were not late.

6 Q. Your belief was that it was due 30 days from  
7 the date you got the order?

8 A. Correct.

9 Q. Okay. And by the time that you had received  
10 that telephone call from Mr. Smith, it would have been  
11 after this April 12th email, right?

12 A. Correct.

13 Q. Okay. You'd already, you'd already told Kibbie  
14 to cut the check?

15 A. Yes.

16 Q. Okay. So Mr. Smith's call to you or  
17 Ms. Palmer's email had nothing to do with your decision  
18 to cut the chick, you had already decided that it was  
19 nearing the time you interpreted that the check needed  
20 to be cut?

21 A. Yes. It was done on the 10th.

22 Q. And then you heard she actually mailed it out  
23 on the 12th?

24 A. Correct.

25 Q. And if you'd look at the top of page 154, when

1 it says "Hendi told me that he calculated 30 days from  
2 the date he received the agreement, rather than the  
3 agreement was actually signed by the Board," is that  
4 consistent with your calculation, then, meaning when you  
5 got the stipulation and the order, that's when you  
6 thought the 30 days started?

7 A. Yes.

8 Q. And that's what you told Mr. Smith?

9 A. Yes.

10 Q. Okay. And did Mr. Smith ever follow up, back  
11 up with you, and say, no, no, no, no, the Board's saying  
12 something different, it has to be due on the 9th, it was  
13 due on April 9th, it's going to be due on May 9th, the  
14 next one's going to be due on June 9th?

15 A. No.

16 Q. Did anybody from the PILB ever contact you and  
17 says, oh, Mr. Hendi, your April payment was late, and if  
18 you're late again, we're going to go after you and try  
19 to revoke your license?

20 A. No.

21 Q. Now, you had a meeting with Mr. Ingram, April  
22 26th, I believe?

23 A. Yes.

24 Q. Okay. And what was your understanding of what  
25 that meeting was for?

1           A.    It was part of the stipulation agreement and  
2 that Mr. Ingram would come to our office and kind of  
3 help us be on the same page and, you know, give us that  
4 clean slate to go forward.

5           Q.    Okay.  And so there were -- you heard  
6 Mr. Ingram's testimony, there were two actual meetings.  
7 One kind of was an all-hands meeting?

8           A.    Correct.

9           Q.    And what did he do at that meeting?

10          A.    He went through a Power Point presentation, who  
11 requires a work card and how to go about doing it.

12          Q.    Okay.  And then the subsequent meeting was a  
13 smaller meeting?

14          A.    Correct.

15          Q.    And who was at that meeting?

16          A.    Myself, Ms. Hegdahl and Mr. Ingram.

17          Q.    Okay.  And did Mr. Ingram know that you and  
18 Ms. Hegdahl were working together to make sure that the  
19 stipulation, the provisions of the stipulation were  
20 complied with?

21          A.    Yes.

22          Q.    And did you discuss that in the meeting with  
23 the three of you?

24          A.    We did not discuss payments or any -- anything  
25 else that regarding to payments.  But we discussed

1 employment and work cards and stuff like that.

2 Q. But you were discussing about implementing the  
3 stipulation, right?

4 A. Absolutely.

5 Q. Okay. And there were absolutely, there's  
6 absolutely no mention that, hey, Mike, by the way, your  
7 April payment was late, don't do it again, make sure  
8 your May payment's going to be on the 9th?

9 A. No.

10 Q. No, no statement whatsoever that, hey, the  
11 April payment was late, we're going to revoke your -- we  
12 consider it as a grounds for revocation of the  
13 stipulation?

14 A. Not a word.

15 Q. Okay. When was the next time you talked to  
16 Mr. Ingram about any, any aspects of the stipulation?

17 A. Well, I sent him an email in June.

18 Q. Let's look at it. We've got an exhibit that  
19 you're talking about here.

20 Q. I'm handing the witness Exhibit C-Q.

21 Okay. Why were you reaching out to Mr. Ingram  
22 there on June, what is it, 24th of 2016?

23 A. Yes. In our smaller meeting, with Ms. Hegdahl  
24 and Mr. Ingram and myself, we spoke about how the --  
25 going forward, the PILB and Executive Director's office

1 would be more helpful, that they're going to help us  
2 make sure that we make the right decisions, that they  
3 would help us, you know, navigate through some of the  
4 stuff that we're not sure about. So Mr. Woodruff came  
5 and actually checked some of our sites and checked the  
6 work card of different -- of our staff.

7           So in my email, I was kind of like reaching out  
8 to find out, because we haven't heard anything, is to  
9 find out if -- to make sure we're on the same page, if  
10 there is anything whatsoever, to bring it up to our  
11 attention what we need to do, how we need to correct it,  
12 so we can move forward.

13           Q. Okay. Did Mr. Ingram respond to that email?

14           A. Never.

15           Q. Okay. Let's go back to the April 26th meeting.  
16 If Mr. Ingram had told you, hey, Mike, by the way, your  
17 April 9th, your April payment wasn't made on time, make  
18 sure you make the next payments on time, what would you  
19 have done?

20           A. I would have probably cut a check for him right  
21 there and hand it over to him to take with him.

22           Q. Okay. You had no knowledge whatsoever that  
23 they considered, other than Mr. Smith's telephone call,  
24 that they considered the April payment late and that  
25 there was a date certain for the May, June, July

1 payments and then onward?

2 A. Nothing.

3 Q. And did you know that the checks were all  
4 cashed?

5 A. Yes.

6 Q. Right after they got them?

7 A. Yes.

8 Q. No notice that, hey, despite, we're going to  
9 cash these checks, but despite cashing the checks,  
10 you're still untimely?

11 A. No.

12 Q. Did Mr. Smith ever call you after that May, or  
13 excuse me, the April 14th, 13th time frame, and tell  
14 you, you know, Ms. Palmer's called me, or Mr. Ingram's  
15 called me and has said, you know, you're late, make sure  
16 you get the payments on time?

17 A. No.

18 Q. When was the very first time that you had  
19 notice that the PILB was considering your payments were  
20 late?

21 A. August 1st.

22 Q. And how did that come about?

23 A. A phone call from my counsel.

24 Q. Okay. Before that time, August 1st, no notice,  
25 right?

1 A. No.

2 Q. Okay. And then, what did you do then?

3 A. We paid the entire amount in full.

4 Q. Okay. Why did you pay the entire amount in  
5 full right then?

6 A. We really, I mean more than anything else, we  
7 wanted to be in compliance. The whole issue behind  
8 going all through this trouble is we want to be in the  
9 best picture possible.

10 But the honest truth, we -- I feel like we are  
11 targeted. I feel we walk around with target on our  
12 backs every single time. I mean people from the  
13 Executive Director's office spoke to some of my clients.

14 Q. Well, wait a minute. Wait a minute. You're  
15 telling me that somebody in the PILB actually called  
16 your clients?

17 A. Yes.

18 Q. And what did they tell them?

19 MS. PALMER: Objection.

20 THE WITNESS: Very negative. Very negative.

21 MS. PALMER: Objection. Hearsay. There's no  
22 foundation for that.

23 MR. CAMPBELL: Well, he's --

24 MS. BRADLEY: Well, hearsay is admissible --

25 MR. CAMPBELL: Yeah.

1 MS. BRADLEY: -- in an administrative hearing.  
2 It just can't be the sole determiner that a violation  
3 occurred. So I mean I would say that that objection  
4 should be overruled, unless there's more foundation  
5 issues.

6 MS. PALMER: All right. I'll also object on  
7 the basis of relevance.

8 MS. BRADLEY: Okay. So relevancy would be if  
9 it's related to the allegations contained in the  
10 complaint. And then, I think, you also said something  
11 about foundation. I don't know if that's still an  
12 objection.

13 Do you have a response to the relevance and the  
14 foundation?

15 MR. CAMPBELL: Well, counsel's vehemently  
16 argued and tried to elicit through testimony that  
17 Mr. Hendi made the August 1st payment, because that's  
18 the only time he ever made payments was when he was  
19 actually pressured to do so, or that when, you know, the  
20 sky was falling and he had to do it.

21 He's testifying now as to why he made the  
22 payment, what was his mind-set, what was happening  
23 behind the scenes, that he wanted to make sure that he  
24 was compliant with this first notice that he had ever  
25 received that the payments were late.

1           So, I think, it's relevant. And, you know,  
2 even though it may be hearsay, it's admissible. I don't  
3 think it's hearsay, because it's not offered to prove  
4 the truth of the matter asserted.

5           MS. BRADLEY: That's true.

6           MS. PALMER: So I would ask counsel to lay some  
7 more foundation about where we're going to hear about a  
8 phone call where the Private Investigator's Board spoke  
9 with other -- spoke with clients of his. And how would  
10 this relate to the payment? Before this testimony comes  
11 out, I want to understand how he's going to --

12           MR. CAMPBELL: Mr. Hendi -- you had made  
13 allegations that he only made the payments when forced  
14 to do so. Mr. Hendi's explaining why he made the  
15 payment on August 1st, what was in his mind at to why he  
16 was making the payment, and some of that payment was the  
17 pressure he was feeling from the PILB and why they had  
18 waited so long to file this complaint.

19           MS. BRADLEY: So, Mr. Chair, I think, it's to  
20 you to rule on the objection. Which, I think, I mean, I  
21 think, you're looking at the foundation and possibly the  
22 relevance.

23           I think, the hearsay objection, I would advise,  
24 should be overruled. Because hearsay is admissible.  
25 And I also agree with Mr. Campbell, it's not being

1 offered to prove the truth. It's being offered to  
2 prove, you know, what his thoughts were, what he knew,  
3 because that's how he asked him.

4 BOARD CHAIRMAN ZANE: The objection's overruled  
5 on all grounds.

6 THE WITNESS: Yes, somebody spoke, from the  
7 Executive Director's office, spoke with some of my  
8 clients. They actually told them we're going to take  
9 his license away. We lost several contracts, millions  
10 of dollars of contracts, because of it.

11 We -- actually, they even, they approached some  
12 of our staff, and they were telling them you need to go  
13 find another job. We lost several people in our staff,  
14 two key positions, that we had, that we lost. Because,  
15 you know, they have their families, they worried about  
16 what's going to happen.

17 And that's the bigger issue for us. We never  
18 heard that we were late, till August 1st. I mean from  
19 the first payment. Or if kind of like reject my check  
20 and say, hey, you're late, it was something that would  
21 have to be done.

22 But we never heard about it. And now you want  
23 to take my license away, you want to take my livelihood  
24 away? Because even, no matter what, they're just  
25 talking about one day that we're late. And it's not

1 even correct. It's not even correct.

2 BY MR. CAMPBELL:

3 Q. So let me just get this straight, though. Your  
4 clients reached out to you and said, hey, someone from  
5 the PILB Board contacted us and said they were going to  
6 put you out of business?

7 A. Yes.

8 Q. And you lost millions of dollars of revenue as  
9 a result of that?

10 A. Absolutely.

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

12 BOARD CHAIRMAN ZANE: Ms. Palmer.

13

14

CROSS-EXAMINATION

15 BY MS. PALMER:

16 Q. Mr. Hendi, who was the client who told you that  
17 the Private Investigator's Licensing Board spoke with  
18 them?

19 A. University of Nevada, Reno. Carson-Tahoe  
20 Hospital. And several other special events.

21 Q. I'm sorry, what, several?

22 A. Other special events.

23 Q. Is that a client?

24 A. Special events as Night in the Country.

25 Special events like the Lucas cross-country racing.

1 That's what I meant.

2 Q. Are these people at a special event you're  
3 talking about?

4 A. These are the name of the special events.

5 Q. Okay. But the special event didn't communicate  
6 to you. So that's what I'm asking you. Who is it who  
7 was telling you this?

8 A. The promoters.

9 Q. So tell us about the circumstances that these  
10 individuals talked to you. They just, did they just  
11 come up to you and say we have something to tell you;  
12 how did these communications come about?

13 A. They were discussing it in meetings, and people  
14 from those meetings shared it with me.

15 Q. So who's "they"?

16 A. I can't recall some of the names off the top of  
17 my head at this time.

18 Q. So I'm confused. Because you said your clients  
19 told you. Now you're saying that people at events told  
20 you and that they discussed it in their meetings. So  
21 this is very confusing. I don't understand what's  
22 happening.

23 A. You're definitely confused, because I'm trying  
24 to make sure they understand. There is entities, and  
25 there is special events. Each special event is

1 independent of itself. And they have different  
2 promoters for those events. And that's what I'm  
3 referring to.

4 Q. So you're saying the promoters at those events  
5 had these conversations with you?

6 A. Yes.

7 Q. And the promoters of the events said that the  
8 Private Investigator's Board had contacted them?

9 A. Somebody from the Executive Director's office  
10 contacted them.

11 Q. And did they say when?

12 A. I didn't ask.

13 Q. And who -- did the promoter that you were  
14 talking to tell you that they had a conversation with  
15 someone from the Private Investigator's office?

16 A. Yes.

17 Q. But they didn't tell you who it was that they  
18 spoke to?

19 A. Did not ask.

20 Q. You didn't ask?

21 A. No.

22 Q. So you have a concern that somebody in the  
23 Private Investigator's office is speaking about your  
24 business to your clients, and you didn't want to find  
25 out who it was that had that conversation?

1           A.    The issue is the trust.  And I didn't have a  
2 trust in the Executive Director.  So I won't have a  
3 trust in the rest of his staff.

4           Q.    Well, that wasn't the question.  Wouldn't you  
5 want to know who it was that was talking to your  
6 clients?

7           A.    It wouldn't have mattered.

8           Q.    It didn't matter, is that what you said?

9           A.    It did not matter to me who, because I knew  
10 what, the office that was coming from.  I know some of  
11 the special event --

12          Q.    And how do you know that?

13          A.    -- is Mr. Woodruff is the one that actually  
14 spoke to him.

15          Q.    Mr. Woodruff?  What special event was that?

16          A.    The one off the top of my head is Lucas Oil  
17 off-road racing.

18          Q.    And when was that?

19          A.    I want to say August.

20          Q.    2016?

21          A.    Yes.

22          Q.    And did you have that conversation with him at  
23 the event?

24          A.    Yes.

25          Q.    So how did that conversation come about?

1           A. Mr. Woodruff was at the special event the  
2 entire day. He asked for backstage passes. And I was  
3 told about it, asking me why would he require passes for  
4 backstage. And that's how the conversation started.  
5 And after the event, on the move-out, he shared with me  
6 what the conversation he had.

7           Q. A subsequent conversation after he had gotten  
8 the passes for backstage?

9           A. On the second day of move-out. So by that  
10 time, he would have had the passes.

11          Q. And so who was it that you were talking to that  
12 told you this?

13          A. I can't remember his name off the top of my  
14 head.

15          Q. So. Okay. You said that he came to you, this  
16 person that you can't remember, and said Jason Woodruff  
17 is asking --

18          A. Well, correction. I do remember who he is. I  
19 just could not remember his name off the top of my head  
20 now.

21          Q. So do you recollect who he is now, or are you  
22 just saying if you saw him you'd know who he was?

23          A. No, ma'am. I'm saying that I know who the  
24 person is, I just can't recall his name.

25          Q. Do you recall what position he held with the

1 promoter?

2 A. He's the director of security.

3 Q. Director of security for the Lucas Oil  
4 off-road --

5 A. Correct.

6 Q. -- special event? And so what was your  
7 function, your company's function at that event?

8 A. Providing security, ushers, ticket takers,  
9 parking.

10 Q. So who was he directing?

11 A. The actual special event.

12 Q. Your staff?

13 A. We worked closely with him. He represent Lucas  
14 Oil, and we worked directly for Lucas Oil. That's who  
15 hired us.

16 Q. So, and he's the director of security, is that  
17 what you said?

18 A. That's his position that presented to us.

19 Q. Well, does he have his own security staff  
20 that's he's directing, or is he directing ESI Security?

21 A. I'm not sure if he has his own.

22 Q. Does he have a work card?

23 A. Not sure. That would be Mr. Woodruff's --

24 Q. Well, he would need a card, right?

25 A. That would be Mr. Woodruff's job, not mine.

1 Q. Well, who is he the director of security for?

2 MR. CAMPBELL: Asked and answered, counsel. He  
3 said Lucas Oil several times now.

4 MS. PALMER: All right. I apologize. I'm not  
5 understanding the way things work. That's my confusion.  
6 And my client has just set me straight on that.

7 BY MR. PALMER:

8 Q. So this director of security told you -- came  
9 to you and asked you why Jason Woodruff, investigator  
10 for Private Investigator's, would be asking for a  
11 backstage pass?

12 A. Correct.

13 Q. And you told him what?

14 A. Not sure.

15 Q. So does it stand to reason that, apparently, he  
16 went back and asked Jason why he needed a pass?

17 A. I'm not sure. I wasn't there.

18 Q. But. All right. We will look into these  
19 conversations, my client's advised me. But I don't see  
20 the relevance to this particular proceeding. It sounds  
21 like they were doing an investigation. They asked for  
22 backstage passes. And the conversation came from your  
23 person inquiring why they wanted to do that.

24 MR. CAMPBELL: Is that a question or testimony,  
25 counsel?

1 MS. PALMER: Well, I -- I'm actually laying  
2 my -- renewing my objection. I don't understand what  
3 the relevance of the testimony is.

4 MR. CAMPBELL: Well, you've already lost that.  
5 So let's move on.

6 BY MS. PALMER:

7 Q. Mr. Hendi, did you sign the agreement in  
8 Exhibit 3, which begins on page 78 -- this is C-3 -- and  
9 goes through Exhibit PILB page 94?

10 A. Did you mean 93, counsel?

11 Q. Well, the exhibit is -- also includes page 94,  
12 but. But you signed it on page 93?

13 A. Yes.

14 Q. And is that the date that you signed it, on  
15 March 3rd, 2016?

16 A. Yes.

17 Q. Did you have an opportunity to read the  
18 agreement, the stipulation, before you signed it?

19 A. No.

20 Q. You didn't read the agreement?

21 A. I read, before the actual hearing, I read that  
22 agreement, but not after the changes made during then.

23 Q. I don't understand. You signed it when?

24 A. After the hearing, on the 3rd.

25 Q. You signed it after the hearing?

1 A. Correct.

2 Q. So are you representing that you believe  
3 changes were made to the agreement after you signed it?

4 A. No.

5 MR. CAMPBELL: That's not what he testified to,  
6 counsel. He said he reviewed one prior to the hearing,  
7 and then he didn't review the one where he thought  
8 changes were made during the hearing.

9 BY MS. PALMER:

10 Q. Are you referring to the change that had to do  
11 with the indemnification clause?

12 A. I don't recall exactly.

13 Q. So you signed the agreement, the final  
14 agreement, but you don't think you read the final  
15 agreement?

16 A. Not with the changes that were made during the  
17 hearing. I had to sign it immediately. We went  
18 downstairs and signed it immediately right there. So,  
19 no, I did not read it then.

20 Q. You were present for that hearing on March the  
21 3rd, which is referenced in the transcript -- well, the  
22 transcript is behind C-4, and the pages go from PILB 96  
23 through 146 -- were you not?

24 A. Yes.

25 Q. So were you present when -- were you present

1 for the whole hearing?

2 A. Yes.

3 Q. So if you turn to page 120 of Exhibit C-4.

4 And, Mr. Hendi, actually, if I could direct you back one  
5 page, 119. And do you see on line 14 where your  
6 counsel, your former counsel, is saying that you can  
7 read the indemnification because it's going to be part  
8 of the argument?

9 A. Yes.

10 Q. And then do you see -- and if you need time to  
11 read this, just let me know. Do you see a discussion  
12 about the indemnification clause that was contained in  
13 the agreement?

14 A. Yes.

15 Q. And do you see the continuation on page 20, and  
16 your counsel starts talking about the concern with the  
17 indemnification clause?

18 A. Yes.

19 Q. And he continues on page 121. And it extends  
20 through to 125. I'm not going to ask you questions  
21 specifically about what he's asking. I just want you to  
22 see. Are you aware that that discussion was taking  
23 place?

24 A. Yes.

25 Q. And did you understand that going into that

1 meeting, that everything had been finalized, with the  
2 exception of that indemnification clause and whether it  
3 was going to be included?

4 A. I don't recall that. I thought the entire  
5 agreement was up for discussion.

6 Q. Well, do you have any reason to dispute that  
7 there were no other changes made to the agreement, other  
8 than the one pertaining to the indemnification clause,  
9 which was still in dispute at the time we went into the  
10 hearing?

11 A. As I testified earlier, I don't recall exact  
12 changes, so I'm not sure if that's the only change.

13 Q. Mr. Hendi, you're a businessman, right?

14 A. Correct.

15 Q. So do you understand that when you sign an  
16 agreement, that you're accountable for the agreement and  
17 that your failure to review the agreement could  
18 constitute a problem for you?

19 A. I understand.

20 Q. Did you have an opportunity to discuss the  
21 agreement with your counselor?

22 A. Prior to hearing, yes.

23 Q. Did you have any questions about the agreement  
24 that he answered for you?

25 A. Sure.

1 Q. What kinds of things did you have questions  
2 about?

3 MR. CAMPBELL: Objection. That gets into the  
4 attorney-client privilege.

5 MS. PALMER: Which you have waived by bringing  
6 his counsel forward and making it --

7 MR. CAMPBELL: No.

8 MS. PALMER: -- a part of this dispute.

9 MR. CAMPBELL: We were very careful to not to  
10 include any conversations between his counsel and  
11 Mr. Hendi as part of the examination. We haven't waived  
12 anything. All we have done is testified about the  
13 ambiguities in the agreement.

14 MS. PALMER: That's absolutely not true.  
15 You've questioned about the conversations that with the  
16 email communication and whether your counsel informed  
17 you of that. You've talked about whether or not he was  
18 aware of the provision where there would be discussions  
19 between counsel for clarification. You've opened up the  
20 doors on all of that.

21 MR. CAMPBELL: I don't think I've opened up the  
22 door on the intimate discussions with counsel and during  
23 the negotiations of this agreement.

24 MS. BRADLEY: I mean are you referring to the  
25 exhibit that we talked about a lot, the email exchange

1 between you and Mr. Smith?

2 MS. PALMER: I'm referring to the entire  
3 agreement. There were things that are in dispute. The  
4 timing of payment. Whether a particular provision  
5 includes facts before, before the stipulation was  
6 signed. What the effective date of the order means.  
7 All of those things. Those are all things that I have a  
8 right to ask Mr. Hendi whether or not he discussed with  
9 his counsel. Because they're claiming ignorance.

10 MR. CAMPBELL: No, you --

11 MS. PALMER: So I have a right to know the  
12 extent of his knowledge.

13 MR. CAMPBELL: You can ask general questions,  
14 but you were delving into what the specifics of those  
15 conversations, in my understanding of your question,  
16 counsel.

17 MS. PALMER: That's correct, I want to know  
18 what he understood, what his counsel explained to him  
19 about the agreement. He's saying now he didn't even  
20 read the final agreement.

21 MS. BRADLEY: Okay. So, Mr. Chair, there's an  
22 objection to Ms. Palmer's questions, which I heard to  
23 be, and I might be misstating it wrong, wanting to know  
24 what he asked his attorney about, Mr. Smith, regarding  
25 the agreement, like what provisions Mr. Smith may have

1 explained to him. And then Mr. Campbell's objecting on  
2 the grounds of attorney-client privilege.

3 I'd say it's a very unique situation where we  
4 had a former attorney be a witness. And, you know,  
5 normally, I would want a whole attorney-client  
6 privilege, to kind of leave it alone and keep it sacred.

7 So, I think, it's up to you to determine how  
8 much of that has been waived based on the exhibits and  
9 testimony. But.

10 MR. CAMPBELL: Yeah, I don't think Mr. Smith  
11 ever waived the privilege.

12 MS. BRADLEY: Only Mr. Hendi can waive. Only  
13 Mr. Hendi can waive it.

14 MR. CAMPBELL: But I don't think we ever asked  
15 Mr. Smith questions pertaining to their specific  
16 conversations.

17 MS. BRADLEY: No, I don't --

18 MS. CAMPBELL: And if she wants to find out  
19 what Mr. Hendi's mind-set with regard to the  
20 interpretation of the agreement, she can ask him that.

21 MS. BRADLEY: Yeah.

22 MR. CAMPBELL: Without getting into the  
23 attorney-client privilege. What does it matter what he  
24 asked Mr. Smith? It's his mind-set as to coming out of  
25 the agreement at the end of the day.

1 MS. PALMER: Well, because his mind-set is, I  
2 didn't know anything, I just signed on the dotted line.

3 MR. CAMPBELL: That's not what he said. He  
4 said he'd read the first agreement but he hadn't read  
5 the -- after the changes were made in the hearing.

6 MS. PALMER: And he's not even sure what  
7 changes were made. That's what he's testified to. Even  
8 though the hearing clearly talks about just the  
9 indemnification clause.

10 MR. CAMPBELL: Fine. We'll stipulate to that,  
11 counsel, that that's the only thing that was. Mr. Hendi  
12 doesn't remember. But if you represent that's the only  
13 thing that came out of the change hearing, that's fine  
14 with us. Everything else in the stipulation that he  
15 read was the same.

16 MS. PALMER: Well, and the Board was also  
17 present for that. So if they recall that, that's fine.

18 BY MS. PALMER:

19 Q. So I would like to understand what -- you said  
20 you read the agreement beforehand.

21 MS. BRADLEY: Wait. Well, wait. We had an  
22 objection on the floor. Are you rephrasing your  
23 question, then, so that the objection will be withdrawn?

24 MS. PALMER: No.

25 MS. BRADLEY: Okay.

1 MS. PALMER: No.

2 MS. BRADLEY: I feel like we have to have a  
3 ruling on the objection, then, with regard to the  
4 attorney-client privilege. And I would just say,  
5 normally, I think, it's something that we want to be  
6 very careful with. But I also realize that you had the  
7 attorney be a witness, and we have some exhibits that  
8 contain communications, at least as regard --

9 BOARD CHAIRMAN ZANE: I think, I would like  
10 some guidance with regard to that.

11 MS. BRADLEY: I would, I personally would  
12 sustain the objection, I think, just because it's  
13 attorney-client privilege. And I can see that there was  
14 a partial waiver. I don't know that it was a full  
15 waiver. I never heard a full waiver.

16 And there are only communications in the  
17 exhibits between the attorneys and, you know, the two  
18 attorneys, maybe a comment of I'll talk to Mr. Hendi  
19 about that. But I mean it's the attorneys in the  
20 exhibits that are talking. I don't see anything from  
21 Mr. Smith and Mr. Hendi in the exhibits.

22 MS. PALMER: Well, I would like to, then,  
23 rather than get a blanket, no, you can't talk about any  
24 communications, there should be some consideration that  
25 certain communications are absolutely available to me.

1 Specifically where the counsel says "Mr. Hendi said,"  
2 and we've already had discussions about that, I have a  
3 right to ask Mr. Hendi what he told his counsel.

4 MR. CAMPBELL: I believe, I don't have an  
5 objection to those, but, I think, they're specifically  
6 to the conversation on or about April 14th or 13th when  
7 you sent the email.

8 MS. BRADLEY: Yeah.

9 MR. CAMPBELL: I don't think the other, there  
10 were any other conversations about what Mr. Hendi said.

11 MS. BRADLEY: Yeah. The first email was dated  
12 April 12th. So, I think -- and then it ends, I think,  
13 on the 19th, because it takes a few days. So, I think,  
14 communications regarding that --

15 MS. PALMER: Well, then, then I'll withdraw my  
16 question. And I would like a question-by-question  
17 ruling on whether or not that's something I can discuss.  
18 Because, I think, if the Chairman makes a ruling at this  
19 point in time, I may be precluded from asking questions  
20 where the attorney-client privilege has absolutely been  
21 waived.

22 MS. BRADLEY: Okay. So, Mr. Chair, I think, so  
23 the question that's on the table is, what did you ask  
24 Mr. Smith to explain to you in the agreement, like what  
25 provisions, I believe, is what was stated. And so --

1 MS. PALMER: And I withdrew the question.

2 MS. BRADLEY: Okay. So now we're going to  
3 start with new questions, and there'll be objections,  
4 and he'll rule each time. Okay.

5 BY MS. PALMER:

6 Q. Did you ask your counselor any questions about  
7 the timing of when payments would be due?

8 MR. CAMPBELL: Objection. Same objection.

9 MS. BRADLEY: I would --

10 MS. PALMER: Waived.

11 MR. CAMPBELL: Not waived. The only  
12 conversations were a result of the email.

13 MS. BRADLEY: Yeah. I would, I would say that  
14 the objection should be sustained. The questions that  
15 Ms. Palmer can ask regarding the questions of the timing  
16 would be as to the communication that where Mr. Smith  
17 said to Ms. Palmer, "This is what he told me." I mean,  
18 I think, there can be questions about what did Mr. Hendi  
19 tell Mr. Smith, because we have sort of hearsay in here  
20 about that, so Mr. Hendi can tell us what he said.

21 But, I think, blanketly -- and, I think, if you  
22 want to narrow your time frame, that question might be  
23 permissible. But, I think, a blanket question of timing  
24 would be too much.

25 ///

1 BY MS. PALMER:

2 Q. Well, did you have any questions for your  
3 counsel about when they were --

4 MS. BRADLEY: Okay. Well, there hasn't been a  
5 ruling by the Chair.

6 BOARD CHAIRMAN ZANE: Well, she just restated  
7 the question.

8 MS. BRADLEY: Well, she may be doing that. I  
9 guess, I just want to make sure we have rulings.

10 And so, Ms. Palmer, if you're going to  
11 rephrase, then, I think, you can say "Let me rephrase."  
12 And then Mr. Campbell can say "I'll withdraw that  
13 objection" maybe, if he likes the way you rephrase.  
14 That way, it's clear.

15 Because what I'm really trying to avoid, and I  
16 apologize if I'm not doing a great job, the objections  
17 with no ruling and conversation continuing, because, I  
18 think, when people read the transcript later, they're  
19 not going to know what was decided. And, I think,  
20 that's really important.

21 MS. PALMER: I understand, Ms. Bradley, and I  
22 agree with you. It's just that it's very frustrating,  
23 because he's been able to bring his counsel in here,  
24 talk about whatever he wanted, and now he wants to clam  
25 up and claim the attorney-client privilege, and I think

1 that he has waived that.

2 MR. CAMPBELL: Kind of like you did with  
3 Mr. Ingram? Ask your question, counsel, and we'll take  
4 it one by one.

5 BOARD MEMBER NADEAU: We could have it read.

6 MS. PALMER: I don't think we need to, because  
7 she's rephrasing it.

8 MS. PALMER: I don't remember what the question  
9 was, so we're going to do it one by one.

10 BY MS. PALMER:

11 Q. Okay. So the general question was, did you ask  
12 your counselor about the timing of payments?

13 A. I don't recall.

14 MS. BRADLEY: Well, wait, wait. There was an  
15 objection to that question.

16 MR. CAMPBELL: Yeah, that one definitely  
17 objected to.

18 MS. BRADLEY: And my advice to the Chair is to  
19 sustain that objection. Because, I think, saying "Did  
20 you ask your attorney any questions regarding the timing  
21 of the payment?" I don't think that's limited enough.

22 The part that would be waived, I would say, is  
23 the part during the time frame of the 12th to, I think,  
24 the 19th, somewhere in that time frame. When there's  
25 discussions with the two counsel, Mr. Smith says, "This

1 is what Mr. Hendi told me." I think, you can ask about  
2 that. There might have been a timing discussion then  
3 that you can ask about. But, blanketly, I don't think  
4 you can.

5 That would be my advice to the Chair.

6 BOARD CHAIRMAN ZANE: The objection is  
7 sustained.

8 BY MS. PALMER:

9 Q. Mr. Hendi, you testified that the language in  
10 the agreement was confusing to you as to when things  
11 were due?

12 A. Is that a question?

13 Q. Is that correct? Yes, that's a question.

14 A. Yes.

15 Q. Did you ask your counsel to clarify that  
16 language for you?

17 MR. CAMPBELL: Same objection.

18 MS. BRADLEY: I think, Ms. Palmer, if you were  
19 to change your time frame, that might be something that  
20 he can answer.

21 Again, I would tell the Chair, I think that  
22 should be a sustained objection, without a time frame.

23 BY MS. PALMER:

24 Q. The time frame was following the agreement.  
25 Following the agreement, after the agreement, he signs

1 the agreement, or before he signs the agreement, after  
2 the agreement was finalized, whether it was before he  
3 signed it or after he signed it, you had some confusion  
4 about what was required of you. That's what you've  
5 testified to. You were confused about the dates and the  
6 times.

7 So my question is, did you just allow that  
8 confusion to stand, or did you attempt to clarify the  
9 confusion that you knew you had?

10 MR. CAMPBELL: I think, she's already -- the  
11 Chairman's already ruled on that question, in so many  
12 words.

13 MS. BRADLEY: Yeah. I think --

14 MR. CAMPBELL: That's the same question.

15 MS. PALMER: I'm not asking the contents of the  
16 communication. I'm asking if he made any attempts to  
17 get that confusion clarified.

18 MS. BRADLEY: You're still objecting to whether  
19 or not there was an attempt, rather than content?

20 MR. CAMPBELL: Yes, because it's a  
21 communication.

22 MS. BRADLEY: Okay.

23 MS. PALMER: I'm not asking for the contents of  
24 the communication.

25 MR. CAMPBELL: If he answers the question --

1 MS. PALMER: I asked specifically about --

2 MR. CAMPBELL: If he answers the question that,  
3 yes, I talked to my counsel about communications  
4 regarding -- or talked to my counsel about issues  
5 related to the timing of the complaint, that's a  
6 communication.

7 MS. BRADLEY: Yeah. I think, it still has to  
8 be sustained. And, I think, there maybe is another way  
9 you can get it. But I just feel like my advice would be  
10 to sustain that objection again.

11 BOARD CHAIRMAN ZANE: Objection sustained.

12 BY MS. PALMER:

13 Q. Did you ever obtain clarification, from  
14 anybody, any source, the dictionary, somebody from your  
15 company, anybody, on your confusion about what the  
16 agreement meant?

17 A. I don't recall.

18 Q. Are you confused as you sit here today?

19 A. That's very insulting, Ms. Palmer.

20 Q. That's your answer. So I'm asking you the  
21 question. Whether you're insulted or not isn't my  
22 concern.

23 MR. CAMPBELL: And I'm going to --

24 BY MS. PALMER:

25 Q. Are you confused as you sit here today?

1 MR. CAMPBELL: I'm going to object.

2 MS. PALMER: That's a fair question.

3 MR. CAMPBELL: I think, it mischaracterizes his  
4 testimony. I think, his testimony earlier was that the  
5 agreement as to the timing provisions was confusing.  
6 Not that he was confused, but that the agreement itself  
7 was confusing.

8 THE WITNESS: Correct.

9 MS. PALMER: That's what we're talking about.  
10 We're talking about the agreement.

11 MR. CAMPBELL: You're asking him if he was  
12 confused. His testimony was --

13 MS. PALMER: About the agreement.

14 MR. CAMPBELL: -- the agreement was confusing.

15 MS. PALMER: I'm not asking him if he's  
16 confused in life. About the agreement and what the  
17 agreement means.

18 MS. BRADLEY: Okay. So the question was -- I  
19 think, I'm probably slightly rephrasing. But are you  
20 confused about the due dates or the timing of the  
21 payments as you sit here today? I mean is that your  
22 intent to ask, Ms. Palmer?

23 MS. PALMER: Yes.

24 MS. BRADLEY: You want to know if he's still  
25 confused about the timing of the payments?

1 MS. PALMER: Yes.

2 MS. BRADLEY: Okay. And then, Mr. Campbell, do  
3 you have an objection to that?

4 MR. CAMPBELL: No, she can ask that.

5 MS. BRADLEY: Okay. You can ask that question.

6 So, Mr. Hendi, her question is, are you still  
7 confused today about when the payments would have been  
8 due based on the agreement, or when payments are due  
9 based on the agreement?

10 THE WITNESS: No.

11 BY MS. PALMER:

12 Q. So what's your understanding of when payments  
13 were due?

14 A. I just went per word the way I understood it  
15 from the agreement.

16 Q. But you said you didn't understand the  
17 agreement, you were confused by it.

18 MR. CAMPBELL: Objection. It mischaracterizes  
19 his testimony again.

20 MS. PALMER: Well, then, please clarify.

21 MR. CAMPBELL: If you want to walk him through  
22 a particular provision and ask him what his opinion is  
23 as to when that particular payment was due, I'm sure he  
24 could answer that question again.

25 MS. PALMER: We'll just go straight to the

1 email communication.

2 MS. BRADLEY: Okay. So, then, it sounds like  
3 you're going to rephrase, and the objection is  
4 withdrawn.

5 MR. CAMPBELL: (Nodded head affirmatively.)

6 BY MS. PALMER:

7 Q. Mr. Hendi, are you familiar with the email  
8 communication from Exhibit C-6, and that's pages 152,  
9 well, 153 through 155?

10 A. I never received it, but during the hearing,  
11 I'm familiar with it, yes.

12 Q. Okay. So your counsel didn't forward this  
13 email to you?

14 A. Not that I recall.

15 Q. So which is it? In one case, you said, no, you  
16 never received it. Now you say you don't recall.

17 A. I never received this email.

18 Q. Okay. So you don't have testimony about --

19 MR. CAMPBELL: And, counsel, just for  
20 clarification, just for clarification, counsel, you're  
21 talking about at or near the time frame of the emails,  
22 not later on in this proceeding?

23 MS. PALMER: Well, I'm asking him if Mr. Smith  
24 ever sent this to him.

25 MR. CAMPBELL: Okay. What's your time frame?

1 MS. BRADLEY: Yeah. I mean, I think, what he's  
2 concerned about is that this may have been sent to him.  
3 I mean it's an exhibit now. So at some point Mr. Hendi  
4 saw it.

5 MS. PALMER: Well, when did Mr. Smith stop  
6 being his counsel?

7 MR. CAMPBELL: I would think, probably August,  
8 late, late July.

9 THE WITNESS: Correct.

10 MR. CAMPBELL: I just want clarification. You  
11 asked him, "Have you ever received this email?" That's  
12 an open-ended. That would include when he received it.

13 MS. PALMER: From your counsel, or just from --

14 MR. CAMPBELL: Yeah, from your counsel. So I  
15 could have given it to him, you know, in August. I  
16 think, your question is directed to did he receive it on  
17 or about that April time frame. So if you could just  
18 clarify.

19 BY MS. PALMER:

20 Q. Well, my question is directed -- no, the  
21 question is directed to did Mr. Smith ever send you this  
22 email?

23 MR. CAMPBELL: Again, objection as to  
24 open-ended time frame.

25 MS. PALMER: Well, Mr. Smith wasn't his

1 counselor when this email became an exhibit.

2 BY MS. PALMER:

3 Q. So my question relates to before this hearing  
4 began, before any complaint was filed. I'm not asking  
5 if Mr. Campbell sent it to you. I'm asking if Mr. Smith  
6 ever sent this to you.

7 MR. CAMPBELL: Same objection. You just got to  
8 be a little more clear on time. Mr. Smith may have sent  
9 documents, forwarded documents to Mr. Hendi at some  
10 point.

11 MS. PALMER: Right. And that's relevant.  
12 That's relevant to his understanding of when payments  
13 were due. The whole entire time frame with Mr. Smith is  
14 relevant. Because it doesn't have anything to do with  
15 the complaint. It has only to do with the stipulation  
16 and the agreement and the expectation. So the entire  
17 time is relevant as it pertains to Mr. Smith. And  
18 they've already opened the door on this.

19 MR. CAMPBELL: So, counsel, are you saying did  
20 Mr. Smith forward this email to Mr. Hendi at or about  
21 the time of the April email string up until --

22 MS. PALMER: No.

23 MR. CAMPBELL: -- let's say, June or July 30th  
24 or August 1st of 2016?

25 MS. PALMER: Sure, if you want to confine the

1 communication to August 1st of 2016, back to when it  
2 originated, I would be okay with that, if that makes you  
3 feel better.

4 MR. CAMPBELL: Yes.

5 MS. BRADLEY: Okay. So is your answer still  
6 no?

7 THE WITNESS: Correct.

8 MS. BRADLEY: Okay.

9 MS. PALMER: I never heard an answer. I  
10 wouldn't be arguing if I heard an answer.

11 MS. BRADLEY: No. Yeah, he said no. But  
12 Mr. Campbell was concerned, I think, about the time  
13 frame.

14 BOARD MEMBER FLYNN: Well just, counsel, I  
15 never heard a no, either.

16 MS. BRADLEY: Okay.

17 MR. CAMPBELL: I probably misspoke, and I'm  
18 sorry about that, Chairman.

19 BY MS. PALMER:

20 Q. So the first time that you saw this email,  
21 then, was after your final payment had been made; is  
22 that correct, Mr. Hendi?

23 A. Correct.

24 Q. And did your counselor have a conversation with  
25 you about the email?

1 A. Not that I recall.

2 Q. So when your counselor writes, on page 154,  
3 "Okay, Mr. Hendi says payment is on its way," he didn't  
4 actually talk to you about that?

5 A. He didn't send me the email. He spoke to me on  
6 the phone.

7 Q. That's what I'm asking you, did he talk to you  
8 about this email, and you said no.

9 A. He called me --

10 Q. Did you misunderstand my question?

11 A. Well, you're asking me about the email or about  
12 the subject matter?

13 Q. Well, I mean at the risk of drawing an  
14 objection from your counselor, tell me what he told you,  
15 in relation to this email and the subject matter of the  
16 email.

17 MR. CAMPBELL: I'm not going to object to that  
18 one.

19 THE WITNESS: He called me and said that "The  
20 PILB thinks that your payment's late. Have you made the  
21 payment?"

22 BY MS. PALMER:

23 Q. And what was your response?

24 A. I said, "We're not late. It will be on its way  
25 right away."

1 Q. How did you determine that you weren't late?

2 A. Looking back at the timing of things, I had in  
3 my mind that it's not due till closer to the mid of  
4 April.

5 Q. So you didn't have a specific date in mind, you  
6 just had a general time frame in mind?

7 A. No, I had the calculation done.

8 Q. And how did you determine the calculation?

9 A. I can go back to the exhibit, if you'd like,  
10 and I can go through that part, if you like.

11 Q. Thank you. Please do.

12 A. I'm ready, Ms. Palmer, if you'd like.

13 Q. Okay. Go ahead.

14 A. It's paragraph seven, page PILB 88, fees will  
15 be sent to ESI within 15 days from the date of the PILB  
16 order approving this agreement.

17 MR. CAMPBELL: I think, that's the email.

18 THE WITNESS: I'm sorry. I apologize. It's  
19 paragraph eight.

20 MS. PALMER: Counsel, are you helping him  
21 testify?

22 MR. CAMPBELL: No, I'm just, I'm trying to  
23 figure out which provision he was referring to. He was  
24 reading the bottom half of paragraph seven, which is  
25 related to the Zsenyuk, or whatever his name was,

1 payment. So we're right. Paragraph seven.

2 MS. PALMER: So are you helping him, are you  
3 helping him figure out which provision --

4 MR. CAMPBELL: I'm just pointing him to the  
5 provision --

6 MS. PALMER: -- that he needs to calculate the  
7 date?

8 MR. CAMPBELL: I'm pointing him to the  
9 provision that he was thinking about.

10 MS. PALMER: How do you know what he was  
11 thinking about, counsel?

12 MR. CAMPBELL: Because he said it was related  
13 to the April payment.

14 MS. PALMER: But he said that he calculated  
15 this at that date and time.

16 MR. CAMPBELL: Yeah.

17 MS. PALMER: So I have an objection to you  
18 helping him figure it out again. I would like him to  
19 walk through, without your assistance, and tell us how  
20 he figured that out.

21 MR. CAMPBELL: I'm not assisting him. I'm  
22 pointing him to the right provision.

23 MS. PALMER: He doesn't need you to help him.  
24 He can figure it out.

25 THE WITNESS: You're ready?

1 MR. PALMER: Yes.

2 THE WITNESS: So it's paragraph seven. And it  
3 starts with "Pursuant to NRS 622" dash -- I mean dot  
4 400, and kind of like the second line, the third line  
5 down, one-half of which shall be due and payable within  
6 30 days from the effective date of the PILB order  
7 approving this agreement.

8 MS. PALMER: Okay.

9 THE WITNESS: So that's -- when the order that  
10 was received, it was on the 10th, and had the calendar  
11 in front of me, counted backwards, counted to the 30  
12 days. And that's how I started establishing reminders  
13 to make sure that I know when they're due.

14 BY MS. PALMER:

15 Q. So the 30 days from the order, you said, was  
16 March 10th?

17 A. That's the signed order, correct.

18 Q. So it was 30 days from that date?

19 A. For the first payment, yes.

20 Q. Which payment? We're talking about the \$15,000  
21 payment, right?

22 A. Correct. Which we made on the 17th of March.

23 Q. No, we're talking about the \$15,000 payment  
24 that I communicated to your counsel on April the 12th  
25 that it hadn't been received.

1 A. That would be on paragraph eight.

2 Q. Okay.

3 A. And the last line, must be paid within 30 days  
4 from the date of the PILB order approving this  
5 agreement.

6 Q. That's the fine, right?

7 A. It does not have exact date, no.

8 Q. Well, that provision, paragraph eight, doesn't  
9 have anything to do with the legal fees. So that can't  
10 be the correct paragraph. So, I think, you're back to  
11 paragraph seven. Which you testified was March 30th, or  
12 I'm sorry, March the 10th, 30 days from March the 10th  
13 is how you figured that out. Is that correct?

14 A. Correct.

15 Q. So what date would be 30 days from March the  
16 10th?

17 A. I'll have to have a calendar in front of me to  
18 look. I don't have any notes on it.

19 Q. Well, without requiring you to do it, to count  
20 through, just an exact date, there's 31 days in March;  
21 is that correct?

22 A. Correct.

23 Q. So from the 10th of March, plus 30 days later,  
24 and there's 31 days in March, that date would be before  
25 April the 10th, correct?

1           A.    Correct.

2           Q.    So going back to the communication on page 154  
3 of Exhibit C-6, at the top of that page, it says "Hendi  
4 told me that he calculated 30 days from the day he  
5 received the agreement, rather than when the agreement  
6 was actually signed by the Board." But as you sit here  
7 today, you said that you calculated that using the date  
8 of March 10th?

9           A.    Like you said earlier, probably confused and  
10 the fact that you tried to make me look confused. Yeah,  
11 I actually calculated it from the date I received the  
12 actual agreement.

13          Q.    And how did you determine, how did you  
14 determine to use that date?

15          A.    As we -- as I testified earlier, if there were  
16 any changes after I signed it, I wanted to make sure  
17 that I read those changes as well. So, and that's when  
18 I first saw the actual agreement and read through it.

19          Q.    And, Mr. Hendi, your counsel's already  
20 stipulated to the fact that there were no changes to  
21 that agreement after you read it, except for the  
22 indemnification clause.

23          A.    Okay.

24          Q.    Okay. So you're saying that you used the day  
25 that you received the order and calculated 30 days from

1 then?

2 A. Correct.

3 Q. What day did you receive the order?

4 A. I can't recall exact dates, but after the 11th  
5 or the -- closer to the 17th.

6 Q. In fact, you testified that you don't know when  
7 you received the agreement, the order; isn't that  
8 correct?

9 A. I testified that I don't have it now in my  
10 memory to when exactly it happened. But, yes, when it  
11 was in front of me, obviously, I knew exactly when I  
12 received it.

13 Q. So did you, in fact, tell your counsel that you  
14 calculated the date 30 days from the date you received  
15 the agreement?

16 A. Yes.

17 Q. So on April the 12th, 13th, 14th, in that  
18 general area, at that date and time, you knew the date  
19 upon which you received the agreement?

20 A. Yes.

21 Q. But I think that your testimony -- and I could  
22 be wrong, and I hate to do this to Shannon. But I think  
23 that your testimony was that you don't know exactly when  
24 you received it. It says it was sent on the 11th, which  
25 was a Friday. Could have been Saturday, but there's

1 nobody in the office, so it probably wasn't Saturday.  
2 It was actually Monday, more than likely. I think, that  
3 was the gist of your testimony?

4 A. Correct, that was it.

5 Q. Have I mischaracterized it? Is that correct?

6 A. Correct.

7 Q. But now you're saying you did know at one time  
8 exactly what day you received it on?

9 A. Ms. Palmer, I'm saying that when I received it,  
10 I knew exact date when I received it. But as I sit over  
11 here, do I remember exact date? I'm telling you it's  
12 probably that Monday, after that Monday, yes. But I  
13 don't remember now, as I sit in front of you, when it  
14 happened.

15 Q. Well, Mr. Hendi, it says that you calculated  
16 the date when something was due. If you calculated it,  
17 it seems that you would have an idea about a specific  
18 date when something is due, and not generally around the  
19 middle of the month, as you're testifying now?

20 A. You stipulated earlier that it's due on the  
21 14th of April. Why are we discussing that now?

22 Q. No, no, I did not stipulate to that. I said  
23 that the calculation that your counsel was trying to  
24 have Mr. Ingram go through, I believe, I stipulated that  
25 that date would be with that calculation. It was not a

1 stipulation that anything was due or a concession that  
2 that was the actual due date of something.

3 Mr. Hendi, the point is, is that I don't think  
4 you really know when it was due. You weren't clear  
5 about the agreement at the date when it was signed.  
6 You're not sure if you read the final agreement. Well,  
7 actually --

8 MR. CAMPBELL: I'm going to object. This is  
9 nothing but argument here. If you've got a question,  
10 specific question -- he's testified ad nauseam here that  
11 he told -- I let you question about the counsel. He  
12 said, "I received it. I calendared it on the day I  
13 received it." He testified in direct examination that  
14 it was -- it, obviously, wasn't the 11th, and it  
15 probably wasn't the 12th, and it was more like the  
16 Monday the 14th or after that. So I don't know why  
17 you're --

18 MS. PALMER: So I think that --

19 MR. CAMPBELL: You shouldn't be able to argue  
20 with him as to his understanding. He has testified  
21 ad nauseam here as to when he, as he sits here today,  
22 when he believed to have it and when he did his  
23 calculation.

24 BY MS. PALMER:

25 Q. So when you did your calculation, did you

1 document a date upon which that would be due based on  
2 that calculation?

3 A. I looked at the calendar, and that's how I  
4 started it. The starting day was not as important as  
5 the end date.

6 Q. The end date being the due date?

7 A. Correct.

8 Q. Is that what you're saying?

9 A. Correct.

10 Q. So when you established that due date, what did  
11 you do with that information?

12 A. I made sure that we have the check ready to be  
13 going out during that time period.

14 Q. How did -- time period? So did you establish a  
15 period, or did you establish a date?

16 A. The check was cut on the 10th. So, obviously,  
17 that was --

18 Q. But when you -- that's the date that you  
19 believe it was due?

20 MS. BRADLEY: So, Ms. Palmer, just so you know,  
21 and I want everyone to know, by my watch, it's 4:32.  
22 And I've been informed that they actually lock, at least  
23 up here they're going to lock the room at 5:00 o'clock.  
24 So we have 28 minutes before we'll be locked inside. So  
25 probably we want to be done, say, in 20 minutes.

1           So I'm just letting you know, as we think about  
2 how we proceed.

3           MS. PALMER: Okay. So I'll try and speed it  
4 up.

5 BY MS. PALMER:

6           Q. So, Mr. Hendi, what did you communicate to the  
7 person who was cutting the checks?

8           A. That we need to get the check out before the  
9 13th.

10          Q. This was the April check?

11          A. Correct.

12          Q. What were your instructions about the May  
13 check?

14          A. That it has to be done in monthly payments  
15 within that month.

16          Q. So just sometime during that month?

17          A. Yes.

18          Q. And would you agree that your calculation, your  
19 calculated due date, I think, which was April the  
20 13th -- is that correct?

21          A. I believe so, yes.

22          Q. So is it your understanding, then, that the 30  
23 days only mattered for the first payment, and that  
24 subsequent payments after that, as long as they were  
25 made sometime during the month, that was fine?

1           A.    It says "equal monthly payments." It did not  
2 state beginning of the month, end of the month, or the  
3 middle of the month.

4           Q.    Mr. Hendi, would you turn, please, to page 89,  
5 paragraph nine. That's of Exhibit C-3. Doesn't it  
6 say --

7           A.    What page number? I'm sorry.

8           MS. BRADLEY: Page 89.

9 BY MS. PALMER:

10          Q.    Paragraph nine.

11          A.    I have page 89.

12          Q.    Doesn't it say "paid in 12 equal monthly  
13 installments beginning 60 days from the effective date  
14 of the order approving the agreement"?

15          A.    Yes.

16          Q.    So there was a time frame for the other  
17 payments; is that correct, as you sit here today now  
18 looking at that?

19          A.    There is no exact dates, but it says, again,  
20 says "paid in 12 equal monthly installments beginning 60  
21 days."

22          Q.    Right. "Equal" refers to the amount of the  
23 payment; that refers to the amount of the payment,  
24 right; do you understand that?

25          A.    Yes.

1 Q. So there is a date on there, though, right, 60  
2 days?

3 A. Yes.

4 Q. So you were able to calculate what you believe  
5 is the effective date of the order, for the first 30  
6 days, as April 13th, right?

7 A. Correct.

8 Q. Did you fail to calculate a date for 60 days  
9 from the effective date of the order --

10 MR. CAMPBELL: You're leaving out a --

11 MS. PALMER: And then --

12 MR. CAMPBELL: You're leaving out a word,  
13 counsel. Could you please -- if you're going to  
14 misquote it, I'd appreciate it if you put the entire in  
15 this. It says "beginning 60 days"; it doesn't say "on  
16 the 60th day." So it's a different provision that you  
17 drafted. So let's be clear, when you asked the  
18 question, as to include the whole provision.

19 MS. PALMER: Well, we haven't actually, we  
20 haven't actually established who drafted that provision.  
21 There's been a lot of communication about redline  
22 versions going back and forth. So I'm going to object  
23 to your characterization of it that way.

24 BY MS. PALMER:

25 Q. But, yes, beginning 60 days from the effective

1 date of the order, did you calculate that date?

2 A. No, it was open enough where it's beginning of  
3 60 days, that any time during those months. As long as  
4 it's a monthly payment within that exact month, I felt  
5 that we were within our rights to do.

6 Q. It doesn't say "beginning monthly from the  
7 effective date of the order," though, does it, it says  
8 "beginning 60 days," right?

9 A. Beginning 60 days. So any time after those 60  
10 days.

11 Q. Right. But you didn't make any calculations  
12 with that number; is that correct?

13 A. I made sure it's 60 days.

14 Q. So what's 60 days from March 13th, Mr. Hendi?

15 A. It's beginning at that time. And that's where  
16 you're trying to say that we were late on the May  
17 payment. But that's not accurate. It says "beginning."  
18 It did not say "specifically on 60 days from the 13th  
19 you're supposed to the pay for it."

20 Q. No, it says "from the effective date of the  
21 order," which you calculated as being March 13th?

22 A. Correct.

23 Q. And now -- you were precise in calculating what  
24 you believe is the effective date. But now, after  
25 that -- and I just want, I mean just say, "Right, I

1 didn't say calculate anything after that. I just went  
2 monthly after that"?

3 A. I calculated the beginning --

4 Q. I mean if that's what you did.

5 A. -- of 60 days, and that's when the monthly  
6 payments started.

7 Q. So I asked you what the calculation was for  
8 that May payment. If you actually did a calculation,  
9 what did you have as the date that the May payment was  
10 due?

11 MR. CAMPBELL: Asked and answered. He said  
12 that his understanding, it was due in the month  
13 beginning 60 days. I think, he's answered.

14 MS. PALMER: Okay. So I --

15 MR. CAMPBELL: He's answered that enough, I  
16 think.

17 MS. PALMER: And that's what -- except I asked  
18 him, if that was the answer, that he just picked some  
19 time in May, to say that. But he won't say that. He's  
20 saying there was a calculation, but then there wasn't.  
21 So I want to pin him down on that.

22 BY MS. PALMER:

23 Q. Was there a calculation, or wasn't there a  
24 calculation?

25 A. Ma'am, the beginning of 60 days, I calculated

1 the 60 days. And then the monthly payments, okay, so we  
2 don't have any payments due in April. The next one is  
3 going to be in May. And that's when the next one would  
4 be due, and this is how we're going to do it. It's  
5 monthly payments.

6 We run the checks. We do our run checks on off  
7 payroll days. That's how it fell into it. It's not  
8 that, oh, okay, it has to be on the middle of the month,  
9 the beginning of the month, or the end of the month.  
10 It's just we tried to make it as effective and as  
11 cost-effective as possible.

12 Q. So did Mr. Smith ever tell you that we -- about  
13 the legalese, that we had communicated to him that  
14 payments were due on the 9th of every month thereafter?

15 A. The only communication regarding that issue was  
16 in regarding that first payment, that we were -- that  
17 the PILB felt that we were late.

18 Q. Just the first payment?

19 A. Correct.

20 Q. So he didn't tell you that payments should be  
21 made on the 9th of the month, every month?

22 A. No.

23 Q. Okay. Mr. Hendi, would you please take a look  
24 at Exhibit 3, PILB page 90. Your counsel, Mr. Campbell,  
25 asked you whether or not anyone at the Private

1 Investigator's Licensing Board ever contacted you and  
2 told you that your payment was late and that it could  
3 result in revocation; is that correct?

4 A. Yes, he asked me that.

5 Q. That he asked you that question?

6 A. Yes.

7 Q. Okay. And what was your answer to that  
8 question?

9 A. No.

10 Q. So would you look at paragraph 14 on that page  
11 90. It says "The parties agree that counsel for each  
12 will make reasonable efforts to communicate to the  
13 extent necessary to obtain clarification or opinion on  
14 any matter within the scope of this agreement"?

15 A. Yes.

16 Q. Did you ask for that provision?

17 A. No.

18 Q. Do you understand, do you have any  
19 understanding as to how that provision came about?

20 A. No.

21 Q. Did your counsel ever communicate that  
22 provision to you?

23 A. He sent me the agreement as we're going through  
24 them.

25 Q. So he never, he never actually told you about

1 that obligation?

2 A. It was in the agreement. I guess, I could have  
3 read it myself.

4 Q. Were you aware of it?

5 A. I'm sure I was.

6 Q. Did you ever make any attempts to communicate  
7 through your counsel about questions that you had  
8 regarding the agreement?

9 A. I didn't have questions regarding that issue.

10 Q. Regarding any issue, or --

11 A. Regarding this issue.

12 Q. -- are we talking about payments still?

13 Did you have other questions that you  
14 communicated through counsel to communicate with the  
15 Board's counsel?

16 A. We were really trying to establish a  
17 relationship. So a lot of the stuff that we -- I asked  
18 was directly from me to the Executive Director.

19 Q. Wasn't the purpose of this paragraph for  
20 counsel to communicate?

21 A. That's what it says, yes.

22 Q. And if the Private Investigator Board counsel  
23 communicated when a payment was due, wasn't it incumbent  
24 upon your counsel to communicate that to you?

25 MR. CAMPBELL: Objection. That calls for

1 speculation and a legal conclusion. I mean Mr. Hendi  
2 doesn't know that.

3 BY MS. PALMER:

4 Q. What's your understanding of the agreement;  
5 what is your understanding of that provision in the  
6 agreement?

7 MR. CAMPBELL: You've asked him that, and he's  
8 answered that.

9 MS. PALMER: So I asked him a question about  
10 wasn't it incumbent upon his counsel to communicate that  
11 to him.

12 MR. CAMPBELL: He doesn't know what's incumbent  
13 on his counsel.

14 MS. PALMER: Doesn't the agreement say that,  
15 that counsel shall make reasonable efforts to  
16 communicate?

17 MR. CAMPBELL: Yeah, he answered that.

18 MS. PALMER: So the Board's counsel made a  
19 reasonable effort to communicate a due date, and now he  
20 wants to shelter behind that a provision that his  
21 counsel negotiated, and now he wants to shelter behind  
22 that.

23 MR. CAMPBELL: Come on, counsel. You're just,  
24 you're testifying here. This is --

25 MS. BRADLEY: There's an objection on the

1 record. So the objection, I think, goes to, the  
2 question was, wasn't it incumbent on your counsel to  
3 communicate that?

4 I would probably sustain the objection and ask  
5 that the question be rephrased. I'm not sure a lay  
6 person knows what's incumbent on an attorney to do based  
7 on this provision.

8 MR. CAMPBELL: That's the nature of my  
9 objection.

10 BOARD CHAIRMAN ZANE: The objection is  
11 sustained.

12 Do we have housekeeping, since we're not going  
13 to be done here, that we need to do in the next few  
14 minutes?

15 MS. BRADLEY: We do need to do public comment.  
16 We have, according to my phone, we have 16 minutes  
17 before we'll be locked in. We probably need to walk out  
18 of here in 11 minutes, so that they're not too upset  
19 with us.

20 MR. CAMPBELL: Or be locked in.

21 MS. BRADLEY: So, well, I just don't want them  
22 to be upset, because we are using their room.

23 So I don't know if there's a question or two  
24 that can get us to a stopping place with Mr. Hendi.

25 And then maybe we can try to schedule or at

1 least discuss dates maybe for a continuation or how  
2 we're going to handle that.

3 And then, I think, we need to do public  
4 comment. I know we have no public. But we still need  
5 to call for it on the record.

6 MS. KOCHHEL: Am I public?

7 MS. BRADLEY: Oh, yeah, you're public.

8 MS. KOCHHEL: If I have a comment.

9 MS. BRADLEY: Well, you can't talk about a  
10 pending matter. And this is still pending.

11 MS. KOCHHEL: Okay.

12 BOARD CHAIRMAN ZANE: Ms. Palmer, do you have  
13 any further questions, or do you want to break?

14 MS. PALMER: I'll finish with that, and then  
15 I'll ask him one other question that relates to Ms. --  
16 and I'm sorry, I forgot. Kibbie Kochel?

17 MS. KOCHHEL: Yes.

18 THE WITNESS: Yes.

19 BY MS. PALMER:

20 Q. She's not an employee of ESI Security; is that  
21 correct?

22 A. Correct.

23 Q. So why did you put her -- why did you have her  
24 get a work card for ESI Security, if she's not an  
25 employee of ESI Security Services?

1           A.    Because at the last hearing, that you brought  
2 up, it seems like even Board Member Flynn felt that we  
3 should all have our PILB card.  So I made everybody go  
4 get it.  I paid for it and made everybody get it.

5           Q.    And she's doing work for Quick Prints, based on  
6 her testimony, right, that she does fingerprinting?

7           A.    Yes.

8           Q.    And there's no payroll for Quick Prints; is  
9 that correct?

10          A.    Correct.

11          Q.    And Quick Prints is actually registered with  
12 the Department of the Public Safety as ESI Security  
13 Services; is that correct?

14          A.    Counsel, you went all through that in the last  
15 session.  I'm not sure why we're going through it.

16          Q.    This is a separate, this is a separate hearing?

17          A.    Yes.

18          MS. PALMER:  Okay.  No further questions from  
19 me.

20          MS. BRADLEY:  No further questions.  Are you  
21 done with the witness, or just for today?

22          MS. PALMER:  Well, I'm done, unless there's  
23 redirect.

24          MS. BRADLEY:  Okay.  Okay.

25          MS. PALMER:  And then maybe recross.

1 MS. BRADLEY: Okay. That's fine. I just  
2 wanted to make sure I knew where we were at. So you're  
3 done with your part. So, then, Mr. Campbell would have  
4 redirect for Mr. Hendi when we meet again.

5 MS. PALMER: Okay. Well, is he going to have  
6 redirect?

7 MR. CAMPBELL: Yes.

8 MS. PALMER: I think, that's a fair question.

9 MR. CAMPBELL: Yes.

10 MS. BRADLEY: He just said yes. I know there's  
11 kind of a delay. I apologize. I think, when I'm  
12 talking, you can't always hear. Yeah.

13 So, I think, if we want to discuss, so  
14 Mr. Campbell has redirect for Mr. Hendi, which means  
15 likely we'll have recross for Mr. Hendi.

16 Do you have any more witnesses?

17 MR. CAMPBELL: I don't.

18 MS. BRADLEY: Okay. So Mr. Hendi's the last  
19 witness.

20 Is the state anticipating a rebuttal case?

21 MS. PALMER: Not at this time.

22 MS. BRADLEY: Okay. So it sounds like we may  
23 not need a full day, although it's hard to say, I guess.  
24 But I don't know if we want to try to get tentative  
25 dates or what you'd like to do, Mr. Ingram, as far as --

1 and Mr. Chair, as far as rescheduling a future day.

2 MR. INGRAM: Well, the dates as far as  
3 scheduling meetings really surround having all parties  
4 available, but, more importantly, finding two rooms with  
5 videoconferencing.

6 And that's why -- and, first of all, I want to  
7 thank Mr. Campbell for rearranging his schedule. That  
8 was the only, today was the only day that we had  
9 everything that kind of fell into place. So, again,  
10 thank you, sir, for doing that.

11 You know, I'll do my best to try to find --  
12 we're in legislative session.

13 MS. BRADLEY: Yeah.

14 MR. INGRAM: Finding two rooms with  
15 videoconferencing is difficult at best.

16 MS. BRADLEY: When is your next regular  
17 meeting? Could this be -- I mean I don't know what you  
18 have scheduled, and I'm not trying to derail things.  
19 But I'm just wondering if -- you have a meeting  
20 scheduled, I think, in March; I could be wrong -- if  
21 there's a way.

22 MR. INGRAM: Yeah, are all Board members  
23 available on March 9th?

24 BOARD CHAIRMAN ZANE: Yes, I am.

25 MR. INGRAM: Yeah, it's the second day of the

1 scheduled meeting. Mr. Nadeau and Mr. Colbert?

2 BOARD MEMBER COLBERT: Just one second.

3 BOARD MEMBER NADEAU: I'm available on the 9th  
4 but have a meeting, I do have a conflicting meeting at  
5 11:00 o'clock. I will not be here on the 8th.

6 MR. INGRAM: You will not be here on the 8th.

7 MS. BRADLEY: I don't even want to say it, but  
8 I have a conflict.

9 MR. CAMPBELL: I do, too.

10 MS. BRADLEY: Okay. I'm sorry. I wanted it to  
11 work.

12 MR. INGRAM: I guess, what I can do is I'll  
13 send out another Survey Monkey asking everybody to fill  
14 in their days on their calendar. That's how we came up  
15 with February 22nd. It was the only day, out of about  
16 70 days, free, that we had available. So I mean, I  
17 think, that's the only thing we can do from this point.

18 MS. BRADLEY: Well, and for what it's worth, I  
19 mean I would be willing to try to offer our room up at  
20 the AG's Office, you know, as much as we can. Of  
21 course, we have conflicts sometimes, too, but.

22 MR. CAMPBELL: And I assume we're going to have  
23 closing arguments at that same hearing?

24 MS. BRADLEY: That's what I would hope. I  
25 would hope we would finish the evidence. If the state

1 has a rebuttal case, they would do that, or not. And  
2 then I would hope that there would be closing arguments.  
3 And then the Board might, you know, take a recess to  
4 kind of just take a break, and then they're  
5 deliberating. So.

6 MR. CAMPBELL: Maybe half a day.

7 MS. BRADLEY: Yeah, I mean I would schedule a  
8 full day just because I don't want to run out of time.  
9 So.

10 Okay. Do the poll. And you'll include  
11 Mr. Campbell on that, then?

12 BOARD CHAIRMAN ZANE: Yes, ma'am.

13 MR. CAMPBELL: Yes, because I have times --

14 BOARD MEMBER FLYNN: I agree with counsel. At  
15 the snail's pace this has been going, we need to  
16 schedule a full day.

17 MS. RASUL: And, Mr. Campbell, would you agree  
18 to waive the open meeting law notice, just in case?

19 MR. CAMPBELL: Yes, that's fine, just as long  
20 as my -- just as long as you give an advance warning of  
21 the date, and I agree that I said so.

22 MS. RASUL: Yeah. All right. Okay.

23 MS. BRADLEY: Okay. All right. So we will  
24 leave the date to be determined.

25 And, I think, we've got to do public comment

1 and then get ourselves out.

2 BOARD CHAIRMAN ZANE: Do we have any public  
3 comment in the north?

4 Any public comment in the south?

5 None here. We're adjourned. Thank you all.

6 \* \* \* \* \*

7 (The meeting adjourned at 4:52 p.m.)

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REPORTER'S CERTIFICATE

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

That I was present at the State of Nevada, Department of Employment, Training & Rehabilitation, Vocational Rehabilitation Office, 1325 Corporate Boulevard, Large Conference Room, Reno, Nevada, on Wednesday, February 22, 2017, for a matter scheduled for 9:00 a.m., and commencing at 9:08 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 313, 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 14th day of March, 2017.

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SHANNON L. TAYLOR  
Nevada CCR #322, RMR