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

Tuesday, December 5, 2017
9:00 a.m.

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

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

REPORTED BY: SHANNON L. TAYLOR, CCR, CSR, RMR
Certified Court, Shorthand and Registered Merit Reporter
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A P P E A R A N C E S

Board Members Present:

Mark Zane, Chairman (Carson City)
Jim Colbert (Carson City)
Raymond Flynn (Las Vegas)
Jim Nadeau (Carson City)
Tammy Nixon (Las Vegas)

Also: Kevin Ingram (Las Vegas)
Executive Director

Rosalie Bordelove (Las Vegas)
Deputy Attorney General
Board Prosecutor

Michael Detmer (Las Vegas)
Deputy Attorney General
Board Counsel

Lori Irizarry (Las Vegas)
Chief of Operations

Vincent Saladino (Las Vegas)
Investigator

Mary Klemme (Carson City)
Investigative Assistant

Jacquelyn Cox (Carson City)
Administrative Assistant

Other Participants:

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

Mahmoud Hendi (Carson City)
Jason Woodruff (Carson City)
Alfred Apodaca (Carson City)
Timothy Dingman (Carson City)
Zachary Larsen (Carson City)

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1 CARSON CITY, NEVADA, TUESDAY, DECEMBER 5, 2017,

2 9:05 A.M.

3 -oOo-

4 BOARD CHAIRMAN ZANE: We're going to call the
5 meeting to order. This is the December 5th meeting of
6 Private Investigators Licensing Board.

7 Can we have roll call, please?

8 MR. INGRAM: Yes, sir.

9 Board Member Colbert?

10 BOARD MEMBER COLBERT: Here.

11 MR. INGRAM: Board Member Flynn?

12 BOARD MEMBER FLYNN: Here.

13 MR. INGRAM: Board Member Nadeau?

14 BOARD MEMBER NADEAU: Present.

15 MR. INGRAM: Board Member Nixon?

16 BOARD MEMBER NIXON: Here.

17 MR. INGRAM: And Chairman Zane?

18 BOARD CHAIRMAN ZANE: Here.

19 Thank you.

20 Item number two is notice of public comment.

21 We have a public comment period before and after, at the
22 beginning of the meeting and right before we adjourn,
23 where we'll take some public comment. Is there any
24 public comment in the north?

25 None. Any public comment in the south?

1 MR. INGRAM: No, sir.

2 BOARD CHAIRMAN ZANE: Okay. All of the items
3 today on the agenda are the type of items that don't
4 lend themselves to public comment during which time the
5 items are being considered and deliberated by the Board.
6 So public comment, unless you're called as a witness and
7 have advanced notice to the attorneys in the case, we
8 won't be accepting any public comment for items number
9 five, six or seven on the agenda.

10 Is there any items from yesterday that need to
11 be carried over to be considered now?

12 MR. INGRAM: No items to be carried over, sir.

13 BOARD CHAIRMAN ZANE: Okay. Anyone who is here
14 now that it is anticipated will give testimony regarding
15 the items covered in the agenda, it would be the time to
16 be sworn in, so that your testimony would be taken under
17 oath. So if you've had notice or you intend to give
18 testimony in items five, six or seven, please stand,
19 raise your right hand, and take the oath.

20 MR. CAMPBELL: Chairman Zane, we have three
21 witnesses that are out in the waiting area. We assume
22 that they probably will. So should I bring them in,
23 have them sworn now?

24 BOARD CHAIRMAN ZANE: If you could, that would
25 save a little bit of time. Thank you.

1 (The potential witnesses came into the hearing
2 room.)

3 BOARD CHAIRMAN ZANE: Okay. We've got
4 anticipation with probably four people here that will
5 testify, five people maybe. So if you have anybody down
6 there, we're ready. Can counsel give --

7 MR. INGRAM: We have one. Yeah, we have one
8 individual, the Chief, Lori Irizarry.

9 BOARD CHAIRMAN ZANE: Okay. Can counsel give
10 an oath, please?

11 MR. DETMER: So those who are about to testify
12 or will testify, do you swear to tell the truth, the
13 whole truth, and nothing but the truth?

14 (Potential witnesses in Carson City and
15 Las Vegas were sworn in.)

16 MR. CAMPBELL: Ms. Bordelove, are you going to
17 invoke the rule of exclusion as to our witnesses?

18 MS. BORDELOVE: I wasn't going to, but if you'd
19 like to, I'm not going to object to it.

20 MR. CAMPBELL: I don't. I'm not going not to
21 invoke it. I just thought that if you'd wanted to.
22 They can stay.

23 MS. BORDELOVE: Okay.

24 BOARD CHAIRMAN ZANE: Okay. The item, the next
25 item on the agenda is item number five, ESI Security

1 Services, Mahmoud Hendi, owner and qualifying agent,
2 license number 700, is appealing Notice of Violation
3 number I-046-17.

4 MR. CAMPBELL: Chairman Zane, could I ask the
5 Board's indulgence on -- is there a possibility that we
6 could switch items five and six? We have two witnesses
7 for item six, one that we're scheduling. The other
8 one's on vacation today. So if we could get that out of
9 the order. I think, the Board probably has the same
10 witness for both cases. So if the Chair would grant us
11 that indulgence.

12 BOARD CHAIRMAN ZANE: Is there any opposition
13 to switching these around?

14 MS. BORDELOVE: No. I would like to hear both
15 five and six before seven, but I'm okay with whichever
16 order they go in.

17 MR. CAMPBELL: Yeah, I just wanted to switch
18 six and five.

19 BOARD MEMBER NADEAU: Mr. Chairman?

20 BOARD CHAIRMAN ZANE: Yes, sir.

21 BOARD MEMBER NADEAU: Mr. Chairman, in an
22 effort to make full disclosure and in compliance with
23 NRS 281A, I'm making the following disclosure.
24 Mr. Hendi, Mr. Campbell and I are all members of the
25 same social organization, of which there are over 500

1 members. As such, we occasionally cross paths. That
2 said, we do not have any special associations,
3 relationships or encountering each other in any other
4 way.

5 I make this disclosure but do not believe that
6 being members of the same organization will have any
7 bearing on my actions involving this matter. I will
8 participate in the hearing.

9 BOARD CHAIRMAN ZANE: Thank you, sir.

10 Okay. So which one do you want first?

11 MR. CAMPBELL: We'll do item number six, which
12 is the Notice of Violation --

13 BOARD CHAIRMAN ZANE: 104-16?

14 MR. CAMPBELL: Yes, 104-16.

15 BOARD CHAIRMAN ZANE: Okay. Without any
16 objection, we'll go to item number six.

17 Is the State ready to proceed?

18 MS. BORDELOVE: I believe, is Jason Woodruff
19 there up in the north?

20 BOARD CHAIRMAN ZANE: He is.

21 MS. BORDELOVE: Okay. Then, the State's ready
22 to proceed.

23 Do you want me to just go ahead with opening,
24 or do you have any initial remarks?

25 BOARD CHAIRMAN ZANE: No, if you'd like to go

1 ahead and indicate how we got here and what we're doing.

2 MS. BORDELOVE: Okay. Well, this is the appeal
3 of an unlicensed business activity citation, number
4 I-104-16, that was issued to Event Services regarding an
5 event on August 6th, 2016 at the Peppermill Resort.

6 In this case here, Event Services employees
7 were preventing patrons of the Peppermill Resort from
8 exiting the casino into the parking lot with glass
9 containers. These employees were stopping patrons and
10 requiring them to empty their beverages into plastic
11 cups and then providing plastic cups to them before
12 those patrons could proceed into the parking lot.

13 A few statutes that I just want to point to
14 that, I believe, are relevant here is NRS 648.060,
15 subsection 1, which requires that no person may engage
16 in the business of private patrol officer without being
17 licensed by the PILB.

18 Also, NRS 648.013 defines a patrol, a private
19 patrol officer as a person engaged in the business of
20 employing and providing for other persons, watchmen,
21 guards, patrol officers, uniformed officers to control
22 traffic, bodyguards or other persons for the purpose of
23 protecting persons or property, including armored
24 transport to prevent theft, loss or concealment of
25 property of any kind, or to investigate that.

1 And as well NRS 648.016 defines a security
2 guard as a person employed as watchman, guard, security
3 consultant, patrol officer, or any similar position.

4 I think, the State will be able to show today
5 that Event Services employees were performing security
6 functions, and that's falling within the definition of
7 security guard and/or patrol officer, thus requiring
8 licensure under NRS 648.060.

9 I don't know. That is my opening comments.

10 If, Rick, do you have anything to mention
11 before we start with the witness?

12 BOARD CHAIRMAN ZANE: Thank you.

13 MR. CAMPBELL: Well, obviously, we don't, we
14 don't agree. And we'll show that the Event Services
15 employees at that gate or at that door at the Peppermill
16 at that time were not in any way, shape or fashion
17 engaging in private security services.

18 BOARD CHAIRMAN ZANE: Okay. Ms. Bordelove, do
19 you want to call your witness?

20 MS. BORDELOVE: Okay. I'd like to call my
21 first witness, which is Jason Woodruff.

22 BOARD CHAIRMAN ZANE: The record will reflect
23 that Mr. Woodruff has previously been sworn.

24 Proceed.

25 MS. BORDELOVE: Is there any way we can move

1 that box on the screen? Or maybe don't know how. If
2 you'd move Mr. Woodruff, because there's a box on our
3 screen completely blocking his head.

4 MR. INGRAM: If you could move to the other
5 side, or another foot to the right.

6 (The witnesses moved over.)

7 MS. BORDELOVE: That should be good enough.

8 BOARD MEMBER FLYNN: That's good. Hold that.
9 Don't move one bit.

10

11 J A S O N W O O D R U F F,
12 having been previously duly sworn,
13 was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MS. BORDELOVE:

17 Q. Mr. Woodruff, who was your employer on
18 August 6, 2016?

19 A. The Private Investigators Licensing Board.

20 Q. And what was your title?

21 A. Investigator.

22 Q. Okay. What were you doing at the Peppermill
23 Resort on August 6, 2016?

24 A. I was conducting a standard ordinary compliance
25 check on-site.

1 Q. Okay. And can you briefly describe the
2 investigation that you conducted prior to issuing this
3 citation?

4 A. Sure. So I went to the Peppermill and looked
5 for security officers that were under a private
6 company-type position, versus the security guards that
7 are actually employed by the casino. So I was looking
8 for private security officers. And I went through the
9 property, found several security officers. And I asked
10 them for their work card, if they had on it on their
11 person, and made my way around the facility.

12 Q. Okay. And what did you see Event Services
13 employees doing that caused you to issue the citation?

14 A. So I saw one of the Event Services staff
15 preventing an individual from going out of the casino
16 with a glass container.

17 Q. Okay. And do you recall which...

18 I don't know if I need to admit this as an
19 exhibit or if we already have it, but the Notice of
20 Violation itself. Do you have a copy of that to view,
21 Mr. Campbell? If you'd like me to go through admitting
22 it. I know these, I think, were included as supporting
23 materials with the Board.

24 MR. CAMPBELL: Yeah.

25 MS. BORDELOVE: This is the citation itself.

1 MR. CAMPBELL: Do we want to have the record
2 have these as exhibits?

3 BOARD CHAIRMAN ZANE: To ensure that what we've
4 received is actually -- we're all looking at the same
5 document.

6 MR. CAMPBELL: Just so we have an accurate
7 record. I mean I'd rather have it introduced.

8 MS. BORDELOVE: That's fine. Then, I'd like to
9 admit this, I guess, as Exhibit 1, and this is the
10 Unlicensed Business Activity Citation I-104-16.

11 BOARD CHAIRMAN ZANE: It'll be admitted.

12 (Agenda Item 6: Exhibit 1 was admitted.)

13 MR. CAMPBELL: I do have a copy, counsel.

14 BY MS. BORDELOVE:

15 Q. Okay. Do you have a copy to look at, Jason?

16 A. I do not.

17 MS. BORDELOVE: Mr. Woodruff.

18 Can we see that he gets a copy?

19 MR. INGRAM: Mary is getting one to him right
20 now.

21 MS. BORDELOVE: Perfect.

22 MR. INGRAM: Thank you, Mary.

23 MR. CAMPBELL: The court reporter will need a
24 marked copy, also.

25 THE WITNESS: I don't think this is the correct

1 one. This is violation 010-16.

2 BOARD CHAIRMAN ZANE: So we're looking at
3 104-16, correct; that's the one we're looking at?

4 MR. CAMPBELL: That's correct.

5 MR. BORDELOVE: Yes, that's the one.

6 BOARD MEMBER NADEAU: Do we have any extras,
7 Mary? Oh, wait, I found it. This one. Thank you.

8 BOARD CHAIRMAN ZANE: We're going to move
9 forward on this situation. We're going to have to take
10 a quick break, because we don't have that exact exhibit
11 available to hand to the witness for recollection.

12 MS. BORDELOVE: Okay.

13 BOARD CHAIRMAN ZANE: At our fingertips. So it
14 probably will be best for the record that we take a
15 quick break right now so we can get that document.

16 MS. BORDELOVE: Okay.

17 BOARD CHAIRMAN ZANE: We'll be back with it in
18 just a few minutes.

19 * * * * *

20 (A break was taken, 9:21 to 9:34 a.m.)

21 * * * * *

22 BOARD CHAIRMAN ZANE: Are we ready? Are we
23 ready to go?

24 MR. INGRAM: Yes, sir.

25 MR. DETMER: And, Mr. Chairman, I apologize.

1 Mike Detmer, for the Board counsel. There was a
2 procedural matter that could have been attended at the
3 outset of the disciplinary hearing that was not
4 addressed. If I could just take some time to bring it
5 up.

6 NAC 648.440, subsection 4, dictates that the
7 complaint should be read for the record at the outset of
8 the hearing. I believe, the introduction of these
9 exhibits will satisfy that, provided there's stipulation
10 from both parties that there's no need to read the
11 complaint into the record.

12 MS. BORDELOVE: I'm willing to stipulate to
13 that.

14 MR. CAMPBELL: Counsel, you mean the Notice of
15 Violation?

16 MR. DETMER: Yes.

17 MS. BORDELOVE: Yes.

18 MR. CAMPBELL: Yeah, we'll stipulate to the
19 Notice of Violation.

20 BOARD CHAIRMAN ZANE: Okay. Thank you, sir.

21 Ms. Bordelove, you can proceed.

22 BY MS. BORDELOVE:

23 Q. Okay. Then, Mr. Woodruff, if you'll refer to
24 what's now Exhibit 1, the Unlicensed Business Activity
25 Citation, are the three individuals listed on there the

1 three individuals you saw on August 6, 2016?

2 A. Yes.

3 Q. And what uniforms were they wearing?

4 A. They were wearing Event Services uniforms.

5 Q. And you previously stated that you witnessed
6 one of them actually stopping a patron; is that correct?

7 A. That's correct.

8 Q. Did you -- let's see. Did you just identify
9 anyone as the supervisor of these employees?

10 A. I did.

11 Q. And can you describe who that was?

12 A. It was -- I don't know his name by memory, but
13 it was an ESI Security supervisor that was supervising
14 the event.

15 Q. Okay. And did you see any Event Services
16 employees supervising those individuals?

17 A. No, I did not.

18 Q. And how would you define a security function?

19 A. Well, there's lots of definitions. But in this
20 particular case, they were preventing egress or ingress,
21 however you want to look at it, from the casino into the
22 parking lot.

23 Q. Thank you. And, I think, you may have stated
24 this, but just to be clear, would you conclude, did you
25 conclude that these three individuals were performing a

1 security function?

2 A. I did.

3 MS. BORDELOVE: Okay. I think, that's all the
4 questions I have at this time.

5 BOARD CHAIRMAN ZANE: Okay. Mr. Campbell.

6

7

CROSS-EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Good morning, Mr. Woodruff. You understand
10 you're under oath today?

11 A. Yes.

12 Q. And what you say carries the same weight and
13 consequence as if you were in a court of law, such as
14 penalties of perjury, et cetera?

15 A. I do.

16 Q. Okay. What time did you arrive at the
17 Peppermill that day?

18 A. I don't recall.

19 Q. Morning, afternoon?

20 A. I believe, it was in the afternoon.

21 Q. You can't remember a specific time?

22 A. No.

23 Q. And what did you do when you first arrived?

24 A. I parked. I looked around the casino to try
25 and find where the event was taking place, and I

1 followed what was going on at the event.

2 Q. So what, can you describe for the Board what
3 the event was?

4 A. Sure. This was the Hot August Nights, I
5 believe. And so what was going on was that all the
6 restored old vehicles were on display in the parking
7 lot.

8 Q. Okay. And which parking lot was that?

9 A. That was the north parking lot.

10 Q. Okay. And that's just to the north of the
11 casino doors, the north casino doors?

12 A. Correct.

13 Q. And in that parking lot, was that, was there a
14 perimeter around the parking lot, around those cars?

15 A. What do you mean by that?

16 Q. Was there a fence, a gate, any kind of
17 restriction on someone just walking off the sidewalk in
18 to see the old cars?

19 A. There were controls. There were barriers.
20 There were security officers from the Peppermill. So,
21 yes, there was controls.

22 Q. And was it a ticketed event; was there like a
23 ticket booth where you had to show a ticket to get in?

24 A. I don't know.

25 Q. You didn't see whether or not anybody entering

1 into where the cars were located in the parking lot had
2 to show any type of ticket or anything other, any badge
3 or anything like that?

4 A. Those were ran by Peppermill security staff,
5 which is out of our authority. And so I didn't go into
6 those areas and look specifically, no.

7 Q. So you didn't go into the parking lot where the
8 cars were parked?

9 A. No, I didn't go to the areas where the
10 Peppermill security was controlling that access to
11 determine what they were doing.

12 Q. Did you go into the parking lot, though?

13 A. Yes, I did.

14 Q. Okay. And did you see any ticket takers in or
15 around the parking lot to where you had to get a ticket
16 to go in to see the cars?

17 A. Not that I recall.

18 Q. Did you see any ESI employees, security guards
19 in and around those cars?

20 A. ESI Security, yes, I did.

21 Q. Okay. So you say you walked around, you
22 identified where the event was. Did you go into the
23 casino, the first thing you did?

24 A. I did.

25 Q. Okay.

1 A. I actually parked in the structure, the parking
2 structure, went into the casino, and made my way toward
3 where the event was.

4 Q. Well, the parking structure's on the south side
5 of the building, right?

6 A. Correct.

7 Q. Okay. So you walked through the casino, and
8 then you would have walked out the north doors?

9 A. Correct.

10 Q. Is that the first time you saw the Event
11 Services employees?

12 A. No.

13 Q. Okay. So you walked through the north doors.
14 What did you do next?

15 A. I found ESI Security officers located at that
16 north door, and I requested to see their work card.

17 Q. Okay. When you say you saw ESI Security
18 officers at the north door, are we talking about the
19 three people that are identified in the --

20 A. No.

21 Q. -- Notice of Violation, Exhibit 1?

22 A. No, we're not.

23 Q. Okay. So where did you see those ESI security
24 officers?

25 A. They were located in that, that area between

1 the pillars. If you know, there's pillars as you walk
2 out those doors.

3 Q. Yeah.

4 A. There are pillars. And they were located in
5 between them.

6 Q. So they were outside of the casino property?

7 A. Correct.

8 Q. And at that time did you see the Event Services
9 employees also at those doors?

10 A. No, I did not.

11 Q. Okay. Did you talk to the ESI officers at that
12 time when you first walked out those north doors?

13 A. When you say "talked," I asked for their
14 credentials.

15 Q. Yes.

16 A. And then I moved on as I collected those
17 credentials.

18 Q. Okay. So they all had proper credentials, ESI
19 credentials?

20 A. Yes, they did.

21 Q. So what did you do next?

22 A. I continued walking around the parking lot to
23 see if there were other ESI Security officers or any
24 private security, and found some walking in the parking
25 lot, some other locations.

1 Q. Okay. Did you ask them for their
2 identification?

3 A. I did.

4 Q. And they all showed you proper identification?

5 A. They did.

6 Q. Okay. So how long do you think you spent
7 talking to the security officers outside the door and
8 the ones in the parking lot?

9 A. Probably somewhere between 20 and 40 minutes.

10 Q. Okay.

11 A. As I walked through the venue.

12 Q. So at that time, you were either talking to ESI
13 Security officers and/or looking through the venue,
14 looking for other private security officers?

15 A. Correct.

16 Q. Okay. And what did you do next, after you
17 talked to ESI Security officers in the parking lot?

18 A. Then I was making my way back to my vehicle.
19 That's when I saw the ESI services, Event Services
20 people at the doors.

21 Q. Okay. So those are the same north doors that
22 you exited out of the casino?

23 A. Correct.

24 Q. How many Event Services employees were there?

25 A. Three.

1 Q. And did you talk to those Event Services
2 employees?

3 A. I observed first, but then I eventually did
4 talk to them, yes.

5 Q. Well, tell me exactly what you observed first.

6 A. I observed one of the individuals stopping a
7 patron, saying that they cannot go into the parking lot,
8 that they are not being allowed to bring glass into the
9 parking lot, and that they needed to pour their drink
10 into the plastic cups before they could go in.

11 Q. So you were standing in close proximity to that
12 conversation, you could overhear it?

13 A. I could.

14 Q. Which Event Services employee was it?

15 A. I believe -- it doesn't list it here, but, I
16 believe, it was Alfred Apodaca.

17 Q. And you actually saw him physically restrain a
18 patron from leaving?

19 A. I observed him telling, moving in the way of
20 his path and telling him that he can't go forward
21 further.

22 Q. Did you talk to Mr. Apodaca?

23 A. I did.

24 Q. Okay. What did you tell him?

25 A. I asked him for his work card, and he said he

1 didn't have one. I asked him for his ID, which he
2 provided.

3 Q. And that was just a driver's license or
4 something?

5 A. Yes.

6 Q. So that, that one incident, how long did that
7 observation of that patron take place?

8 A. A minute maybe.

9 Q. Did you see any of the other two Event Services
10 employees stop or restrain any patrons?

11 A. I did not.

12 Q. But you cited all three of them, correct?

13 A. No. I cited the company and listed those folks
14 as providing that service.

15 Q. Okay. So you're assuming that Mr. Nelsen and
16 Ms. Erwin also were doing the same thing, based on your
17 observation?

18 A. They were posted in the same position, and they
19 had cups in their vicinity.

20 Q. What did you see them doing?

21 A. They were standing by the wall.

22 Q. Okay. Did you see them handing out cups to
23 patrons?

24 A. No.

25 Q. Was there a table there with plastic cups?

1 A. I believe, there was one table off to the side,
2 but I'm not sure. I think, they were also using the
3 pillars to put the cups as well, but I can't recall
4 exactly.

5 Q. So that's the basis of your Notice of
6 Violation, then, is the one incident with Mr. Apodaca?

7 A. No.

8 Q. What else did you see that led you to issue a
9 Notice of Violation?

10 A. So, additionally, I watched him for a little
11 while, and he was continuing to tell people to stop, you
12 got to transfer your drink into the plastic cups.

13 Q. Did he say "stop" or actually "You need to
14 transfer your drink"?

15 A. Stop.

16 Q. So he actually told them to, verbally told them
17 to stop?

18 A. (Nodded head affirmatively.)

19 Q. Did you see anybody that refused to transfer
20 their drink?

21 A. No.

22 Q. Did you talk to the other two Event Services
23 employees?

24 A. Yes, I did.

25 Q. And tell me about those conversations. Let's

1 start with Mr. Nelsen.

2 A. I asked him if he had his work card, and he
3 said he didn't have his work card. He gave me his ID;
4 driver's license, I believe.

5 Q. Did you ask him about what he was doing --

6 A. I did.

7 Q. -- and what his job functions were?

8 A. He said that he was providing cups.

9 Q. Anything else in that conversation with
10 Mr. Nelsen?

11 A. No.

12 Q. Okay. And then did you talk to Ms. Erwin?

13 A. Yes.

14 Q. Okay. Tell me about that conversation.

15 A. I asked her for her work card. She said she
16 didn't have one. She provided me with her ID. I asked
17 her what she was doing. She was making cups available.

18 Q. Anything else in that conversation with her?

19 A. No.

20 Q. Did you tell her that you saw her, observing --

21 A. No.

22 Q. -- talking to patrons?

23 A. No.

24 Q. So just to be clear, the violation that you
25 issued, you viewed, under NRS 648.013, as being a

1 private patrol security officer that was on a task to
2 protect the property, security of the Peppermill Casino?

3 A. Yes.

4 Q. Because why?

5 A. Because they were limiting the access into the
6 parking lot.

7 Q. When you say "limiting the access," did you
8 ever see anybody physically stop these people from
9 moving forward?

10 A. Yes. Like I told you, he moved in front of the
11 person, in their way, physically stopping that person
12 from moving into the parking lot.

13 Q. I just want to make sure that that's the basis
14 of your violation. Okay. After you talked to
15 Ms. Erwin, what did you do next?

16 A. I talked to a security guard from ESI and asked
17 who the supervisor was on-site.

18 Q. And did you talk to the supervisor?

19 A. Yes. He put me in contact with the supervisor,
20 and I spoke with the supervisor.

21 Q. But you don't remember who that supervisor was?

22 A. Not by name.

23 Q. Tell me about that conversation with the
24 supervisor.

25 A. I said that the Event Services staff was

1 preventing the egress and ingress into the parking lot
2 with these cups and these glass containers that were not
3 being permitted, and that he needed to remove them and
4 put security officers in their place.

5 Q. Did he agree with you? Did you have any
6 further conversation?

7 A. We had a conversation, and he -- I don't know
8 if he disagreed with me or agreed with me. He was not
9 happy with my decision, and he ended up replacing those
10 folks with security officers.

11 Q. So you don't remember the details of that
12 conversation with the supervisor?

13 A. No.

14 Q. And did the supervisor then replace those
15 people?

16 A. Yes, he did.

17 Q. How far away from Mr. Apodaca and the patron
18 that was permitting access to the parking lot were you
19 standing?

20 A. Maybe 10 or 15 feet.

21 MR. CAMPBELL: That's all I have of this
22 witness.

23 BOARD CHAIRMAN ZANE: Ms. Bordelove.

24 MS. BORDELOVE: I have a few questions, a few
25 more questions.

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REDIRECT EXAMINATION

BY MS. BORDELOVE:

Q. You testified that you witnessed Mr. Apodaca moving in the path of a patron. In your opinion, is even that much, is physical restraint required to be preventing ingress or egress?

A. When you mean physical, like putting their hands on them, or, or if even stepping in front of them, is it required?

Q. Basically, I guess, how would you define preventing; would words be enough?

A. He's in a position of controlling the situation. Whether he does it physically or verbally, it's the same thing.

Q. Okay. And would he have to use the word 'stop' to be preventing a person from leaving with the drink?

A. Not in my thoughts. In fact, I heard patrons saying, "Hey, we can't go into the parking lot without moving our drinks." So there was a perception of control over the situation by the patrons.

MS. BORDELOVE: Okay. That's all the questions I have.

BOARD CHAIRMAN ZANE: Mr. Campbell, anything further?

MR. CAMPBELL: One second.

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RE CROSS-EXAMINATION

BY MR. CAMPBELL:

Q. Just to be clear on the conversation or the what you observed Mr. Apodaca doing from 10 or 15 feet away, did he say "stop"; you heard him verbally say "stop"?

A. Yes. Yes, because he was moving towards a person that was moving into the parking lot. Hey, you know, stop. You know, and he's moving over to catch that person from moving into the parking lot.

Q. So then he got in front of him, you said?

A. Correct.

Q. And then did you see him hand him a plastic cup?

A. Yes. You can't go in here until you -- there's a trash can provided for the glass.

MR. CAMPBELL: That's all I have.

BOARD CHAIRMAN ZANE: Are there any Board member questions?

MS. BORDELOVE: I don't have anything further. And I -- Mr. Woodruff is my only witness. So I'm finished. But I reserve the right to call him as a rebuttal, if necessary.

BOARD CHAIRMAN ZANE: Okay. Any Board member questions of the witness?

1 BOARD MEMBER FLYNN: Yeah, it's Ray Flynn. I
2 have one question. Please describe what the ESI
3 employees were wearing.

4 THE WITNESS: The ESI employees were wearing a
5 blue polo shirt with a yellow logo. It's like a shield
6 in the breast area. And then on the back, it says
7 "Event staff" or something of that nature in yellow
8 letters.

9 BOARD MEMBER FLYNN: Was all the ESI employees
10 dressed the same?

11 THE WITNESS: When you say "ESI," do you mean
12 ESI Security or ESI's event staff?

13 BOARD MEMBER FLYNN: All right. Let me ask
14 this question. Was there any difference in how the ESI
15 employees were dressed?

16 THE WITNESS: Yes. The ESI Security officers
17 were dressed in black polos, and they're very different
18 than the Event Services polo shirts.

19 BOARD MEMBER FLYNN: Okay. And the people
20 that, the person on this particular case that was issued
21 the citation, what were they wearing?

22 THE WITNESS: All three of the individuals
23 listed were wearing blue polos, light blue polos with
24 the gold lettering.

25 BOARD MEMBER FLYNN: Okay. Thank you.

1 BOARD CHAIRMAN ZANE: Any other Board
2 questions?

3 Thank you. You're subject to recall.

4 THE WITNESS: Okay.

5 BOARD CHAIRMAN ZANE: Thank you.

6 Ms. Bordelove, is that your only witnesses; do
7 you have anything further before we hand it off to
8 Mr. Campbell?

9 MS. BORDELOVE: I do not.

10 BOARD CHAIRMAN ZANE: Thank you.

11 MR. CAMPBELL: I'd like to call Mr. Apodaca.
12 Am I saying that right?

13 THE WITNESS: Apodaca.

14 BOARD CHAIRMAN ZANE: Can you spell your last
15 name for the recorder, please?

16 THE WITNESS: A-P-O-D-A-C-A.

17 BOARD CHAIRMAN ZANE: And your first name is
18 what?

19 THE WITNESS: Alfred.

20 BOARD CHAIRMAN ZANE: Alfred.

21 THE WITNESS: M-hm (affirmative).

22 BOARD CHAIRMAN ZANE: Thank you.

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A L F R E D A P O D A C A,
having been previously duly sworn
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Mr. Apodaca, where are you currently employed?

A. I work for ESI part-time.

Q. Okay. And in what capacity?

A. Event Services.

Q. So you work for Event Services?

A. Yes.

Q. You don't have a PILB?

A. No.

Q. And how long have you worked for Event
Services?

A. Getting close to two years, I would think.

Q. And at that time, during that two-year period,
generally what have your job functions been?

A. Parking, taking tickets, mostly that kind of
stuff.

Q. Okay. When you say "parking," can you describe
it, be a little bit more detailed?

A. Just showing people where to park, you know,
and directing them in, but. Taking tickets at the door.

1 You know, not a whole lot. A lot of parking.

2 Q. When you first started work at Event Services,
3 was there any type of job training that would specify
4 what you as an Event Services employee could do at a
5 function?

6 A. Well, they asked me to be a guard. But I
7 didn't want to be a guard, because I don't like, like
8 say, stopping people and telling them what to do. I can
9 barely tell myself what to do. But there was always
10 somebody there to show me, when I went on the job, what
11 had to be done.

12 Q. What was your understanding -- let's say, a
13 ticket taker. As a ticket taker, what was your
14 understanding, if someone didn't have a ticket, what do
15 you do as an Event Services employee?

16 A. Just notify the supervisor that was there.

17 Q. Okay. Did you feel you had to the ability to
18 actually restrain --

19 A. No.

20 Q. -- a patron?

21 A. No.

22 Q. And that was made very clear to you in your
23 training?

24 A. Yeah. Yes. The orientation, they give you a
25 few pointers and tell you what to do and what you can't

1 do.

2 Q. Okay. And so you understood that one of the
3 things you can't do is restrain people?

4 A. Yes, you can't stop people from doing anything.

5 Q. Okay. Did you work at the Peppermill on
6 August 6, 2016 for the Hot August Nights event?

7 A. Yes.

8 Q. When did you first arrive; do you recall?

9 A. I want to say somewhere between 10:00 and noon.
10 I'm not sure of the exact time.

11 Q. And when you got there, did you meet with
12 someone from either ESI or Event Services as to what you
13 were going to be tasked to do?

14 A. Yeah. There was a couple other blue shirts
15 there with us, and they took us over to the doors and
16 asked us just to hand out cups as they came out the
17 door.

18 Q. When you say "a couple other blue shirts,"
19 that's Event Services?

20 A. Yes, Event Services.

21 Q. Just to be clear, Event Services employees have
22 blue shirts?

23 A. And the guards have black shirts with
24 "Security" on the back.

25 Q. And what did your shirt say on the back?

1 A. Event Services.

2 Q. Okay. And so you say two other blue shirts,
3 that you were taking over to the doors on the north side
4 of the parking lot of the Peppermill?

5 A. Yeah. Yes.

6 Q. And can you describe for the Board kind of the
7 physical layout of that door on that north side?

8 A. Well, it's kind of curved. So there's doors on
9 each side and then doors in the middle. And I was in
10 the middle. And the other two were on the other side,
11 other doors on each side.

12 Q. And when the supervisor took you over, the
13 three of you over to the doors, did he have a
14 conversation with all three of you as to what you were
15 supposed to do?

16 A. Yeah. I think, he did all of us, just told us
17 we had to hand out the cups as they came out the doors.
18 And they had trays in front of the -- on the pillars
19 right in front. And they said just give them the cup
20 and have them just -- they'll put their drink in the cup
21 and then put the glass in the tub.

22 Q. Were you instructed to tell the patrons
23 anything as to --

24 A. No, I just ask them, I just hand them a cup and
25 ask them, "This is for your drink." You don't really

1 have to explain that. They pretty, pretty -- you know,
2 it's pretty knowledgeable that they want, what you
3 wanted.

4 Q. Yeah.

5 A. They'd just take a cup and do it.

6 Q. Did you have any patrons that refused to take
7 their glass or --

8 A. No, I don't think I had anybody refuse.

9 Q. Okay. And you were in the hearing today,
10 right, you heard Mr. --

11 A. Yes.

12 Q. You heard the investigator testify?

13 A. M-hm (affirmative).

14 Q. Okay. And did you physically or verbally stop
15 any patron and prevent them from going forward?

16 A. I don't believe I ever told anybody to "Stop,
17 you can't go out there." You know, I would hand them a
18 cup, but, "Hey, hey, here you go," give them a cup. You
19 get three or four people coming out the door at the same
20 time, you know, and you try to give them all a cup. But
21 if I moved in front of somebody, it was because I was
22 probably trying to give the other guy a cup on the other
23 side.

24 Q. Okay. And you heard the testimony, right?

25 A. Yeah.

1 Q. From Mr. Woodruff?

2 A. Yes.

3 Q. Did you tell any of the patrons anything close
4 to what Mr. Woodruff said you said to them?

5 A. I don't believe I've ever stopped anybody.
6 Because that's not my job. You know, I don't, you know,
7 I can't stop anybody from doing it. If they would have
8 walked into the -- if they would have said "No" and
9 walked past me, then I would have just had to go to a
10 guard or something. I would never, I would never holler
11 at them or tell them they couldn't go in there.

12 Q. It was a free event, right, anybody could go?

13 A. Yes, it's a free event, it's in and out.

14 Q. Were there signs that you saw that said "No
15 glass containers"?

16 A. You know, I'll be honest, I don't remember
17 seeing any, but there might have been.

18 Q. And then the two coworkers were on the opposite
19 ends of the door, right?

20 A. M-hm (affirmative).

21 Q. And did you observe them, what they were doing?

22 A. The same thing, just handing out cups.

23 Q. Did how long were you tasked and doing, handing
24 out those cups before Mr. Woodruff approached you?

25 A. 20 minutes, maybe a half hour. It wasn't very

1 long after I got there that he came up.

2 Q. And did he talk to you?

3 A. Yes, he did.

4 Q. And what did he say?

5 A. He told me he was a state inspector and asked
6 me for my PILB card. And I told him I didn't have one.
7 And then he asked for my driver's license.

8 Q. You showed him that?

9 A. And I showed him that.

10 Q. Okay. And then any further conversation with
11 him?

12 A. I think, I said something to the effect of, "Am
13 I doing something wrong?" or something like that. And
14 he said, "You're stopping people." I said, "Well, I'm
15 not really stopping people. I'm just giving them a
16 cup." But, you know, that's where it ended, and then he
17 went to the next person.

18 Q. And then Mr. Woodruff, did you see him talk to
19 the other two Event Services employees, also?

20 A. Yeah, I think, he did talk to them. I couldn't
21 hear what he said, though.

22 Q. Okay. How far away were they?

23 A. From here to that door (indicating). You know,
24 I don't know.

25 Q. Did you see him standing off to the side

1 observing you when you were working?

2 A. No. No. I was just handing out cups. You
3 know, there was a lot of people coming in and out of the
4 casino, going to see the cars, coming back in, so.

5 Q. And this was outside. Was it fairly noisy and
6 busy at the time?

7 A. Yeah, and music was playing. And, yeah, it was
8 pretty noisy.

9 Q. How many people do you think were exiting in
10 that 20, 30 minutes you were there, how many people
11 actually exited the casino and --

12 A. How many people?

13 Q. Yeah.

14 A. It was a lot. Hot August Nights is quite big,
15 so.

16 Q. But I'm only talking about exiting.

17 A. Actually exiting? Somebody's always coming out
18 those doors. Not everyone has a drink.

19 Q. M-hm (affirmative).

20 A. But, yeah.

21 Q. Over a hundred in that 20 minutes, half hour?

22 A. Probably, a good, yeah, 75, hundred.

23 Q. And there were people milling around in the
24 parking lot?

25 A. Probably all the doors, and everybody milling

1 around and talking, and the music was pretty loud.

2 Q. Where was the music stage?

3 A. I never seen the stage, but I could hear it.

4 It was out in the parking lot somewhere.

5 Q. Kind of loud?

6 A. Yeah.

7 Q. '50's rock-n-roll type of band?

8 A. Yeah.

9 Q. And then Mr. Woodruff left. What happened
10 next?

11 A. Just soon after, it wasn't very long after he
12 left, they brought three black shirt guards in and took
13 our place and said we had to go.

14 Q. When you say "black shirt," that's the event,
15 ESI Security?

16 A. Yeah, ESI Security, yes.

17 MR. CAMPBELL: That's all I have, Mr. Apodaca.
18 Thank you.

19 THE WITNESS: Okay.

20 BOARD CHAIRMAN ZANE: Ms. Bordelove.

21 THE WITNESS: Not yet.

22 MR. CAMPBELL: She might have questions.

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CROSS-EXAMINATION

BY MS. BORDELOVE:

Q. Okay. Mr. Apodaca, was this the first event you worked for Event Services?

A. Is this the first event I worked for them?

Q. Yes.

A. No. I've worked others.

Q. Okay. When you said you often show up at an event and someone instructs you on what to do, the person who instructs you, is that usually an Event Services employee or an ESI Security employee?

A. That's usually a -- well, it's usually an Event Services employee, but they're doing the same job. And I was mostly talking about when I first hired on, you know, when I first started the job.

Q. So when you arrived at the Peppermill Resort to work, who instructed you what to do?

A. The supervisor there. I forget his name.

Q. And was he an Event Services employee or ESI Security?

A. He was ESI Security.

Q. Okay. And when patrons would come outside of the Peppermill Resort with a drink, what would you say to them?

A. I would hand out a plastic cup and ask them,

1 I'd say, "This is for your drink." And they would take
2 it.

3 Q. And did you tell any individuals that glass was
4 not allowed in the parking lot?

5 A. I don't believe I did. I think, like I say,
6 the tray that was there with all the empty glasses, so
7 they would just pour it in there. I don't believe I
8 told anybody they couldn't go there.

9 Q. You said it was knowledgeable what they wanted.
10 Are you referring -- were you referring to what the
11 resort wanted?

12 A. Yeah. Yeah, we were, what the plastic cup was
13 for.

14 Q. Okay. And so you believe that patrons
15 understood that they were not allowed to bring glass
16 outside?

17 A. Yes. Yeah, I think so. I think, it's pretty
18 common knowledge in most casinos that they don't, if
19 you've been to Hot August Nights before, that you don't.
20 They don't want the glass out there, because, you know,
21 the cars.

22 Q. And you said -- were there any signs --

23 A. I didn't --

24 Q. -- telling people that they could not bring
25 glass?

1 A. I didn't see any, but I don't know if there was
2 or not.

3 Q. Okay. Is it possible that you could have moved
4 in front of somebody when trying to make sure they took
5 a cup?

6 A. If I did, it was to give a cup to another
7 person on the other side.

8 Q. What would you have done if someone refused?

9 A. I wouldn't have done --

10 Q. Or ignored you?

11 A. I wouldn't have done anything. I would have
12 let them go on into the parking lot, and then I would
13 have tried to find a guard to let them know that he took
14 the glass in.

15 Q. I think, that's all I have. Actually, one last
16 question, I guess. How would you usually get patrons'
17 attention?

18 A. I'd say, "Oh, here." I would say, "Here's a
19 plastic cup for your drink." And that's all. They'd
20 grab it.

21 Q. And were there patrons with drinks that just
22 ignored you?

23 A. No, I don't think so. I don't think I have
24 anybody refuse to take the plastic, or the cup or to put
25 their glass in the tray. They just automatically would

1 do it.

2 Q. You said it was loud. Was there anyone who
3 didn't hear you?

4 A. Well, I don't think so. I think, I think, I
5 got everybody.

6 Q. So you were --

7 A. I don't know, I don't know if I missed
8 somebody. But, yeah, I don't think I did.

9 MS. BORDELOVE: Okay. That's all I have.

10 BOARD CHAIRMAN ZANE: Mr. Campbell?

11 MR. CAMPBELL: No redirect.

12 BOARD CHAIRMAN ZANE: Okay. Any Board members,
13 questions?

14 BOARD MEMBER FLYNN: No.

15 BOARD MEMBER NIXON: I do.

16 BOARD MEMBER FLYNN: We have one.

17 BOARD MEMBER NIXON: Tammy Nixon. At any time,
18 did you see an event staff supervisor?

19 THE WITNESS: Say that again.

20 BOARD MEMBER NIXON: At any time, did you see
21 an event staff supervisor or just a security staff
22 supervisor?

23 THE WITNESS: Just a security supervisor.

24 BOARD MEMBER NIXON: Thank you.

25 BOARD CHAIRMAN ZANE: Mr. Colbert.

1 BOARD MEMBER COLBERT: Yes. Did you have any
2 kind of communication with supervisors, in terms of --

3 THE WITNESS: When I first got there and they
4 told us what to do.

5 BOARD MEMBER COLBERT: So if you were to have a
6 problem, how would you get ahold of a supervisor?

7 THE WITNESS: Well, there's security guards
8 usually walking around doing their job, you know, and,
9 or the supervisor would come around every once in a
10 while to check on us. So I wouldn't have left my post
11 to go find him. I would have waited till I found a
12 guard or somebody, if somebody had walked out there with
13 a glass.

14 BOARD MEMBER COLBERT: So you had no radio
15 communication or anything like that with you?

16 THE WITNESS: No, no, I didn't have no radio.

17 BOARD MEMBER COLBERT: Were there any times
18 where the traffic coming out those doors was just like
19 almost like overwhelming?

20 THE WITNESS: Oh, yeah.

21 BOARD MEMBER COLBERT: Okay.

22 THE WITNESS: Plenty of times, yeah. Because
23 there's a lot of people, you know.

24 BOARD MEMBER COLBERT: So how did you deal with
25 tons of people coming out all at once?

1 THE WITNESS: The best I could. You know, I
2 just do it, hand out the cups as fast as I could, and.

3 BOARD MEMBER COLBERT: Did anyone ever kind of
4 like get by you?

5 THE WITNESS: They could have. They could
6 have.

7 BOARD MEMBER COLBERT: Where you would have had
8 to run up to them to give them a cup?

9 THE WITNESS: No. No. There was people coming
10 out all the time. So I wouldn't have ran up to grab
11 somebody if they passed me. Or I mean, or, you know, I
12 mean, no, I would have just stayed there. If they would
13 have went out, I would have missed them. Maybe somebody
14 did get out, probably did, but I didn't see them.

15 BOARD MEMBER COLBERT: So you have a stationary
16 location?

17 THE WITNESS: Right.

18 BOARD MEMBER COLBERT: But yet you're having to
19 walk over to people or walk in front of people to get to
20 other people to hand them cups?

21 THE WITNESS: Just between the double doors,
22 you know, that open up.

23 BOARD MEMBER COLBERT: Okay.

24 THE WITNESS: I'd walk in front of people,
25 maybe I'd say, "Excuse me," and I'd hand the guy over

1 there a cup, but.

2 BOARD MEMBER COLBERT: Okay. Do you think at
3 any point in time that you may have prevented people
4 from moving forward in handing cups to other people?

5 THE WITNESS: Yeah, but it wasn't
6 intentionally. I mean, you know, I was just trying to
7 get to the other guy.

8 BOARD MEMBER COLBERT: Okay. I have no
9 further.

10 BOARD CHAIRMAN ZANE: Any other Board
11 questions?

12 BOARD MEMBER NADEAU: No. Thank you,
13 Mr. Chair.

14 BOARD CHAIRMAN ZANE: I have a couple.
15 Mr. Apodaca, when you're called for an event to work,
16 how do you get notified, they give you a call on the
17 phone?

18 THE WITNESS: I get text.

19 BOARD CHAIRMAN ZANE: A text?

20 THE WITNESS: A text message.

21 BOARD CHAIRMAN ZANE: Okay. And then you
22 respond to work to an office location or to a job
23 location?

24 THE WITNESS: Right, I go to that location, and
25 there's usually a supervisor there that instructs us on

1 what we have to do.

2 BOARD CHAIRMAN ZANE: Okay. Now, at any of
3 these events, while you've been employed with ESI, is
4 there a routine that you check in with an ESI Security
5 supervisor or an ESI events supervisor, or is it a
6 combination?

7 THE WITNESS: It's usually one or the other or
8 a combination will be there.

9 BOARD CHAIRMAN ZANE: Okay. Did you have any
10 interaction at any of these job sites or this one in
11 particular with the proprietary security or management?

12 THE WITNESS: No.

13 BOARD CHAIRMAN ZANE: Did the Peppermill
14 security ever come around or give you any direction
15 directly?

16 THE WITNESS: No.

17 BOARD CHAIRMAN ZANE: Okay. You had indicated
18 earlier that you didn't want to be in the security side
19 of the employment?

20 THE WITNESS: Right. They asked, they me to
21 when I first hired on.

22 BOARD CHAIRMAN ZANE: Okay. So you were given
23 the option of not working security or working just Event
24 Services?

25 THE WITNESS: Right.

1 BOARD CHAIRMAN ZANE: Okay. Was there any time
2 during your employment that you were sent out to do
3 tasks that you didn't feel you were qualified or
4 comfortable in doing?

5 THE WITNESS: No. No. Most Event Services,
6 you know, are -- you don't, you just -- like I say,
7 you're just doing parking or handing out plastic cups or
8 taking tickets. You know, I didn't, I didn't want, I
9 didn't want to be involved in stopping people and
10 telling them, you know, guarding stuff.

11 BOARD CHAIRMAN ZANE: So if you had a problem,
12 your next step would be to get a guard?

13 THE WITNESS: Yeah.

14 BOARD CHAIRMAN ZANE: Okay.

15 THE WITNESS: If I had a problem.

16 BOARD CHAIRMAN ZANE: Okay. That's all I have.
17 Any other Board questions?

18 BOARD MEMBER FLYNN: Mr. Chair, yeah, I have
19 one question.

20 Mr. Apodaca, you mentioned that you received
21 your job assignments via text; is that correct?

22 THE WITNESS: Well, how it happened that day, I
23 was supposed to be at a parking by the Burlington Coat
24 Factory, but they called that job off. But I didn't
25 know that until I got there. So then they send me over

1 to -- they -- I called scheduling, ESI scheduling, and
2 they told me to go over to the Peppermill, they might
3 have a job over there. So that's when I went over
4 there. And they --

5 BOARD MEMBER FLYNN: Okay. So you did that by
6 phone? I'm a little confused. You did that by phone
7 call or text?

8 THE WITNESS: Well, my original job came by
9 text a couple days before that, and I was going to go to
10 the parking job by the Burlington Coat Factory. I went
11 there. That job was called off. But I didn't get the
12 text, or I didn't see the text until I got there. So
13 nobody was there. So I called scheduling, and they told
14 me that it had been cancelled, that job had been
15 cancelled, and that they asked me to go over to the
16 Peppermill.

17 BOARD MEMBER FLYNN: Okay. So the text that
18 you receive, is it -- let me phrase it this way. Is
19 that how you receive your job assignments is via text?

20 THE WITNESS: Yes, most of the time. All the
21 time.

22 BOARD MEMBER FLYNN: And who do you receive the
23 text from?

24 THE WITNESS: Scheduling, ESI scheduling will
25 text me and ask me if I can do a job at the events

1 center. And I either accept it or refuse it. And then
2 they give me a time to start. And that's where I show
3 up.

4 BOARD MEMBER FLYNN: Okay. So you don't know
5 who the person is that's sending you the text?

6 THE WITNESS: There's different, there's
7 different office people in scheduling. No, I don't. I
8 don't know them personally, no.

9 BOARD MEMBER FLYNN: All right. Thank you.

10 BOARD CHAIRMAN ZANE: Mr. Nadeau.

11 BOARD MEMBER NADEAU: Thank you.

12 Mr. Apodaca, is it possible that in the rush of
13 all the people, that you would have tried, said, "Hold
14 up," or, "Stop. Here's a cup," or something like that?

15 THE WITNESS: I might have said, "I'd like you
16 to take this cup, you know, here, you need this cup.
17 Take this cup." But that's it. I wouldn't -- yeah. I
18 don't think I'd say "Stop."

19 BOARD MEMBER NADEAU: All right. Thank you,
20 Mr. Chairman.

21 BOARD CHAIRMAN ZANE: Any other Board
22 questions?

23 Okay. Is Mr. Apodaca free to go?

24 MR. CAMPBELL: Yes, he is.

25 BOARD CHAIRMAN ZANE: Thank you, sir.

1 THE WITNESS: Thank you.

2 MR. INGRAM: Mr. Chairman?

3 BOARD CHAIRMAN ZANE: Yes.

4 MR. INGRAM: Just the next witness, again --
5 during Mr. Apodaca's testimony, he was behind the box
6 most of the time. So is there a way we can move
7 everybody to the right about another foot or so? And
8 that way, the person that's providing testimony can be
9 seen.

10 BOARD CHAIRMAN ZANE: We'll give it a shot.

11 MR. INGRAM: Thank you.

12 BOARD CHAIRMAN ZANE: Mr. Campbell. Or I'm
13 sorry. Your next witness?

14 MR. CAMPBELL: Mr. Tim Dingman.

15 THE WITNESS: You folks have to excuse me a
16 little bit. I sprained my back a little bit, so I'm
17 moving a little slow. Okay. Thank you.

18 BOARD CHAIRMAN ZANE: Mr. Ingram, can you see
19 the witness?

20 MR. INGRAM: Very well.

21 BOARD CHAIRMAN ZANE: Thank you.

22 Would you state your name and spell your last
23 name for the recorder.

24 THE WITNESS: Sure. It's Timothy Michael
25 Dingman, D-I-N-G-M-A-N.

1 BOARD CHAIRMAN ZANE: Thank you.

2

3 T I M O T H Y D I N G M A N,
4 having been previously duly sworn,
5 was examined and testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Mr. Dingman, where are you currently employed?

10 A. ESI Security Services.

11 Q. Okay. How long have you been employed there?

12 A. Full-time, full-time, 12 and a half years.

13 Q. And what's your current job title?

14 A. I am one of the salaried managers.

15 Q. Do you also act in a supervisory capacity in
16 terms of actually in the field for specific events?

17 A. Yes. Yes.

18 Q. And in your 12 and a half years, how many
19 different conventions --

20 A. Oh, now you're asking. Gosh. A thousand
21 times. That's probably a pun. I'm elaborating a little
22 bit. But a good many, good many. Yeah.

23 Q. Okay. So just generally speaking here, as a
24 supervisor, you go to an event, whether it be Hot August
25 Nights or the rodeo or some other event that ESI does,

1 what does the supervisor do at the events?

2 A. Well, we interact with show promoters, show
3 staff, our own staff, ESI Security officers as well as
4 our guest service, give instruction, handle problems, if
5 there are any.

6 Q. And what's your understanding, as a -- you
7 know, a licensed or a registered PILB security officer,
8 what you or your staff that are also licensed can do in
9 an event?

10 A. We are hired, first off, for safety, safety and
11 security. So we'll protect the property, protect the
12 guests, the folks that hired us, not necessarily in that
13 order.

14 Q. Generally speaking, does a security officer
15 have the ability to actually physically restrain
16 somebody?

17 A. We do. We do, yes.

18 Q. Does that ever happen often?

19 A. It has happened in the past, yes.

20 Q. So we'd heard testimony today. And you've been
21 in the hearing room during the proceeding, right?

22 A. Yes.

23 Q. We heard testimony today about some of the
24 events have, actually have Event Services staff added in
25 addition to ESI Security Services; is that correct?

1 A. I have done events with guest services in
2 addition to security personnel, yes.

3 Q. What is the line of demarcation as to what the
4 security officer can do as opposed to an Event Services
5 staff?

6 A. Okay. To put it in a nutshell, I think, the
7 easiest way to describe guest services, pretty much
8 anybody can do it. You don't have to be licensed to do
9 it. There's no formal training for it, other than just
10 being very friendly.

11 Q. You call it guest services. Is that what you
12 kind of view Event Services as being?

13 A. I do. I do. And that's been how I've referred
14 to it ever since we started doing that. I've always
15 called them guest services.

16 Q. And while you're in the field, as a supervisor,
17 do you interact with Event Services employees, also?

18 A. Both, yes. I give instruction for a job to
19 both Event Services or our guest services, as well as
20 ESI Security officers, yes.

21 Q. And does Event's supervisors also have
22 supervising staffing at these events?

23 A. I want to say most of the time, it will. And
24 I'm going to say probably 98 or 99 percent of the time,
25 it is ESI Security supervisors and even to managers that

1 give instruction.

2 Q. So were you at the Peppermill, the Hot August
3 Nights event, on August 6 of 2016?

4 A. I was, yes.

5 Q. And what was your task at that time?

6 A. To run the private security as well as the
7 guest service folks from our company, to give them
8 instruction and make sure everything is taken care of.

9 Q. And do you recall approximately what time you
10 arrived at that event on that date?

11 A. Probably about 10 minutes to 2:00. The event
12 starts at 2:00 for us. And I usually get there a few
13 minutes early. Because, you know, sometimes guards or
14 guest service show up a little bit early. I want to be
15 there for them, gather them up, you know, get them all
16 together.

17 Q. And around that time, the event was underway,
18 the cars were there, the music was playing, things like
19 that?

20 A. Yes, it is underway. But, again, we started at
21 approximately 2:00 o'clock. That's when I was requested
22 to start.

23 Q. Okay. And you heard Mr. Apodaca talk about --

24 A. Yes.

25 Q. -- having somebody direct them to the north

1 doors and showing them where to work. Was that you?

2 A. I can't tell you that was me. I met the guards
3 and Event Services people at a small white security tent
4 that was right next to those doors. And that's
5 generally where I meet everyone. And then I give them
6 instruction as to what they need to do or where they
7 need to go.

8 Q. Did you give instructions to the Event Services
9 people?

10 A. I did. Yes. I placed them in the three
11 positions at the Atlantis north doors. They're also
12 referred to as the oceanographer doors.

13 Q. You didn't mention the Peppermill.

14 A. Or Peppermill. I'm sorry.

15 Q. My recollection is it's just the doors there.

16 A. Yeah, it's kind of a -- kind of a curve, like
17 Mr. Apodaca was kind of describing. It's kind of a
18 curved door. There's three sets of double doors there.

19 Q. What did you instruct those three Event
20 Services employees to do?

21 A. They were posted in static positions.
22 Obviously, that doesn't mean they stand at attention.
23 They can move about a little bit, but they need to stay
24 in their area at each sets of doors. And as people
25 walked out the door, they're to hand them a -- hand them

1 one of the plastic cups and just ask them if they can
2 transfer, you know, and that's it.

3 Q. And was there like a table or a bin?

4 A. There were several tables. There's usually --
5 well, not several. I take that back. There was two
6 tables, one on each -- okay. So you have the center
7 doors, and then there's doors on either side. But to
8 the left and the right of the center doors, there were
9 long tables posted. You know, they set them up there so
10 people that transferred their drinks could set the glass
11 on there. Unless it was a beer. And they had trash
12 can, too. But the beer bottles generally made it to the
13 trash can.

14 Q. Okay. And as you were performing your job
15 functions, did you stay in the -- back up. You said
16 there was a security tent?

17 A. Yes.

18 Q. The headquarters tent?

19 A. Yes, sort of. Yeah, it's sort of. We kind of
20 share it with the Peppermill security. We go in there
21 occasionally. Some of the Peppermill guest service
22 folks would -- you know, they had some literature they
23 would keep down there, too. And it was a place for
24 people, you know, if they wanted to take lunch or a
25 break.

1 Q. And how far away was it from the north doors?

2 A. Right next to them. So right there.

3 Q. And did you have occasion to actually see the
4 three Event Services employees doing their jobs at that
5 north door?

6 A. They were posted at 2:00. And actually, I saw
7 them approximately every 10 or 15 minutes or so. I
8 would, you know, check on them, and I would kind of walk
9 through the parking lot, checking the cars and the
10 other, and the security officers, make sure everything
11 was okay. And then I would come, circle back around and
12 check with them, make sure, if they had to go to the
13 bathroom or get a drink of water, whatever, you know.

14 Q. And it's my understanding there was ESI
15 Security in that same exact location, in the same
16 proximity as those north doors.

17 A. Well, we had several ESI Security officers, and
18 they were, you know, working in the parking lot. But,
19 you know, they would periodically check. Because they
20 were instructed, check on everyone, make sure, make sure
21 they're okay, if they're overheating, or if they need a
22 drink, go to the bathroom, whatever. They could fill in
23 for them, you know.

24 Q. Did you talk to any of the three Event Services
25 people that if someone refused to pour out their

1 drink --

2 A. Yes.

3 Q. -- or kept going with a glass, what they were
4 supposed to do?

5 A. They were given very specific instructions to
6 give them the plastic cup. If somebody didn't want to
7 take it, or they had any questions or problem, just let
8 them go. And if there was one of the ESI Security
9 officers in the area, meaning within, you know, hey, you
10 know, yelling, not yelling, but, you know, within, 10,
11 15 feet, or whatever, or if they saw me or one of the
12 Peppermill security officers, they could ask them about
13 it, point them, tell them.

14 Q. And they were pretty specifically instructed as
15 to say what they were to do?

16 A. They were given very specific instructions,
17 yes.

18 Q. So starting at around 2:00, when they got their
19 job assignments, you said you observed them pretty
20 regularly for a period of time?

21 A. All through the whole show, every 15, 20
22 minutes, 10, usually around 15, whatever it would take
23 me to walk through the event.

24 Q. And during that time frame, when you observed
25 the Event Services employees, did you ever see them

1 either verbally restrain someone from going to the car
2 show event in the parking lot?

3 A. My understanding of what you're trying to say,
4 no. Yes.

5 Q. Okay.

6 A. All they were doing was handing out a cup. If
7 they didn't take it, they just let them go.

8 Q. And you never saw anybody get in somebody's
9 face or --

10 A. No.

11 Q. -- tell them to stop or anything like that?

12 A. No.

13 Q. And that would include all three of the Event
14 Services employees?

15 A. Yes. I've been doing that event for 10 years.
16 And I've never had any problem with anybody. Everybody
17 knows. It's the same people that go to the event every
18 year. They know. Yeah.

19 Q. And is it like that at all the other Hot August
20 Nights events?

21 A. I can't, I can't tell you that. But I could
22 assume so, because the same people go to the, you know,
23 Peppermill. The same people go to the Atlantis. Or
24 whatever, you know, whatever rules that they have for
25 the event, you know, those people are pretty assured of

1 what they're doing.

2 Q. That's a little on the gray side, not -- not to
3 pick fights with people and things like this?

4 A. We hope so. Have we had events, you know,
5 incidents there? Yes. But never at those doors.

6 Q. So you heard the testimony before. You believe
7 there is common knowledge among the patrons that it's a
8 no glass event?

9 A. Yes. I would say it's common knowledge, yes.

10 Q. Did you at some point talk to Mr. Woodruff, the
11 private, PILB investigator?

12 A. Yes. I had stopped into the security tent.
13 And I'm not sure why, but from time to time, we'll
14 take -- excuse me. We'll grab -- there's a bucket in
15 there that has soap powder in it, and we'll take it out
16 and cover up maybe, you know, an oil spot. You know, a
17 radiator overheated, or whatever. We'll try to cover it
18 up so it would soak it up, and it would reduce the slip
19 hazard, you know. So I may have been in there for that.

20 But Mr. Woodruff, he came in, identified
21 himself. He said who he was and what he was doing. And
22 he asked me what the -- what the three employees were
23 doing at the oceanic doors. I explained to him that
24 they were handing out cups.

25 Q. Did he say -- did he respond to that?

1 A. He said that they were stopping people. And I
2 didn't respond to that. And, and he actually, he asked
3 me for my PILB card, and I showed him mine as well. I
4 don't know, he may have asked for that first. And then,
5 after I told him that they were doing that, you know,
6 that they were handing out cups, he said they were
7 stopping people. And he said, "I need them to go."

8 Q. Was he acting mad, or?

9 A. I wouldn't say he was mad, but it was --
10 demanding is a little strong. But it was stern.

11 Q. I'm going to show you a couple of exhibits.

12 A. Sure.

13 MR. CAMPBELL: Ms. Bordelove, this will be
14 Exhibit A in this case, that I handed out down there or
15 that I sent you over.

16 MS. BORDELOVE: Exhibit A?

17 MR. CAMPBELL: Yeah. On the bottom, it'll say
18 "Statement from Alexandria Erwin."

19 MS. BORDELOVE: Then, I have an objection to
20 Exhibit A as it's -- my objection is that this is
21 hearsay. There is -- unless you have Alexandria Erwin
22 here to authenticate it, it's -- I mean it seems pretty
23 definitely hearsay. You're offering it for the truth of
24 what she's saying. I have no ability to cross-examine
25 her as to these statements. There's no date, nothing

1 really to go to its truthfulness.

2 MR. CAMPBELL: Well, is that the extent of your
3 record?

4 MS. BORDELOVE: Yes.

5 MR. CAMPBELL: Okay. This is a business
6 record. It's a statement obtained in the normal course
7 of business from an employee of the company. So it's a
8 business record exception to the -- the hearsay rule
9 would apply.

10 In addition, in administrative proceedings, as
11 the Board knows, the rules of evidence are fairly
12 relaxed. And the Board can do hearsay if they'd like to
13 and just give it the weight as to the credibility versus
14 admissibility.

15 So, for the record, I think, this is admissible
16 on both of those notions.

17 MS. BORDELOVE: I would like to respond to
18 that, because I don't think the business record
19 exception applies here. Nevada's statutory business
20 record exception, in NRS 51, Chapter 51 provides that a
21 report, record or compilation of data, any form of
22 accidents, conditions or opinions, it has to be shown by
23 testimony or affidavit of the custodian or other
24 qualified person that it's -- and that there's
25 sufficient circumstances to show it's true.

1 I, again, want to point out here that there's
2 no date to this. It's not on an incident report form of
3 anything. It says statement from her, but it's not even
4 signed by her. I have no way of knowing if this was
5 written after the citation was issued. So if it was for
6 litigation purposes, it's not a business record. That's
7 not part of the exception.

8 And I just don't think you've laid any of the
9 foundation for that exception to apply.

10 MR. CAMPBELL: Well, I can certainly lay some
11 foundation through Mr. Hendi, if the Board would like me
12 to do that. But, again, I think, it is a business
13 record. You, know, it's, obviously, part of the -- it
14 wasn't prepared in the litigation. It was part of the
15 statements gathered by the company. And I can lay the
16 foundation with Mr. Hendi and through Mr. Dingman.

17 BOARD CHAIRMAN ZANE: Yes, I think, you better
18 lay a little bit of foundation.

19 MR. CAMPBELL: Why don't I call Mr. Hendi
20 first.

21 BOARD CHAIRMAN ZANE: Do you think we can do it
22 from the -- can everybody see all right?

23 MS. BORDELOVE: That's fine.

24 BOARD CHAIRMAN ZANE: Okay.

25 ///

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

5 EXAMINATION (FOUNDATIONAL)

6 BY MR. CAMPBELL:

7 Q. Mr. Hendi, can you take a look at -- why don't
8 you state your name for the record and spell it for the
9 reporter.

10 A. Hendi, H-E-N-D-I. First name M-A-H-M-O-U-D.

11 Q. And have you seen Exhibit A before?

12 A. Yes, I have.

13 Q. Okay. And how did that Exhibit A come into
14 your possession?

15 A. After the incident, we requested that everybody
16 that worked the event and was affected to actually write
17 the statement.

18 Q. And did Ms. Alexandria write that statement?

19 A. Yes.

20 Q. I mean Ms. Erwin? I'm sorry.

21 A. Yes, she did.

22 Q. And is that her handwriting on the bottom of
23 the statement?

24 A. I'm not sure, but she actually sent it by email
25 to me.

1 Q. Okay. And so this is an email that she sent on
2 or about August 6 of 2016?

3 A. Yes.

4 Q. Okay. And you kept it in the file as part of
5 the normal course of business?

6 A. Yes.

7 BOARD CHAIRMAN ZANE: Is it, is it the content
8 of the email, or is it actually the email to where you
9 can see who it's from and to?

10 THE WITNESS: I don't remember, to be honest.

11 BOARD CHAIRMAN ZANE: No, what you're offering
12 us to look at, is it an email that says from her to you,
13 the email?

14 THE WITNESS: No, this is the actual
15 attachment.

16 MR. CAMPBELL: And I can lay just some further
17 foundation.

18

19 T I M O T H Y M I C H A E L D I N G M A N,
20 having been previously duly sworn,
21 was further examined and testified as follows:

22

23 DIRECT EXAMINATION RESUMED

24 BY MR. CAMPBELL:

25 Q. Mr. Dingman, Ms. Erwin was, in fact, one of the

1 people at the event at the door?

2 A. Yes.

3 Q. And did you also talk to her?

4 A. I did.

5 Q. And did you talk to her about the -- about what
6 happened, she -- her interaction with the PILB
7 investigator?

8 A. I'm not sure about the question. Can you...

9 Q. Okay. Did you talk to her about her
10 interaction with Mr. Woodruff, at any point?

11 A. I did not. Yeah, I did not.

12 MS. BORDELOVE: I'm going to speak my
13 objection, then, with the foundation. I don't think
14 that -- I don't have any knowledge here really that --
15 there's nothing shown here that Mr. Hendi is the
16 custodian of records, that I mean he doesn't know what
17 date she wrote this specifically. We have nothing
18 showing that this is actually an email that came from
19 her, since it is purely just a paragraph on a piece of
20 paper. We don't know who wrote her name there, since
21 he's not sure of that, either.

22 And, you know, we have no person with personal,
23 real personal knowledge of her having even written this
24 or keeping it. I mean it's -- from some of the others,
25 I'm to understand that ESI has incident report forms,

1 but this is not written on one.

2 BOARD CHAIRMAN ZANE: Thank you.

3 MR. CAMPBELL: I think, Mr. Hendi -- he's the
4 owner of the company. He can certainly understand what
5 he's asked for in recordkeeping from his employees.
6 And, I think, his testimony is about that it's part of
7 the email, an attachment to an email to him or to his
8 company.

9 BOARD CHAIRMAN ZANE: Okay. I'm going to
10 sustain the objection. And without the -- you know, a
11 copy of the original email, and with the unknown writing
12 on it, I would not want to authenticate for you here
13 today. And if there's a possibility you can get this
14 person here to testify about the contents, that would be
15 preferable.

16 So objection sustained.

17 MR. CAMPBELL: Okay. I'll go to the next
18 exhibit, which is Exhibit number -- Exhibit B.

19 MS. BORDELOVE: I don't have an objection to
20 this Exhibit B.

21 BOARD CHAIRMAN ZANE: It's admitted.

22 (Agenda Item 6: Exhibit B was admitted.)

23 MR. CAMPBELL: Could you hand it to the
24 witness.

25 ///

1 BY MR. CAMPBELL:

2 Q. Mr. Dingman, Exhibit number B is a report that
3 you filled out; is that correct?

4 A. It is.

5 Q. Okay. And that report is dated, correct?

6 A. It is.

7 Q. And it was dated, what, a couple of days after
8 the incident?

9 A. Yes, 8-9-2016.

10 Q. Okay. And are all the statements in there
11 accurate to the best of your knowledge as to what you
12 remember a couple days after the event?

13 A. Yes.

14 Q. As to what happened?

15 A. Yes.

16 Q. Could I have your copy?

17 A. Sure.

18 Q. So in this statement --

19 A. Yes.

20 Q. I don't believe this was in testimony, but I'll
21 read it, refresh. It appears Mr. Woodruff told you that
22 they were stopping people, and you told him they were
23 not. Do you see that in the statement?

24 A. Yes, I see that in the statement, yes.

25 Q. And so was that based on your actual

1 observation of what the people were doing at the site?

2 A. When I observed them, they were not stopping
3 people.

4 Q. And your specific instructions to them were
5 that they were not to stop people?

6 A. Yes.

7 MR. CAMPBELL: That's all I have. Thank you.

8 BOARD CHAIRMAN ZANE: Ms. Bordelove.

9

10 CROSS-EXAMINATION

11 BY MS. BORDELOVE:

12 Q. Okay. Let's see. Mr. Dingman, you mentioned
13 that 99 percent of the time, ESI Security supervises
14 events and supervises Event Services staff. Was that
15 the case at this event, that ESI Security was
16 supervising?

17 A. Well, I work for ESI Security, and I was
18 supervising. So, yes.

19 Q. Okay. You mentioned that they were instructed
20 to call security if someone went -- ignored them or
21 refused to take a cup, that they were instructed to
22 notify. Was that to notify you?

23 A. If I -- if they could see me, yes. If I was in
24 the vicinity.

25 Q. And what were they to do -- you said you only

1 came by about every 15 minutes. What were they to do if
2 they could not see you?

3 A. There were other, there were other ESI Security
4 officers there, several, as well as several Peppermill
5 security officers, as well as their supervisors and
6 managers were on-site. So if -- if --

7 Q. You had mentioned --

8 A. Yes, go ahead. I'm sorry.

9 Q. M-hm (affirmative). Continue.

10 A. Well, I was just going to say that if, if there
11 was no one there within yelling distance or even
12 speaking distance, to just let it go, and we'll deal
13 with it when we can.

14 Q. So if they couldn't reach anybody, then they
15 were to just let people go into the parking lot with
16 glass?

17 A. If they had to, yes.

18 Q. Okay. You mentioned that there was a white
19 security tent. Was it identified in any way as
20 security?

21 A. It -- I believe, there was a sign on the front
22 of it hanging. Now, that would be the property, well,
23 of the Peppermill. And I know they had a sign. I
24 just -- sometimes it's up. Sometimes it's not. But
25 most of the time, it was in place, yes.

1 Q. Okay.

2 A. I don't compare that, because it's not -- you
3 know, it was the Peppermill's.

4 Q. You mentioned that there were -- it was a place
5 where people could take a break. Well, could Event
6 Services personnel take a break or spend time in that
7 tent?

8 A. Yes.

9 Q. Were ESI Security personnel also in that tent?

10 A. I'm assuming, yes. At some point, there may
11 have been both ESI Security and Event Services
12 personnel.

13 Q. Okay. Is it possible that patrons could have
14 been confused as to which personnel were security and
15 which were guest services?

16 A. Only if they couldn't read. ESI Security has
17 black shirts with "security" printed across the back.
18 And guest services has blue shirts with "guest services"
19 printed across the back. So it would be pretty hard
20 to --

21 Q. But they --

22 A. -- you know, not distinguish.

23 Q. If you only saw their front, the Event Services
24 uniforms on the front, what was on the front of their
25 uniforms?

1 A. I believe, it had a -- well, it has an ES
2 shield on the front, Events Services. It does not say
3 "security."

4 Q. So there is a shield?

5 A. There's no "security" on the Event -- on the
6 guest services shirt.

7 Q. But there is a shield?

8 A. It's a logo. I wouldn't actually -- I
9 apologize if -- I wouldn't really refer to it as a
10 shield. I would refer to it as a logo.

11 Q. And there were individuals wearing those blue
12 shirts in a tent that was -- may have been labeled
13 "security"?

14 A. Yes.

15 Q. Let's see. In Exhibit B, you mentioned that
16 you told Mr. Woodruff that they were not stopping
17 guests?

18 A. That is correct.

19 Q. Is it possible that they could have stopped a
20 guest when you were not witnessing it?

21 A. That is true, they could have.

22 Q. Okay. And -- let's see. You mentioned that it
23 was common knowledge that it was a no glass event
24 outside. Do you think that, in your opinion, could
25 patrons have believed that they would be stopped by

1 individuals outside when they saw individuals with
2 plastic cups?

3 MR. CAMPBELL: I'm going to object. I don't
4 get the foundation, just as to the state of mind of the
5 certain individuals. Who knows what the individuals
6 would think.

7 BOARD CHAIRMAN ZANE: Do you want to rephrase
8 it?

9 MS. BORDELOVE: I'll withdraw it.

10 BOARD CHAIRMAN ZANE: Okay.

11 BY MS. BORDELOVE:

12 Q. The Event Services individuals were to hand out
13 cups and to -- to let security officers know that if
14 somebody refused it or went in with glass, correct?

15 A. Yes.

16 Q. Okay. And would you, in your opinion, would
17 you consider that observing and reporting activity?

18 A. I probably would not phrase it like that. They
19 would let us know if -- that's the only way I can state
20 it. They would let us know if somebody did not, did not
21 transfer their glass liquids into plastic.

22 Q. But part of their job, the only way they would
23 know is if they had observed it, correct?

24 A. Yes.

25 Q. And letting a security officer know that, was

1 the purpose of letting a security officer know so that
2 the security officer could then approach the individual
3 or otherwise handle the situation?

4 A. Yes.

5 MS. BORDELOVE: Okay. I think, that's all the
6 questions I have.

7 BOARD CHAIRMAN ZANE: Anything else,
8 Mr. Campbell?

9

10 REDIRECT EXAMINATION

11 BY MR. CAMPBELL:

12 Q. Just a little bit on the layout of everything,
13 Mr. Dingman. The location of the table --

14 A. M-hm (affirmative).

15 Q. -- was that -- where was that in relation to
16 the bank of doors?

17 A. It was on either side of the center double
18 doors, approximately 10 feet from the doors.

19 Q. That's where the plastic cups were kind of
20 being stored?

21 A. Well, there would be plastic cups there, as
22 well as -- you know the old milk crates? You know, they
23 would put, that's where they would put the glass, you
24 know, inside those. So Peppermill folks could come up
25 and, you know, just grab a crate and take it back, yeah.

1 Q. Okay. And could the Event Services, did
2 they -- did you ever see them direct anybody to that
3 table or steer them to that table?

4 A. No.

5 Q. Were they supposed to go do that, steer them to
6 a table, depending what --

7 A. Well, we didn't tell them to do that.

8 Q. The only thing they were supposed to do is hand
9 out the cups?

10 A. Hand out the cups.

11 Q. And just to make sure, the security guards,
12 ESI, were in very close proximity to that, to that
13 triple doors there on the north side, right?

14 A. The ESI Security?

15 Q. Yes.

16 A. They were from time to time, yes. Yes.

17 Q. And if there was some kind of altercation or
18 yelling, anything, they would be --

19 A. Oh, yeah.

20 Q. -- in the proximity to notice that?

21 A. Yeah.

22 Q. And then they could have taken action?

23 A. Yes. Yes.

24 Q. So then the three Event Services people
25 necessarily didn't have to alert somebody if there was a

1 security event?

2 A. No. We would see it.

3 Q. Yeah. And that's why, that's why ESI Security
4 was there, right?

5 A. Exactly.

6 Q. To make sure there were no actions that were
7 detrimental to the health, safety and public of the
8 Peppermill and the patrons?

9 A. That is correct.

10 MR. CAMPBELL: That's all I have. Thank you.

11 BOARD CHAIRMAN ZANE: Anything else,
12 Ms. Bordelove?

13 MS. BORDELOVE: Just a couple questions.
14

15 RE-CROSS-EXAMINATION

16 BY MS. BORDELOVE:

17 Q. Was the ESI Security personnel always close
18 enough to be able to observe each of the Event Services
19 personnel?

20 A. Well, that was not their specific job. That
21 was my job, to observe them. Their job was to make sure
22 that the event ran smoothly or uneventfully. Was there
23 an ESI Security guard in the vicinity? Pretty much
24 always, at least one. Because they were walking and
25 roaming through the crowd and past them. So. And there

1 were multiple security officers there, including myself.
2 So there was pretty much always somebody in the area.
3 You know, if they needed help or some type of
4 assistance, there was pretty much always someone there
5 that they could call to.

6 Q. So if an Event Services individual offered a
7 cup to a patron --

8 A. Yeah.

9 Q. And the patron simply said, "No, thank you,"
10 and kept walking, would an ESI Security personnel have
11 independently seen that, or would the Event Services,
12 the Event Services individual have to notify security?

13 A. That was a primary job for ESI Security as well
14 as guest services, is to watch for the glass. So while
15 the ESI Security officers were walking through the
16 parking lot, that was one of the things they were always
17 looking for, glass.

18 Q. But in the hypothetical I just posed, if a
19 person simply said, "No, thank you," and kept walking,
20 there was not -- was there always ESI personnel that
21 would have immediately caught it, or would the Event
22 Services employee need to notify security?

23 A. That is correct. We would -- we may not be
24 there every second. So, yes.

25 Q. So it was part of the Event Services --

1 A. So somebody could have gotten out. I'm sorry.

2 Q. So it was part of the Event Services
3 personnel's job to notify security if that occurred?

4 A. If there is somebody with -- you know, one of
5 the security officers there, yes, to let them know. If
6 not, they would just let them proceed.

7 MS. BORDELOVE: Okay. Okay. Thank you.
8 That's all I have.

9

10 FURTHER REDIRECT EXAMINATION

11 BY MR. CAMPBELL:

12 Q. Just one further follow-up, Mr. Dingman.

13 A. Sure.

14 Q. Just to follow up. So that was, looking for
15 glass at the event as soon as a patron exits the north
16 doors, that was one of the primary functions of the ESI
17 Security people?

18 A. Yes, as well as Event Services, yes.

19 Q. But it was a -- Event Services' function was
20 only to hand out the cup?

21 A. Yes. Yes.

22 Q. In no way, shape or form were they to ever do
23 anything to the patrons if they refused?

24 A. That is correct.

25 Q. And that was the job, specific job of the ESI

1 Security officers?

2 A. Yes.

3 MR. CAMPBELL: Thank you.

4 BOARD CHAIRMAN ZANE: Any Board questions --

5 MS. BORDELOVE: I don't have anything further.

6 BOARD CHAIRMAN ZANE: -- for the witness?

7 BOARD MEMBER NADEAU: I do.

8 BOARD MEMBER FLYNN: Yes, Mr. Chair, Ray Flynn.

9 Mr. Dingman, we've had discussion about the
10 uniform apparel that day. I just want to make sure I
11 understand. ESI Security wears black polos with just
12 "security" written across the back?

13 THE WITNESS: Yes.

14 BOARD MEMBER FLYNN: And ESI -- Event wears
15 blue polos with just "guest services" written across the
16 back?

17 THE WITNESS: Yes.

18 BOARD MEMBER FLYNN: Okay. They both only have
19 logos on the front of the polo shirts, correct?

20 THE WITNESS: Yes.

21 BOARD MEMBER FLYNN: Now, is that logo similar
22 to what is on the incident report, which is Exhibit B?

23 THE WITNESS: That would be similar to the
24 security logo, on the black security shirt.

25 BOARD MEMBER FLYNN: So they were different.

1 All right. So guest services wears a different logo?

2 THE WITNESS: Yes, they do, sir.

3 BOARD MEMBER FLYNN: Could you describe that
4 logo to me, please.

5 THE WITNESS: It would be a little bit hard,
6 but, I believe, it's blue. Well, it is blue, white,
7 and, I think, there's some gold on it. And it says
8 "ES"; and it might have some small printing along the
9 bottom edge that says "Event Services."

10 BOARD MEMBER FLYNN: Okay. Thank you. I have
11 no further questions.

12 BOARD CHAIRMAN ZANE: Mr. Nadeau.

13 BOARD MEMBER NIXON: Mr. Dingman, I have a few
14 questions.

15 THE WITNESS: Sure.

16 BOARD MEMBER NIXON: In the annual event
17 schedule of ESI or ES, is this Hot August Nights one of
18 the larger events?

19 THE WITNESS: I would say it's one of the
20 larger events, yes, ma'am.

21 BOARD MEMBER NIXON: Okay. And so you have
22 no -- or were there any event staff managers at that
23 site during that time?

24 THE WITNESS: No. Only --

25 BOARD MEMBER NIXON: So it was just security?

1 THE WITNESS: Security, supervisors and
2 managers.

3 BOARD MEMBER NIXON: Okay. Based on the
4 earlier statement, you said that security could break
5 the event staff?

6 THE WITNESS: Can you repeat the question,
7 please?

8 BOARD MEMBER NIXON: Based on your earlier
9 statement, you said that security was always around and
10 that they were giving breaks to the event staff?

11 THE WITNESS: Yes.

12 BOARD MEMBER NIXON: If they needed to go to
13 the rest room, or they --

14 THE WITNESS: Yes. Yes, they can.

15 BOARD MEMBER NIXON: Okay. And then, if
16 someone -- you said the security staff was supposed to
17 walk around and also look for glass out in the parking
18 lot and then the outside, that was part of their task as
19 well?

20 THE WITNESS: Yes.

21 BOARD MEMBER NIXON: So if a patron was being
22 stopped by ES or ESI, either security or event staff,
23 couldn't that become confusing for the patron as to who
24 was stopping them?

25 THE WITNESS: Well, if they're color-blind.

1 BOARD MEMBER NIXON: But it's the same company.

2 THE WITNESS: Same company, yes. But, you
3 know, one, one shirt says "guest services." The other
4 one says "security." One's blue. The other one's
5 black.

6 BOARD MEMBER NIXON: But you were interchanging
7 the positions by allowing security to break event staff?

8 THE WITNESS: Yes.

9 BOARD MEMBER NIXON: Okay. Thank you.

10 BOARD CHAIRMAN ZANE: Mr. Nadeau.

11 BOARD MEMBER NADEAU: Mr. Dingman --

12 THE WITNESS: Yes.

13 BOARD MEMBER NADEAU: -- do you know, on that
14 particular day -- you may or may not know, but do you
15 know if any individuals were confronted out in the
16 parking lot with glass?

17 THE WITNESS: I do not know that. Unless it
18 became an incident, if it was just, you know, "Hi, how
19 are you doing, folks? Can you please, you know,
20 transfer your" -- that's all they were doing, so. You
21 know, if it became an issue of any sort, then I would
22 have known about it, yes. They would have come right to
23 me and let me know.

24 BOARD MEMBER NADEAU: Okay. Thank you.

25 Thank you, Mr. Chair.

1 BOARD CHAIRMAN ZANE: When you handle these
2 events, what is your mandate from your client? I
3 understand, I'm not talking about what does the contract
4 say.

5 THE WITNESS: Right.

6 BOARD CHAIRMAN ZANE: What is the mandate
7 between you and your supervisory or management staff at
8 the Peppermill about what transpires?

9 THE WITNESS: Well, that would vary from client
10 to client. So they would have specific rules that they
11 would want us -- well, that they would want security to
12 enforce.

13 BOARD CHAIRMAN ZANE: Okay.

14 THE WITNESS: Yes. And would you like me to
15 elaborate a little bit?

16 BOARD CHAIRMAN ZANE: Yes.

17 THE WITNESS: Okay. So, again, no glass out by
18 the cars. No animals are allowed on the property,
19 except for service animals. They did not allow any
20 bicycles and scooters, skates, any of that to be ridden
21 through. They could walk a bicycle through. So, you
22 know, there were -- you know, they had a few rules. And
23 it was our job to enforce those rules.

24 BOARD CHAIRMAN ZANE: But this particular
25 event -- I know the exact figure might not be

1 available -- how many Event Services staff versus how
2 many ESI Security staff were on the shift?

3 THE WITNESS: That would vary from day to day.
4 Event staff would staff -- excuse me. They would staff
5 the doors. And then as the event grew -- so earlier in
6 the week, we would be a little lighter on security. And
7 that was per the client. So somewhere probably five or
8 six guards. And then, by the time we reached Friday and
9 Saturday, it was 11, 12.

10 BOARD CHAIRMAN ZANE: Now, what's the
11 differences between the mandate from the client about
12 the job duties and assignments of -- is there a
13 segregation of the event, staff versus the security
14 side?

15 THE WITNESS: Not from the client.

16 BOARD CHAIRMAN ZANE: So you make that
17 determination?

18 THE WITNESS: We make the determination as to
19 where and -- where we place guards, where we place event
20 staff.

21 BOARD CHAIRMAN ZANE: Okay. Now, with your
22 tenure with the company --

23 THE WITNESS: Yes.

24 BOARD CHAIRMAN ZANE: -- and your experience
25 with these events, does the level of training and the

1 background dictate job assignments?

2 THE WITNESS: As well as possession of a PILB
3 card, yes.

4 BOARD CHAIRMAN ZANE: That's all I have. Thank
5 you.

6 BOARD MEMBER COLBERT: I have a question.

7 BOARD CHAIRMAN ZANE: Yes, sir, Mr. Colbert.

8 BOARD MEMBER COLBERT: Were there any obvious
9 problems with glass out there in the parking lot?

10 THE WITNESS: No. Other than occasionally we
11 would find somebody, and we would ask them if they would
12 transfer to the plastic, no problem.

13 BOARD MEMBER COLBERT: Had you received any
14 instruction from Peppermill security or management about
15 an excessive amount of glass coming through the doors
16 and reaching the parking lot?

17 THE WITNESS: No.

18 BOARD MEMBER COLBERT: And you indicated that
19 you met with all three of these individuals that were on
20 the door?

21 THE WITNESS: Yes.

22 BOARD MEMBER COLBERT: Prior to their starting
23 their shift?

24 THE WITNESS: Yes. They were met at the
25 security tent.

1 BOARD MEMBER COLBERT: At the security tent.

2 THE WITNESS: And that's where they were given
3 instruction, and I would walk them over, place them in
4 position.

5 BOARD MEMBER COLBERT: And what were they told
6 exactly to say to any patron maybe that had kind of
7 gotten past them, to kind of make them aware of --

8 THE WITNESS: If the patron got past them, they
9 were to let them just go.

10 BOARD MEMBER COLBERT: But I mean not -- I'm
11 just saying, you know, when you've got a wall of people
12 coming out.

13 THE WITNESS: You just do the best you can.

14 BOARD MEMBER COLBERT: So they're just -- well,
15 what are they instructed, what were they instructed to
16 say or to -- I mean they just stand there like statues?

17 THE WITNESS: They would move them around, move
18 around a little bit. You know, they're in a static
19 position.

20 BOARD MEMBER COLBERT: Right.

21 THE WITNESS: But they can move around a little
22 bit in order to, you know, complete their task.

23 BOARD MEMBER COLBERT: Okay.

24 THE WITNESS: Which is to try to give everybody
25 a plastic cup, yes.

1 BOARD MEMBER COLBERT: But were they instructed
2 to make any kind of a statement about the plastic cup
3 versus the glass?

4 THE WITNESS: Other than to hand them the cup,
5 "Would you please transfer your liquid into the
6 plastic."

7 BOARD MEMBER COLBERT: Okay. All right. But
8 if somebody was -- like I said, if a wall of people are
9 coming out, would there be something stated like,
10 "Excuse me, I need you to put this into the" --

11 THE WITNESS: (Shook head negatively.)

12 BOARD MEMBER COLBERT: No?

13 THE WITNESS: No. They just did the very best
14 they could. And I'm sure they were overwhelmed from
15 time to time.

16 BOARD MEMBER COLBERT: Sure.

17 THE WITNESS: Yeah.

18 BOARD MEMBER COLBERT: Okay.

19 THE WITNESS: There's a lot of people going in
20 and out. But, yes.

21 BOARD MEMBER COLBERT: I have no further.

22 BOARD CHAIRMAN ZANE: Thank you.

23 Any other Board questions?

24 Mr. Campbell, are you finished with this
25 witness?

1 MR. CAMPBELL: Yes, we are.

2 BOARD CHAIRMAN ZANE: Do you need to call him
3 back for anything?

4 MR. CAMPBELL: No.

5 BOARD CHAIRMAN ZANE: You're free. Thank you
6 for coming.

7 THE WITNESS: Thank you, sir. Thank you,
8 folks.

9 BOARD MEMBER FLYNN: Mr. Chair?

10 BOARD CHAIRMAN ZANE: Yes, sir.

11 BOARD MEMBER FLYNN: Question, and I'd like
12 both counsel, all counsels to listen up. I don't know
13 if we can do this. Because there's been a lot of
14 discussion about apparel, is it possible Mr. Hendi could
15 reach out to somebody at the office and take
16 photographs, front and back of both shirts, and send
17 them electronically that we can share to at least me?

18 MS. BORDELOVE: I don't have an objection to
19 that.

20 BOARD CHAIRMAN ZANE: Well, if there's no
21 objection, then stipulate to the conclusion, and we can
22 get some testimony that those were the same shirts with
23 the same designs wore on the same day, I don't have any
24 problem.

25 MR. HENDI: The uniform has not changed.

1 MR. CAMPBELL: Should we make it an exhibit if
2 we can, a late-filed exhibit?

3 BOARD CHAIRMAN ZANE: We could, so that we can
4 identify for the record.

5 MR. CAMPBELL: Yeah.

6 MS. BORDELOVE: Yes.

7 MR. HENDI: What email would you like me to
8 send it to?

9 BOARD CHAIRMAN ZANE: What's the preference for
10 an email that he can send it to?

11 BOARD MEMBER FLYNN: Yeah, an email would be
12 fine. And then, if Mr. Campbell and Mr. Hendi get the
13 email, then we can forward it to -- I'll give you my
14 email address, or you can share it with everybody here.

15 MS. BORDELOVE: Probably my assistant would be
16 best to get printed copies up here. Because, I think,
17 those might be what we need. That way, we can have
18 public copies as well. I guess, if they can send it to
19 Mary, and then she can forward it on, so we have the
20 same thing.

21 BOARD CHAIRMAN ZANE: Mary, do you have an
22 email address that they can send it to?

23 MS. KLEMME: Yes.

24 BOARD MEMBER FLYNN: Is that okay with you,
25 Mr. Hendi?

1 MR. HENDI: Absolutely.

2 MS. BORDELOVE: I mean I don't know if we can
3 recall. We just released Timothy Dingman. But I don't
4 know. He potentially could testify as to that they were
5 the shirts worn, since he was there at the event.

6 BOARD CHAIRMAN ZANE: He's still physically
7 present. But I don't know if he wants to sit here all
8 day.

9 MR. DINGMAN: How long are we, how long are we
10 talking about?

11 MR. CAMPBELL: I could have Mr. Hendi lay a
12 foundation that these were, in fact, the uniforms worn
13 by -- you know, standard uniforms worn on August 6,
14 2016.

15 BOARD CHAIRMAN ZANE: Is that good enough,
16 Ms. Bordelove?

17 MS. BORDELOVE: If they have it, I mean as long
18 as I can, I guess, ask him a couple questions with
19 respect to uniforms changing. But, I think, that might
20 be, I think, that would be acceptable.

21 BOARD CHAIRMAN ZANE: Okay.

22 BOARD MEMBER FLYNN: Mr. Chair, can we take a
23 five-minutes bio break?

24 BOARD CHAIRMAN ZANE: How about 10?

25 * * * * *

1 (A break was taken, 11:07 to 11:37 a.m.)

2 * * * * *

3 BOARD CHAIRMAN ZANE: Okay. We'll go back on
4 the record.

5 Have we come to an understanding, for the
6 record, of what exhibit this, these photographs would be
7 entered as?

8 MR. CAMPBELL: Mr. Chairman, I would suggest
9 that we mark this as Exhibit C to the ESI case and have
10 Mr. Hendi verify that these were the uniforms that would
11 have been worn at the August 6th Peppermill event.

12 BOARD CHAIRMAN ZANE: Okay. So Exhibit C.
13 Any comment, Ms. Bordelove?

14 MS. BORDELOVE: I just, I guess, have one or
15 two questions for Mr. Hendi about them, if that's okay.

16 BOARD CHAIRMAN ZANE: Okay. Please proceed.

17

18 M A H M O U D H E N D I,
19 having been previously duly sworn,
20 was examined and testified as follows:

21

22 EXAMINATION (FOUNDATIONAL)

23 BY MS. BORDELOVE:

24 Q. Okay. Mr. Hendi, since that was over a year
25 ago that this event occurred, how often -- or can you

1 recall the last time that you changed the uniforms?

2 A. The only time we changed -- we never changed
3 uniforms. We just changed, updated the logo about two
4 months ago.

5 Q. Is this the old logo or the new one?

6 A. This is the old logo.

7 Q. Okay. So you have no reason to believe that
8 anything other than what's in these pictures could have
9 been worn by the staff --

10 A. No.

11 Q. -- of both companies? Okay.

12 MS. BORDELOVE: Then, I have no objection to
13 their being admitted.

14 BOARD CHAIRMAN ZANE: And you?

15 MR. CAMPBELL: I'll just have Mr. Hendi verify
16 that.

17

18 EXAMINATION (FOUNDATIONAL)

19 BY MR. CAMPBELL:

20 Q. Exhibit C, Mr. Hendi, you've had a chance to
21 review that?

22 A. Yes.

23 Q. And these were the uniforms worn by the Event
24 Services and ESI at the August 6th, 2016 Hot August
25 Nights Peppermill event?

1 A. Correct.

2 BOARD CHAIRMAN ZANE: It'll be admitted.

3 (Agenda Item 6: Exhibit C was admitted.)

4 BOARD CHAIRMAN ZANE: Okay. Mr. Flynn, any
5 other questions?

6 BOARD MEMBER FLYNN: No. And, Mr. Hendi, I
7 really appreciate you getting the photos. This cleared
8 up a lot in my mind, basically, based on the questioning
9 earlier in morning. So this is exactly what I needed.
10 And I thank you for your cooperation, sir.

11 THE WITNESS: You're welcome, sir.

12 BOARD CHAIRMAN ZANE: Okay. Proceed.

13 MR. CAMPBELL: No further witnesses. That's
14 all we've got.

15 BOARD CHAIRMAN ZANE: Okay. Ms. Bordelove, do
16 you have any closing?

17 MS. BORDELOVE: Yes. I think, I'll be fairly
18 brief. But I want to remind just that here we have an
19 unlicensed activity citation. So this is against the
20 Event Services company, which is not a licensee of the
21 Board.

22 And, but I just want to point to the general, I
23 guess, confusion that, I think, a lot of patrons would
24 have faced when it comes to whether they were being
25 prevented from bringing glass into the parking lot

1 versus simply being offered a cup.

2 You know, Mr. Woodruff, our investigator, did
3 testify that he witnessed at least one patron being
4 stopped and told, "You need to" -- or stopped and being
5 required to put their drink into a plastic cup.

6 You know, as patrons came out of the Peppermill
7 Resort, they were being confronted with -- by
8 individuals who may have been in these blue uniforms.
9 And while looking at comparisons of these pictures, you
10 know, these uniforms may -- they have different words,
11 they're different colors, they look different, that I
12 don't know that any patron walks in and automatically
13 knows, well, blue shirt, you know, this one's different,
14 or the security's always going to be in black.

15 They were being approached by somebody who has
16 a logo that is somewhat in the shape of a shield. We
17 had testimony of people saying it looked like a shield.
18 And being, you know, the personnel walking up to them
19 and saying, "Here, please put your drink in this cup."
20 Or Mr. Woodruff testified that he heard the word "stop"
21 being used.

22 And, I think, it was very much a perception to
23 the patrons that this was security and they were being
24 required. And that is a security function. And that's
25 why we require licensure for those functions. And so, I

1 think, we've shown here that that is what was occurring
2 and that the Event Services staff that were performing
3 this function needed to be licensed.

4 BOARD CHAIRMAN ZANE: Thank you.

5 Mr. Campbell.

6 MR. CAMPBELL: Yes. Mr. Chairman and other
7 Board members, the confusion of the patrons or the
8 perception of the patrons is not the issue in this case.
9 The issue is whether Mr. Woodruff's -- what he said is
10 that he heard and saw was enough to validate that these
11 Event Services people had crossed the line and were
12 performing a security function.

13 Now, what Mr. Woodruff based his, this Notice
14 of Violation on what he said were actions and words of
15 Mr. Apodaca from 10 to 15 feet away in a crowded and
16 noisy venue, with loud music playing, people, multiple,
17 maybe hundreds of people milling around or entering and
18 exiting out of these doors.

19 Surprisingly, he had very scant memory
20 collection on some of the other. He didn't know what
21 time he got there. He didn't know what time when he
22 talked to Mr. Dingman about it. He didn't even know
23 Mr. Dingman's name. So it seemed a little strange that
24 he had such particular memory of the exact words of
25 Mr. Apodaca, that Mr. Apodaca directly contradicted in

1 his testimony. I mean he was there. He knew what he
2 was instructed to do. Surprisingly, he said he didn't
3 even want to have a security function. He didn't like
4 confronting people. He was there to hand out cups and
5 to facilitate that hand-off.

6 And there was nothing else. There was no
7 confrontation of people. There was no stopping of
8 people. If he did get in front of somebody, as he
9 testified, it was probably inadvertently, because he was
10 trying to give a cup to somebody else.

11 That, in and of itself, handing that cup,
12 clearly, I don't think, fits under the definition of NRS
13 648.013. You got to look at that statute again and what
14 those private patrol officers are there to protect
15 persons or property, including, or to prevent the theft
16 or loss of property.

17 Mr. Apodaca and the two other persons, they
18 were not there to protect personal property. They were
19 there to help facilitate the patrons going into a
20 parking lot. There was no stopping in the parking.
21 There was no stopping them. There was no protecting
22 them.

23 Just the mere fact that they may have told
24 security officers that they had glass, that's where the
25 security function arises. And that's why ESI had

1 numerous security officers there. And as you heard from
2 Mr. Dingman, one of their primary functions was to make
3 sure that people weren't roaming around with glass. I
4 mean that, that was the issue that the Peppermill had,
5 and that was the issue that ESI contracted with them.

6 The mere fact that they were having guest
7 services or people handing them cups doesn't make them
8 security officers. It certainly doesn't make it, raise
9 them to the level of a patrol officer. And it should
10 not serve as a basis for this Notice of Violation.

11 There was a bright line there. And, again, the
12 confusion of these people, I don't get it, the
13 confusion. Because you see one person that says
14 "security" all over their shirt, front and back. You
15 got another person just handing you cups, not telling
16 you to do anything. I don't know where the confusion
17 was. But I really don't think the confusion was really
18 relevant to this case. The relevancy was what did these
19 people actually do.

20 And, I think, your best testimony, from what
21 they were instructed to do and what they actually did,
22 and that best testimony was Mr. Apodaca himself and
23 Mr. Dingman as to what he told them, not Mr. Woodruff
24 from what he heard in a noisy crowded venue from 10 or
25 15 feet away.

1 BOARD CHAIRMAN ZANE: Thank you, Mr. Campbell.
2 That's wrapped up the matter. So now we'll
3 move to --

4 MS. BORDELOVE: Can I make any, a few
5 responsive comments to Mr. Campbell's?

6 BOARD CHAIRMAN ZANE: Oh, yes, go ahead.

7 MS. BORDELOVE: I just want you to recall,
8 since I know it was at the beginning of all this, but
9 Mr. Woodruff's testimony. He didn't seem unsure about
10 what he heard. He was pretty clear about what he heard.

11 And Mr. Apodaca did not directly contradict
12 him. He said he didn't think he would have said the
13 word "stop," but he wasn't sure that he didn't. And he
14 seemed to think that he wasn't to be out physically
15 stopping people, but he still was reaching out to them,
16 and he was telling them to "Please put your drink in a
17 cup."

18 I mean Mr. Dingman testified that he instructed
19 them to be saying, "Please put your drink in a cup." So
20 they were telling people what to do. And I just wanted
21 to clarify those few points.

22 BOARD CHAIRMAN ZANE: Okay.

23 MR. CAMPBELL: I don't think Mr. Apodaca said
24 that. I think, he said -- I asked him specifically if
25 he heard what Mr. Woodruff said in his testimony. He

1 said he did. And he said he did not say it in those
2 words.

3 BOARD CHAIRMAN ZANE: Anything else?

4 MS. BORDELOVE: I mean I specifically asked him
5 if he said "stop" to what he wanted, and he didn't think
6 he would have. But I don't think he had a very clear
7 recollection of what he said to each patron. That's
8 all.

9 BOARD CHAIRMAN ZANE: Thank you.

10 Any Board discussion?

11 Entertain a motion.

12 Second call for a motion.

13 I'll make a motion. I move that the citation
14 issued in I-104-16 to Event Services, Inc. be dismissed.

15 BOARD MEMBER NADEAU: I'll second that.

16 BOARD CHAIRMAN ZANE: We have a motion, and we
17 have a second. Any Board discussion, question on the
18 motion?

19 BOARD MEMBER NADEAU: Can we speak to the
20 motion?

21 BOARD CHAIRMAN ZANE: Anybody who would like
22 to. I mean I'm ultimately going to say something.

23 BOARD MEMBER NADEAU: Well, I'll say why I'm
24 seconding the motion. I think, clearly, that
25 Investigator Woodruff did hear the word "stop." I'm not

1 challenging that. But I believe that, I believe
2 Mr. Apodaca that his intent was to get the cups out.
3 And it wasn't to stop traffic. It was to try to get
4 people's attention.

5 And when you're dealing with multiple people
6 coming at you, and you're trying to get into something,
7 you know, do your job, what you do in your job is
8 getting somebody the cup, and Mr. Apodaca was very clear
9 about that, that the -- he could have said "stop," he
10 could have said "hold on," he could have said anything,
11 because he's trying to get people's attention who are
12 carrying glass out to the venue.

13 So that, I think, Mr. Woodruff probably heard
14 that, but I don't -- I think, the context in which it
15 was said was not in acting as a security guard but in
16 trying to get people's attention, if it did occur.

17 So that's my position on supporting overturning
18 the citation.

19 BOARD CHAIRMAN ZANE: Any other Board comment?

20 My reason for bringing the motion is that I
21 felt that, well, we have an issue with regard to the
22 preponderance of evidence at this stage of the hearing
23 process, and I didn't hear enough evidence that led me
24 to believe that there was a violation, either of the
25 statute as provided or the intent of the statute as

1 provided.

2 So, therefore, that's why I was moved to make
3 the motion. And that's my reasoning for my decision.

4 Any other Board comment or question?

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

7 (Board members said "aye.")

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

9 Motion carries unanimous.

10 Next?

11 Ms. Bordelove?

12 MS. BORDELOVE: Yes?

13 BOARD CHAIRMAN ZANE: You're up.

14 BOARD MEMBER NADEAU: Item number five.

15 BOARD CHAIRMAN ZANE: Yes, item number five.

16 MS. BORDELOVE: Just as a housekeeping matter,
17 it's 10 to noon. And we can go for a little while. But
18 I would like a break sometime before 1:00. I don't know
19 if now is a better time or if we want to go for a little
20 while before then.

21 BOARD CHAIRMAN ZANE: What's the benefit of the
22 parties, Board? It doesn't matter to me. Do you want
23 to regroup, take one now?

24 MS. BORDELOVE: It's up to you. I would like a
25 45-minute break probably to -- response really.

1 BOARD MEMBER FLYNN: You're okay going to
2 12:30?

3 MS. BORDELOVE: What? That'll be fine.

4 BOARD MEMBER FLYNN: You're okay going?

5 BOARD CHAIRMAN ZANE: Go to 12:30?

6 BOARD MEMBER FLYNN: If that's okay with
7 everybody else.

8 BOARD CHAIRMAN ZANE: I don't see anybody
9 leaving. So we'll go to 12:30.

10 MS. BORDELOVE: 12:30's fine.

11 Okay. And if we're ready to start on 046,
12 I'll go ahead.

13 MR. DETMER: Mr. Chairman, excuse me again.
14 It' a new violation. Again, this regulation would
15 require a reading of the Notice of Violation as well as
16 the hearing notice. If, again, the parties are willing
17 to stipulate to waiving that reading, and they're going
18 to put that Notice of Violation in the record, I believe
19 that will suffice for the record and the statute or
20 regulation.

21 MR. CAMPBELL: We'll so stipulate.

22 MS. BORDELOVE: We will. So, I guess, let's
23 make -- I don't know what we want it. Do we want to
24 call this Exhibit 2, being -- or do we want to -- the
25 actual Notice of Violation, what do we want to call that

1 one? I mean it's the second exhibit I'm admitting. So
2 we can call it Exhibit 2, if you'd like.

3 MR. CAMPBELL: I think, since these are
4 separate Notice of Violations, we just start back at
5 Exhibit 1. It's better for the record.

6 MS. BORDELOVE: Okay. Then, we can start back
7 with Exhibit 1.

8 But, and I take it, are we stipulating to
9 Exhibit 1 being entered as the Notice of Violation
10 itself, I-046-17?

11 MR. CAMPBELL: So stipulated.

12 (Agenda Item 5: Exhibit 1 was admitted.)

13 MS. BORDELOVE: Okay. Does everybody on the
14 Board have it?

15 BOARD MEMBER FLYNN: M-hm (affirmative).

16 BOARD MEMBER NIXON: Yes.

17 MS. BORDELOVE: All right. Then, this one here
18 is a Notice of Violation appeal. It was issued against
19 ESI Security Services, license number 700. It is in
20 regards to an event on June 21st, 2017 at the Reno
21 Rodeo.

22 What happened in this case here is ESI used an
23 unregistered individual to staff a vehicle exit at the
24 Reno Rodeo. The individual was wearing an Event
25 Services uniform but was acting as an employee of ESI.

1 You've now -- I don't -- so the Board may be
2 familiar with some of the uniforms. But ESI may argue
3 that she was being paid by Event Services and because
4 her shirt said Event Services that she was not required
5 to be registered. But that isn't what Nevada law
6 states.

7 The statutes and regulations I'd like you to
8 look at in regards to this violation are NRS 648.0602,
9 which states that no person may be employed by a
10 licensee unless they are registered with the PILB.

11 NAC 648.334, subsection 3, states that it is
12 unprofessional conduct for a licensee to evade the
13 requirements of 648.060 by falsely representing that an
14 employee is an independent contractor.

15 NAC 648.3385, subsection 8, further states that
16 the Board will interpret the term "employed by" to
17 include a person who performs the duties as an employee.

18 So what I will show here is not only was the
19 individual at issue -- she was an employee of ESI by her
20 duties. I also believe she was -- we'll show that she
21 was performing a security function and thus was required
22 to be registered. But her duties, not only being
23 security, but her supervision and the circumstances that
24 I will show you indicate that she was acting as an
25 employee of ESI, regardless of who was paying her

1 paycheck.

2 BOARD CHAIRMAN ZANE: Thank you.

3 Mr. Campbell.

4 MR. CAMPBELL: Just a brief statement.

5 This employee was working at Event Services.
6 She was performing work that was not regulated by the
7 statute and, therefore, shows she was merely an
8 attendant at an exit at a rodeo facility and was not in
9 any way, shape or form performing security functions
10 that would have required her to be registered. And she
11 was simply not an employee of ESI no matter which way.
12 She was an employee of Event Services.

13 So the evidence will show that, again, there
14 were ESI Security people where they needed to be at that
15 event, but there were Event Services people that would
16 be able to staff locations or staff job functions that
17 did not need a PILB card.

18 BOARD CHAIRMAN ZANE: Ms. Bordelove, can you
19 call your witness?

20 MS. BORDELOVE: Sure. My first witness is
21 going to be Jason Woodruff.

22 BOARD CHAIRMAN ZANE: The record can reflect
23 that he's been previously sworn.

24 Proceed, please.

25 ///

1 J A S O N W O O D R U F F,
2 having been previously duly sworn,
3 was examined and testified as follows:
4

5 DIRECT EXAMINATION

6 BY MS. BORDELOVE:

7 Q. Mr. Woodruff, would you please state your name
8 and spell it for the record, since we're starting a new
9 hearing here?

10 A. Jason Woodruff, J-A-S-O-N, W-O-O-D-R-U-F-F.

11 Q. And who was your employer on June 21st, 2017,
12 and what was your title?

13 A. Private Investigators Licensing Board. My
14 title was Investigator.

15 Q. What were you doing at the Reno Rodeo on that
16 date?

17 A. I was conducting a compliance audit on-site.

18 Q. Okay. Will you briefly describe how you found
19 the individual issued here. I believe, her name is
20 Fantazia Gaither. I may be pronouncing that
21 incorrectly.

22 A. I was walking around the Reno Rodeo, and I came
23 upon that position that she was supposed to be at. But
24 when I got there, the supervisor for ESI was actually
25 there. And I just asked where the person was, and he

1 told me that she was on her lunch break around the
2 corner. Since she was on her lunch break, I left the
3 area.

4 Q. And did you return later?

5 A. I did.

6 Q. What did you find when you returned?

7 A. I found that she was in an Event Services
8 uniform, that she did not have a PILB card, and that, I
9 think, she provided me her driver's license.

10 MS. BORDELOVE: Okay. And I would like to --
11 where do I have it on here? Here's my exhibits here.
12 This would be Exhibit 2. I would like to use that.
13 It's a photo.

14 Here, if you want to pass those. Well, I don't
15 know if we pass them out yet actually.

16 First, Rick, do you have any objections to this
17 Exhibit 2?

18 MR. CAMPBELL: No.

19 MS. BORDELOVE: It is a picture.

20 MR. CAMPBELL: No objection.

21 MS. BORDELOVE: Okay. Then...

22 BY MS. BORDELOVE:

23 Q. Mr. Woodruff, do you have a copy of the -- oh,
24 Mary's bringing one. Okay. Do you recognize that
25 photo?

1 A. Yes.

2 Q. Did you take that photo?

3 A. I did.

4 Q. And what, did you take that photo on June 21st,
5 2017 at the Reno Rodeo?

6 A. Do we have the -- do we have a copy of the
7 citation?

8 MS. KLEMME: I've got it right here.

9 THE WITNESS: Yes.

10 BY MS. BORDELOVE:

11 Q. And who is the individual in the photo?

12 A. She is the one that was posted at that
13 position. She had the uniform of an Event Services
14 employee.

15 Q. And what, the entryway in this photo, what is,
16 what is that, was it an entrance to?

17 A. So that was a vehicle exit. They have changed
18 the configuration of that traffic movement from last
19 year. This was an exit-only exit.

20 Q. And in prior years, was it an entrance?

21 A. It was, it was an entrance and exit location.
22 Well, I should say that I am only familiar with the year
23 prior. So this year, it was different from last year.
24 When you said "years," I don't have any knowledge of
25 prior to that.

1 Q. Okay. But the year prior. And did you check
2 whether Ms. Gaither was registered with the PILB?

3 A. I asked her. I checked later, when I got back
4 to the office.

5 Q. Okay. You said that you spoke with an ESI
6 supervisor when you initially came there. Did that
7 individual describe Ms. Gaither's duties?

8 A. Yeah. He said that she was just sitting there
9 and that she wasn't doing a security position. I had a
10 conversation with him that she's posted there to prevent
11 traffic from coming in. And he said a bunch of things
12 that were in the sense that, no, she's not really doing
13 anything but just sitting here, she's not preventing
14 anybody, and, therefore, she doesn't need a card.

15 Q. Was there any -- other than him -- when you
16 returned later, did you see any ESI Security personnel?

17 A. No.

18 Q. Only Ms. Gaither?

19 A. Correct.

20 Q. Okay. Were there any Event Services personnel
21 supervising Ms. Gaither?

22 A. Not that I was aware of.

23 Q. Okay. In fact, the ESI Security personnel
24 stated that he was supervising her, correct?

25 A. He said that he was there to give her her lunch

1 break. So I did not ask specifically if he was her
2 supervisor. But that was the indication, that he was
3 giving her her lunch break.

4 Q. Okay. What led you to the conclusion that she
5 was working as an employee of ESI as opposed to Event
6 Services?

7 A. She was in a position of controlling the
8 traffic. She was obviously being supervised by the ESI
9 supervisor at the time. And she was under the direction
10 of the ESI supervisor.

11 MS. BORDELOVE: I think, that would be all the
12 questions I have at this time.

13 BOARD CHAIRMAN ZANE: Mr. Campbell.

14

15 CROSS-EXAMINATION

16 BY MR. CAMPBELL:

17 Q. Mr. Woodruff, what time did you arrive at the
18 rodeo on June 21st?

19 A. I don't have my notes from -- from that event.
20 So I don't know.

21 Q. Morning, afternoon, night; do you remember?

22 A. Afternoon probably.

23 Q. Are you sure about that?

24 A. I believe so. I believe, it was in the
25 afternoon.

1 Q. Okay. Late afternoon, early afternoon; do you
2 remember?

3 A. No.

4 Q. And was there a lot of activity at the rodeo;
5 were there events underway, cars, a lot of traffic,
6 things like that?

7 A. There was activity. I wouldn't describe it as
8 a lot of activity, but there was activity.

9 Q. Some activity. Were the shows at the rodeo
10 actually underway; do you know?

11 A. Yes.

12 Q. So when you arrived at the rodeo, what do you
13 recall as to the first place you arrived, what you did?

14 A. I recall that I went from the gate that's in
15 between the rodeo and the other government building.
16 There's an access there. And I went in there checking
17 guards' cards.

18 Q. Do you know what gate number that is?

19 A. I don't, not offhand.

20 Q. So let's talk about that gate. So at that
21 gate, was that an entrance to the event?

22 A. No.

23 Q. Okay. What was it?

24 A. It was an entrance to both the event and the
25 other government building.

1 Q. Okay. And were there ESI personnel at that
2 gate?

3 A. The first gate, no. It was an Event Services
4 individual.

5 Q. Okay. So are you saying that the very first
6 gate you went to was Gate 4 where Ms. Gaither was
7 stationed?

8 A. No, I didn't say that.

9 Q. Okay.

10 A. I went to the other one where she was not at,
11 on the south side of the event and the rodeo.

12 Q. Just to be -- let's clear it up. Gate 4 was
13 her assigned gate, correct?

14 A. I don't -- yes, that's correct.

15 Q. Okay. So I want to know which, which gate you
16 went to when you first got there.

17 A. The gate that is south of that gate there.

18 Q. Okay. So --

19 A. And it's not really a gate. Like I said, it's
20 an entrance to both the rodeo and it's an entrance to
21 the government building.

22 Q. Okay. And you said there were no ESI personnel
23 at that gate, at that entrance?

24 A. It's -- no, there was not.

25 Q. Okay. Were there gates further along down that

1 road?

2 A. There was.

3 Q. And did you go to that gate?

4 A. I did.

5 Q. Do you remember what the number of that gate
6 was?

7 A. I don't remember.

8 Q. And what was at that gate?

9 A. ESI Security.

10 Q. And was there -- was that a gate that you had
11 to show a badge or a ticket to get in?

12 A. I believe, there was some rodeo passes that the
13 rodeo gave that they would have to show.

14 Q. Okay. And so if I drove up to that gate, past
15 the access road, I would have seen an ESI employee
16 there, a security guard?

17 A. Security guard, yes.

18 Q. And, to your knowledge, I would have had to
19 have shown either a badge or a ticket or something to
20 go, to proceed further?

21 A. Yes.

22 Q. Did you observe that ESI personnel at that gate
23 performing any type of job duties?

24 A. Yes.

25 Q. Okay. Did you see him checking badges,

1 checking tickets, things like that?

2 A. Yes.

3 Q. Okay. And how long were you at that gate?

4 A. Five to 10 minutes. There was, at that gate,
5 there were several ESI employees, so I checked all of
6 them.

7 Q. Okay. And they all had their PILB cards?

8 A. Yes.

9 Q. How many -- you were there five or 10 minutes.
10 How many cars did you see go through that, that check
11 gate where they had to show a badge?

12 A. I wasn't counting cars at that point. That
13 wasn't my objective at that point. My objective was
14 talking with the individuals. So I did not count how
15 many cars.

16 Q. Okay. Well, there were cars going through,
17 right?

18 A. Yes.

19 Q. Were there a lot of cars? One or two?

20 A. No, there wasn't a lot of cars.

21 Q. But you actually observed the ESI Security
22 people checking badges?

23 A. Talking to, stopping and talking to the
24 individuals in the car, yes.

25 Q. Okay. So after that visit to that gate, what

1 did you do next?

2 A. Continued around the perimeter or wherever I
3 suspected that there might be a guard.

4 Q. Okay. And did you come upon other gates?

5 A. Yes.

6 Q. Okay. What was the next gate that you visited?

7 A. I'm not sure. I could have continued to go
8 straight and go around. I could have cut in to a gate
9 that's prior. I don't recall the exact pattern of which
10 I went through that event.

11 Q. Okay. The next gate you visit, though, was
12 that a gate that was staffed by ESI Security personnel?

13 A. There was another location that there was an
14 ESI taking tickets. I'm sorry. Not ESI, but Event
15 Services that were taking tickets. But that was in the
16 same vicinity of that other gate. So there's a couple
17 of different directions that they can go. They can go
18 to the government building, which is not for the rodeo.
19 They could go straight, which is parking for the rodeo.
20 And then they can turn right, which is into the event.

21 Q. Okay.

22 A. So to be clear, there was an ESI, Event
23 Services person there collecting tickets. Further down,
24 there were other gates into the venue, which were
25 located with ESI Security individuals.

1 Q. So the first gate there was an Event Services
2 ticket taker; further along, there were ESI Security
3 personnel?

4 A. Correct.

5 Q. Did you ask -- did you talk to that Event
6 Services ticket taker at all?

7 A. I did. I asked what they were doing. She said
8 that they were taking tickets. Asked her if she had a
9 PILB card. She said no. And I continued going.

10 Q. Okay. Where did you go next?

11 A. Around the event.

12 Q. Okay. And did you go to another, come to
13 another gate or another location where you stopped?

14 A. Yes, I would go to all the gates and locations.
15 And then they also have people that walk the venue, that
16 are identified by uniform, that are just roaming around.
17 And so I would look for those people as well.

18 Q. And how long do you think you did that kind of
19 the walking around after, after you went to the gate
20 where the Event Services ticket taker was?

21 A. It varies. Probably, my entire time at the
22 venue probably was somewhere around an hour.

23 Q. Okay. I believe, your testimony in direct
24 examination was that at one point, you came to Gate 4.
25 Do you understand where Gate 4 is?

1 A. Yes, where Ms. Gaither was.

2 Q. Okay. And at some point, you came up to
3 Gate 4, right?

4 A. Yes.

5 Q. How long into your hour-long visit, you know,
6 half an hour into your hour-long visit, at the
7 beginning, at the tail end; when did you come up to
8 Gate 4?

9 A. That was towards the tail end. Mid to tail
10 end.

11 Q. And you say at that gate there was an ESI
12 person there manning the gate?

13 A. Yes.

14 Q. Did you talk to that ESI person?

15 A. I did.

16 Q. And what did they say?

17 A. They said that they're not performing a
18 security function, and that they don't need and they're
19 not required to have a PILB card.

20 Q. Well, let's back up. There was an ESI Security
21 person at the gate?

22 A. Right.

23 Q. Did you first ask that ESI Security person who
24 was manning this gate?

25 A. Yes.

1 Q. And so what was that response?

2 A. That was the response that she's on break.

3 Q. And how long was that ESI Security person at
4 that, at that gate?

5 A. I don't know. After speaking with him, I left
6 to go and talk to the event of the rodeo.

7 Q. And that was a rodeo personnel?

8 A. Yeah, I left to go and talk to the rodeo
9 personnel.

10 Q. How long did you talk to them?

11 A. Probably 20 minutes or so.

12 Q. What did you talk to them about?

13 A. I asked them what they required from their
14 contractor as far as what security points that they
15 would need to be in place. I asked them where the
16 locations that they had for security and what they were
17 supposed to be doing, and if they were all supposed to
18 be security or other staff would be acceptable.

19 Q. So you said you went back to the Gate 4 at a
20 later date?

21 A. Not a later date, but a later time.

22 Q. Later time?

23 A. Yes. Yeah, after I spoke to the security
24 supervisor, manager for the rodeo, who hired security, I
25 went back to the gate.

1 Q. Okay. In the interim, did you go to the ESI,
2 any ESI tent or facility and talk to any of the
3 supervisors?

4 A. I don't believe I did, no.

5 Q. So you went straight from the rodeo offices to
6 back to Gate 4?

7 A. Yes.

8 Q. Okay. And when you got to Gate 4, Ms. Gaither
9 was now there?

10 A. Correct.

11 Q. Okay. So what was she doing?

12 A. She was sitting in a fold-up, fold-out camping
13 chair underneath an awning, a pop-up tent.

14 Q. And did you approach her?

15 A. I did.

16 Q. Okay. And is that when you asked her for her
17 identification?

18 A. Correct.

19 Q. Okay. And she showed you her driver's license?

20 A. Yeah, it turns out it's an identification card.
21 But, yes, this is what she provided (indicating).

22 Q. Okay. In the back, in the back of the picture,
23 she -- it looks like she's holding it out to you or
24 standing behind you. You can see the Event Services
25 shirt?

1 A. No, she's seated.

2 Q. Or sitting, yeah.

3 A. And I'm holding the card. She's not handing it
4 to me. And I'm taking a picture of that card.

5 Q. Okay. But that's her in the Event Services
6 T-shirt?

7 A. Yes.

8 Q. Okay. So while you were there, and she showed
9 you her card --

10 MS. BORDELOVE: I just want to mention, at
11 least down here, I think, you're asking about a picture
12 that wasn't admitted and Board members don't have.

13 MR. CAMPBELL: That's what was handed out to
14 us, was Exhibit 2, a picture of Ms. Gather's driver's
15 license, or identification card.

16 MS. BORDELOVE: That's not the photo that we
17 gave. That's fine, that one as well. But the photo I
18 was asking about before shows the gate and her sitting,
19 the photo we have down here.

20 MR. CAMPBELL: Well, let's mark that as Exhibit
21 Number 4.

22 MS. BORDELOVE: I guess, we can pass these out
23 to Board members in order to see it.

24 MR. INGRAM: So this one's Exhibit 3.

25 MS. BORDELOVE: I think, that's -- I mean we

1 can include both of them in Exhibit 2, if you'd rather.

2 I don't have an objection to them both being included.

3 MR. CAMPBELL: Well, let's have that marked
4 next in order, since we've already have a record of the
5 three. And I'll ask Mr. Woodruff about it.

6 MR. INGRAM: Okay. I just want to clarify
7 exhibit-wise. We had labeled Exhibit 2 as the picture
8 with the employee sitting underneath the pop-up. So
9 that is not Exhibit 2, correct?

10 This new one that's just been handed out with
11 the picture of the ID will be Exhibit 2?

12 BOARD CHAIRMAN ZANE: Okay.

13 BOARD MEMBER NADEAU: And Exhibit 3 will be?

14 MR. INGRAM: So which item will be Exhibit 3?

15 MR. CAMPBELL: The picture of the gate, with
16 the person seated.

17 MR. INGRAM: Thank you.

18 MS. BORDELOVE: Okay.

19 MR. CAMPBELL: And I'll stipulate to that,
20 counsel.

21 MS. BORDELOVE: I will as well.

22 BOARD CHAIRMAN ZANE: Okay.

23 (Agenda Item 5: Exhibits 2 and 3 were
24 admitted.)

25 ///

1 BY MR. CAMPBELL:

2 Q. Mr. Woodruff, did you take this photo?

3 A. Yes, I did.

4 Q. Okay. And that's the -- actually, if you look
5 at the place, you can see it says "Gate 4" on that green
6 sign?

7 A. Correct.

8 Q. And then on the left-hand side of the picture,
9 there's a sign says "Do not enter"?

10 A. Yes.

11 Q. And then, is that Ms. Gaither sitting under the
12 tent?

13 A. Yes.

14 Q. Okay. And so there were no -- you didn't have
15 to present a ticket or do anything at that gate, right,
16 to go through, to go that way?

17 A. No, it was not allowed for them, for people to
18 go in that way.

19 Q. It was an exit gate?

20 A. It was an exit gate. It was an exit-only gate.
21 And there was no way to go forward. So a ticket or a
22 badge or any of those kinds of things would not be
23 allowed to go through there.

24 Q. So after you got the identification card from
25 Ms. Gaither, did you leave the site at that time?

1 A. After I got the picture of the ID card?

2 Q. Yes.

3 A. I left, and left to go to my vehicle.

4 Q. While you were there, did you see anyone try to
5 pull into this Gate 4?

6 A. No, I did not.

7 Q. While you were there, did you see Ms. Gaither
8 go talk to anybody that drove by this gate?

9 A. No, I did not.

10 Q. What did Ms. Gaither tell you as to what she
11 was doing at the gate?

12 A. That she was sitting there to make sure that
13 people are exiting only.

14 Q. So was that the sole facto basis you based the
15 Notice of Violation on?

16 A. No. I spoke with the director of the security
17 for the venue, and I asked them, for each position that
18 he hired, what was his expectation for them to provide.
19 And so when he -- and I asked for every position. I
20 didn't just ask for this one. I asked for each and
21 every position and what their duties that he wanted them
22 to do. And he stated that he did not want any traffic
23 to come into this route, that it's a change from
24 previous years, and that he was going to make sure that
25 no traffic came in that way.

1 Q. Okay. Did they tell you how he was going to
2 make sure?

3 A. He hired security to do so.

4 Q. But you never saw one car try to go through
5 there?

6 A. No, I did not.

7 Q. So in the Notice of Violation, Exhibit
8 Number 1, you state it was determined Fantazia Gaither
9 was working for ESI Security without a work card at
10 Gate 4. Ms. Gaither was restricting ingress to traffic
11 at Gate 4. Signs were posted. And she was only to
12 allow egress at that location.

13 So you never saw her restricting and any action
14 to restrict ingress into that gate, right?

15 A. Her presence was restricting.

16 Q. Okay. But that --

17 A. Her presence is what I based that on. Her
18 presence is there to restrict ingress and to enforce the
19 "Do not enter" sign.

20 Q. And that was based on familiar presence there
21 and what the rodeo told you about what they were
22 expecting at each and every one of the gates?

23 A. Yes.

24 Q. Who did you talk to at the Reno Rodeo?

25 A. I don't have his name in front of me. It's

1 included in the packet with the files. But not being an
2 employee, I don't have access to those records.

3 Q. That's not part of the information provided in
4 it Notice of Violation, right?

5 A. No. It was my notes.

6 Q. And you can't remember the name?

7 A. I do not.

8 Q. Ms. Gaither was wearing an Event Services
9 T-shirt, correct?

10 A. A polo shirt, yes.

11 Q. Okay. Why did you write this Notice of
12 Violation to ESI, as opposed to the last violation we
13 just heard which was to Event Services?

14 A. The previous violation was under the direction
15 of Kevin Ingram and through what I understand to be from
16 counsel, agreements and so forth. And there was a
17 change of what counsel had advised us to issue.

18 Q. So counsel told you to write this Notice of
19 Violation against ESI specifically?

20 A. No. That's -- you asked me why I issued a
21 notice of -- a citation earlier versus a notice of
22 violation here. And I described that I was directed by
23 Kevin Ingram to write the citation to Event Services
24 back in the previous violation. In this one, I was
25 directed to, by Kevin Ingram to put it to ESI Security.

1 Q. Did he tell you why he directed you to file it
2 against ESI Security?

3 A. The reasons was that they, that counsel had
4 discussed, and this is what we were to do at this point.

5 Q. Was it because now ESI was under a probationary
6 period, and this violation could be used --

7 MS. BORDELOVE: I'm going to object here to
8 this line of questioning.

9 MR. CAMPBELL: He had a conversation with
10 Mr. Ingram.

11 MS. BORDELOVE: He is -- he did not have a
12 conversation with counsel. And any conversations that
13 Kevin Ingram had with counsel are privileged. And I
14 further don't think any, anything having to do with
15 their probation is relevant here.

16 MR. CAMPBELL: Well, the relevancy here is we
17 have almost an identical set of facts where an Event
18 Services employee was purportedly doing a security
19 function. So I'm just trying to figure out why this was
20 written to ESI and the previous one was written to Event
21 Services. And Mr. Woodruff just testified that Jason
22 Woodruff, I mean that Kevin Ingram told him to do that.

23 So the question is, did Kevin Ingram tell you
24 to do that because of ESI being under a probationary
25 period and using this against them.

1 MS. BORDELOVE: That's, that's not a question
2 for him. That's -- he doesn't know what Kevin Ingram's
3 thought process was. If you want to bring Kevin Ingram
4 up to testify, you can do that.

5 MR. CAMPBELL: No, he can say what, he can say
6 that --

7 MS. BORDELOVE: But he simply can testify what
8 he was told.

9 MR. CAMPBELL: He can. That's exactly. That's
10 all I'm asking him, did Mr. Ingram tell him that.

11 MS. BORDELOVE: If you -- I have no objection
12 to being asked what he was told.

13 THE WITNESS: No, he did not.

14 BY MR. CAMPBELL:

15 Q. So Mr. Ingram was directing how the Notice of
16 Violations were to be issued, prior to you issuing them?

17 A. There was, there's several people that are
18 involved with the decisions or the who I'm being told.
19 So Chief Irizarry has told me what things I need to do,
20 as well as my supervisor at the time, which was Vincent
21 Saladino. And so I get information of how we are
22 supposed to be writing violations from time to time.

23 My understanding was that it was based on how
24 counsel told him. But I was not privy to that
25 information. Nor did he say that we need to do it like

1 you suggested.

2 Q. Okay. So this was, that was, even though you
3 wrote the violation and signed it under penalty of
4 perjury, the direction on how to issue the violation
5 came from higher up. Is that that a fair
6 representation?

7 A. Well, I think, I don't think that's a fair
8 representation of what you are saying. I witnessed the
9 event. I signed the Notice of Violation because I
10 witnessed the event. I did my investigation to find out
11 what was going forward with this. But I did not have a
12 conversation as to this particular violation being
13 changed from before. That existed prior to this.

14 So I saw this, I investigated this, I wrote
15 this based on future direction of how we should deal
16 with things like this.

17 Q. Okay. So the question, again, so the
18 direction, you had direction not to issue this Notice of
19 Violation to ESI as opposed to Event Services?

20 A. I had direction from my supervision that these
21 types of events would be written to the security company
22 that has control and supervision over a staff member.
23 Whether it's ESI or anybody else, it's the same.

24 Q. And you didn't do any investigation, did you,
25 in this case as to whether Ms. Gaither was, in fact,

1 employed by Event Services or not?

2 A. At this point, no. But later, I looked for her
3 work card. I don't have any records about Event
4 Services, since they're not a licensee.

5 Q. Okay. She didn't have a work card, correct, in
6 your record review?

7 A. Not that I -- no.

8 Q. Okay. So during this time, during your visit
9 to the Reno Rodeo that day on the 21st, did you ever
10 talk to the supervisor, other than when he was manning
11 Gate 4?

12 A. Yeah, I have seen Zach at many other locations.
13 And I have talked with him over the year and a half that
14 I was employed with the PI Board.

15 Q. So did you talk to Zach on June 21st, other
16 than -- was it Zach that was at Gate 4?

17 A. It was.

18 Q. Okay. Other than your conversation with him
19 when he was at Gate 4, did you talk to him later on, or
20 anytime during the day?

21 A. Yes, I did.

22 Q. Okay. When was that?

23 A. Earlier, before I got to that location, I saw
24 him at another location. We talked. I don't think that
25 there was any specific conversation that was important

1 or relevant to this.

2 Q. So you didn't talk at all about Gate 4 in that
3 later conversation?

4 A. That was an earlier conversation.

5 Q. Earlier. I'm sorry.

6 A. No. I hadn't, I hadn't been there yet.

7 MR. CAMPBELL: That's all I have. Thank you.

8 BOARD CHAIRMAN ZANE: Ms. Bordelove?

9 MS. BORDELOVE: Yes, I have a few more
10 questions.

11

12

REDIRECT EXAMINATION

13 BY MS. BORDELOVE:

14 Q. I guess -- you've testified that she was being
15 supervised by ESI. And, I guess, if you could detail a
16 little bit more your -- what led you to the conclusion
17 that she was being supervised by ESI Security?

18 A. So Zach has been a supervisor for quite a
19 while, ever since, I believe, that I worked for the
20 Board. And so I have talked to him. And with him being
21 on-site, we talked, and he was breaking other people
22 throughout the site. So I talked with him. I know
23 that he is in charge of the event. And when I saw him
24 at that location, he was giving her a break.

25 So it was very clear to me that he was both in

1 charge of her direction-wise, as for her mandatory
2 breaks as required by law. And so he was in supervision
3 of her.

4 In addition, he was telling me why it was that
5 she didn't need a card, and trying to lay down a
6 foundation of why in this particular case he couldn't --
7 he didn't need to put a security guard there and could
8 allow an Event Services individual to be there.

9 Q. And at any point, at any point in the time you
10 observed Gate 4, did you see anyone other than Zach or
11 Ms. Gaither, any employees of either Event Services or
12 ESI Security, other than Ms. Gaither and Zach, at that,
13 at Gate 4?

14 A. No.

15 Q. Or in that area?

16 A. No, I did not see any other Event Services or
17 Event -- or ESI Security at that location, other than
18 Zach when I first arrived and then Ms. Gaither on my
19 second visit.

20 Q. Okay. And you testified that you based this
21 Notice of Violation on her presence being there. But
22 did you also take into consideration the statements by
23 her as to her duties, as well as the statements by her
24 supervisor?

25 A. I took in the statements in the whole situation

1 to form an opinion on what I thought that this would be
2 a violation. I did investigation to figure out what was
3 actually happening here before I came to that
4 conclusion.

5 MS. BORDELOVE: Okay. And that's all I have.
6 Thank you.

7 BOARD CHAIRMAN ZANE: Mr. Campbell, anything
8 further?

9

10 RE-CROSS-EXAMINATION

11 BY MR. CAMPBELL:

12 Q. So just to make sure what you just said, part
13 of your investigation and formulation of your opinion
14 that a violation issued was what Ms. Gaither had told
15 you?

16 A. Yeah, everything is formulated. You don't
17 necessarily weight it on one or another, but you get an
18 idea of what's actually occurring. Zach wanted me to
19 understand that there was no problem here. And that was
20 what he was trying to put forth. So.

21 Q. Well, the question was, sir, just did you base
22 part of your conclusion based on what Ms. Gaither told
23 you what she was doing? Yes or no. Because that's what
24 I thought I heard your counsel ask you.

25 A. I said I took everything into account.

1 Q. Okay. And so part of that was her statement?

2 A. Part of that was what she was talking to me
3 about, yes.

4 MR. CAMPBELL: That's all I have. Thank you.

5 BOARD CHAIRMAN ZANE: Anything else?

6 MS. BORDELOVE: Nothing further.

7 BOARD CHAIRMAN ZANE: Okay. Can the witness be
8 excused?

9 MS. BORDELOVE: Does the Board have questions?

10 BOARD MEMBER FLYNN: No.

11 BOARD CHAIRMAN ZANE: Oh, I'm sorry. I was
12 thinking we were on a time for a break. But does the
13 Board have any questions?

14 BOARD MEMBER FLYNN: No.

15 BOARD CHAIRMAN ZANE: Okay. Can the witness be
16 excused for this particular hearing?

17 MS. BORDELOVE: I think, I mean I'd like to
18 reserve the right to recall him as rebuttal, if
19 necessary. But as for right now, I'm not -- I don't
20 have anything further.

21 BOARD CHAIRMAN ZANE: Okay. So how long of a
22 break do we need?

23 MS. BORDELOVE: 40, 45 minutes.

24 BOARD CHAIRMAN ZANE: Okay.

25 MS. BORDELOVE: If anyone wants to have lunch,

1 I'm assuming it would be that as well.

2 BOARD CHAIRMAN ZANE: So 1:25? That means we
3 might get started by 1:30. 1:25, please.

4 BOARD MEMBER FLYNN: Okay. Thanks.

5 MR. CAMPBELL: We're off, off the record.

6 * * * * *

7 (A lunch break was taken, 12:35 to 1:29 p.m.)

8 * * * * *

9 BOARD CHAIRMAN ZANE: Are we ready down south?

10 MR. INGRAM: We're all set.

11 BOARD CHAIRMAN ZANE: Okay. Let's go --

12 MS. BORDELOVE: So we just finished. Go ahead.

13 I was just saying that we finished with Mr. Woodruff,
14 and I do not have any further witnesses at this time,
15 just reserve the right to call rebuttal.

16 BOARD CHAIRMAN ZANE: Okay. Mr. Campbell.

17 MR. CAMPBELL: I'll call Mr. Zach Larsen.

18 BOARD CHAIRMAN ZANE: Can you see the witness
19 all right?

20 BOARD MEMBER FLYNN: Now we can.

21 BOARD CHAIRMAN ZANE: Can you say your name and
22 spell your last name for the court reporter, please?

23 THE WITNESS: Zachary Larsen, L-A-R-S-E-N.

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Z A C H A R Y L A R S E N,
having been previously duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Mr. Larsen, where are you currently employed?

A. ESI Security Services.

Q. And how long have you been employed there?

A. Since July of 2013.

Q. And what's your job position generally?

A. Currently?

Q. Yes.

A. My current position is asset manager.

Q. Okay.

A. But at the time of June 21st, I was a special events manager.

Q. Okay. Let's go back to June 21st. That's 2016, right?

A. 2017.

Q. I'm sorry. 2017?

A. Yes.

Q. And that was the event at the Reno Rodeo?

A. Yes.

Q. Okay. So at that time, as in that position

1 of -- events manager, you said?

2 A. Yes, special events manager.

3 Q. Okay. What were your job duties?

4 A. I was in charge of communicating with clients,
5 finding out their needs, instructing our employees on
6 what they were to do, monitoring that they were doing
7 what they were supposed to do, and then providing breaks
8 and lunches as they needed it.

9 Q. Okay. And when you say interacting with
10 clients, and it's the Reno Rodeo, that would be the
11 rodeo association?

12 A. Yes, more specifically the security chairman,
13 Josh Iveson.

14 Q. What was that name again?

15 A. Josh Iveson, I-V-E-S-O-N.

16 Q. Okay. You've been here during the entire
17 course of this proceeding, right?

18 A. Yes, sir.

19 Q. Okay. And you heard Mr. Woodruff testify that
20 the Gate 4 area was changed between 2016 and 2017,
21 right?

22 A. Yeah, I heard that, but it hasn't been.

23 Q. Okay. Was that gate in 2016 the same
24 configuration as it was in 2017?

25 A. Yes, the exact same, including staffing.

1 Q. And how about the signage; was the signage the
2 same?

3 A. Yes, the exact same.

4 Q. Okay. Let's go back to your interactions with
5 the Reno Rodeo security people. For the rodeo in 2017,
6 when was the first day that you worked at that rodeo?

7 A. It would have been July 13th, I believe.

8 Q. Would that be June?

9 A. Or, yeah, June 13th. Excuse me.

10 Q. And did you meet with Mr. Iveson at that point?

11 A. Yes, I meet with him every morning.

12 Q. Okay. And what do you do when you meet with
13 Mr. Iveson?

14 A. We discuss what he needs for the day. I go
15 over what we are doing as far as employment. And then
16 any special instructions he has for that day or anything
17 upcoming, he will let me know at that point.

18 Q. Okay. Did Mr. Iveson know that at Gate 4 there
19 was an Event Services personnel stationed there?

20 A. Yes, he did.

21 Q. And did he ever communicate to you that that
22 was unacceptable?

23 A. No.

24 Q. And there were other Event Services employees
25 also stationed at the event, ticket takers and such,

1 right?

2 A. Yes.

3 Q. And Mr. Iveson knew the location of those Event
4 Services employees?

5 A. Yes, he did.

6 Q. So he pretty much knew how the event was
7 staffed by either ESI or Event Services?

8 A. Yes.

9 Q. And you reviewed, you went over those locations
10 and staffing requirements pretty much every day with
11 him, every morning?

12 A. Yeah, every morning when he arrived.

13 Q. Okay. And you never heard anything from him
14 saying Gate 4 needs to have a security, ESI Security
15 person there?

16 A. No.

17 Q. So your first day there was in June of -- I
18 think you said the 13th?

19 A. Yes.

20 Q. Okay. And then how many days did you work at
21 that rodeo event in '17, 2017?

22 A. It would have been 15 days. Yeah, 15 days.

23 Q. Did you have a couple days off in there?

24 A. No.

25 Q. And you were, were you there day and night, or

1 did you have a particular shift?

2 A. I worked 7:30 in the morning till about 5:30
3 every night.

4 Q. Okay. When did the rodeo events really get
5 started?

6 A. So the 19th would have been the first night of
7 actual rodeoing.

8 Q. Okay.

9 A. And then it goes for the week following the
10 19th.

11 Q. Do most of the events occur at night, actual
12 performances?

13 A. For the most part. There are a few exceptions.
14 The Monday there's a special event. But other than
15 that, most of them have been, I believe, open for the
16 events at 5:30, and the rodeo kicks off around 7:00.

17 Q. Okay. Why do people come into the rodeo prior
18 to the events actually starting?

19 A. A variety of reasons. Most, the majority of
20 people are vendors or people working setting up stuff
21 for the night. Other than that, we do get occasional
22 people who come to the slack events, which are the
23 events that don't fit within the time constraints of the
24 main event each night that they do in the outdoor arena.
25 And they're free to come and go from whichever gate they

1 can.

2 Q. Now, there were ESI Security peoples working at
3 the rodeo, also, right?

4 A. Yes.

5 Q. Okay. And what were their job functions?

6 A. It depends. We had one, two, three, four,
7 five, six access control gates around the venue. And
8 then we had two roaming and one in the indoor arena and
9 one in the exhibit hall, basically monitoring the
10 vendors' merchandise, making sure nothing was being
11 tampered with while the -- while they weren't there,
12 essentially.

13 Q. You testified you had six access gates.

14 A. M-hm (affirmative).

15 Q. Is an access gate where you have to present a
16 ticket or a badge to get in?

17 A. Yes. Yes.

18 Q. Okay. So Gate 4 was not an access gate?

19 A. No, it's purely exit-only.

20 Q. And where does Gate 4, does it go somewhere?

21 A. So Gate 4 is the exit from the main parking lot
22 onto Sutro Street, which is one of the main streets that
23 surrounds the Reno Livestock Events Center. It's the
24 primary exit for all vendors just because it's easier to
25 turn out of than Wells Street, which is a little bit

1 busier, straight on the front side of the building. And
2 it kind of comes directly out from the vendor areas, so.

3 Q. When did Ms. Gaither first start working at the
4 rodeo --

5 A. Her first day --

6 Q. -- on this 2017?

7 A. Yeah, her first day would have been the 17th.
8 18th, it would have been the 18th.

9 Q. Okay. And was she working the day shift?

10 A. Yes, she worked 8:00 to 4:00 every day.

11 Q. Okay. And on her first day, on the 18th, I
12 believe, you said --

13 A. Yes.

14 Q. -- did you take her to Gate 4 and then --

15 A. Yes. Every day, if I had staff the first time,
16 I literally drive them to their spot and explain exactly
17 what they're doing at each spot.

18 Q. And did you explain to her what her job duties
19 were at Gate 4?

20 A. Yes.

21 Q. And what was that?

22 A. She was to, basically, farewell everybody
23 leaving. And then anybody that happened to come through
24 the gate, she was to, if they asked, she was to give
25 directions on where they were supposed to go.

1 Q. Could you physically turn in to Gate 4?

2 A. You could. It took quite a bit of maneuvering.
3 In the pictures you guys had, if you go out about five
4 feet from there --

5 Q. Just so we have a clear record, you're talking
6 about Exhibit Number 3?

7 A. Whatever this picture is (indicating).

8 Q. Yeah, okay.

9 A. If you go out about five feet from that, the
10 center lane turn, which would be a left turn into there,
11 has a "No left turn" sign and a "Do not enter" sign in
12 it. And then, on the shoulder of the -- I guess, it
13 would be the southbound lane, there is a "No right turn"
14 and "Do not enter" sign as well. To get into that gate,
15 you literally have to drive around the sign and ignore
16 it completely.

17 (Interruption by cell phone ringing.)

18 MR. CAMPBELL: Sorry, turn that off.

19 Sorry about that.

20 BY MR. CAMPBELL:

21 Q. So what did you -- go back. What did you
22 instruct her as to what her job duties were at that
23 Gate 4?

24 A. Like I said, she was just there to farewell
25 people leaving, tell them have a good day, thanks for

1 coming, see you after lunch, or see you tomorrow,
2 whichever. Usually, the people there are pretty
3 friendly. And a lot of them have horse trailers, so
4 they're sitting there for a couple minutes till they
5 have a clear path, so. And then, again, giving
6 instructions. Because people walk by that gate as well
7 to go in. It's probably the farthest point you can
8 enter the grounds to actually get to an event. So
9 usually she gives direction to another gate that's a
10 little easier access than walking across where all the
11 hay and horse stuff is.

12 Q. Okay.

13 A. So just, she's really there just to give
14 directions and be a farewell to and the last smiling
15 face before you leave the rodeo, so.

16 Q. Okay. How often did you observe her during the
17 time that she worked the rodeo on this year, 2017?

18 A. On average, I make a round every half an hour
19 of the entire facility. So at least once every half an
20 hour, I was there. More on days where I had new staff.
21 It wasn't the same staff every day, so I'd make sure
22 that the staff was doing what they should be. If I had
23 somebody there for six or eight days, by the fifth day,
24 I didn't see the need to oversee them as much as
25 somebody that's working their first day of the event,

1 so.

2 Q. So how many times in a day would you actually
3 walk by Gate 4?

4 A. 10, 15.

5 Q. Okay. Did you ever see a car try to enter
6 Gate 4?

7 A. No, I did not.

8 Q. Okay. Did you ever see Ms. Gaither ever try to
9 stop a car from entering Gate 4?

10 A. No, I did not.

11 Q. Okay. And, I think, Mr. Woodruff testified
12 earlier that you had also, you covered her at least on
13 one occasion at Gate 4, covered her shift?

14 A. Yes, I covered her for her break every day.

15 Q. Every day. While you were covering her for her
16 break, did you ever have a car try to turn in to Gate 4?

17 A. No.

18 Q. Did you ever have to tell somebody that they
19 couldn't go into that gate?

20 A. No.

21 Q. Did you ever observe her giving directions to
22 people that were around in that vicinity?

23 A. Pedestrian traffic, very rarely, but usually it
24 was just her farewelling people as they left.

25 Q. Okay. When you gave instructions, did you

1 instruct her what to do if someone did try to enter
2 Gate 4?

3 A. Yeah, just 'cause mostly for safety, because it
4 is very close to the entrance, and a lot of those
5 vehicles have very wide turn radiuses, told her to make
6 sure to get back so she wasn't hit, first of all,
7 because it is rather close, and it's a narrow gate once
8 the entry side is closed.

9 And then, normally, they stop, because they
10 don't know where they're going. If they pull in that
11 gate, they don't know where they're going to begin with.
12 So normally they stop and ask for directions. I told
13 her just to give them directions to the correct gate.
14 If for some reason they just sped past, I told her to --
15 she had a radio. I told her to radio me and just let me
16 know, so I could let one of the security gates know that
17 there's somebody lost.

18 Q. But that never happened, to your knowledge?

19 A. No.

20 Q. Did it ever happen in the year previous to
21 that, 2016 rodeo, to your knowledge?

22 A. Not that I can recall.

23 Q. Now, the other gates that you talk about, the
24 access gates --

25 A. M-hm (affirmative).

1 Q. -- and you testified there were ESI
2 employees --

3 A. Yes.

4 Q. -- security guards at those gates?

5 A. M-hm (affirmative).

6 Q. Why were the security guards stationed at the
7 access gates?

8 A. Because at those gates, one, it's two-way
9 traffic. And the main reason is at all those gates
10 there's either a credential or pass required to enter,
11 or enter, or mostly enter those gates. So they're
12 controlled areas. And if we're doing any kind of access
13 control, we always make sure it's a guard and not an
14 Event Services person.

15 Q. When did you see, first see Mr. Woodruff at the
16 rodeo this year?

17 A. It would have been at round 10:00 a.m. of
18 June 21st.

19 Q. How do you remember the time?

20 A. I had just -- I run my breaks the same way
21 every day, and I had just finished my first round of
22 breaks. And I always end right around 10:00 with my
23 first round. And that's when I'd run into him at
24 Gate 6.

25 Q. Okay. And what was he doing when you first saw

1 him?

2 A. He was just walking up. And like he'd
3 mentioned, we'd run into each other a number of times at
4 events. So I knew what he was coming for, so I started
5 pulling out my work card, and told the guard I was with
6 to do the same, so just to expedite the process a little
7 bit.

8 Q. Okay. And so you and your other guard gave him
9 a work card. What happened next with Mr. Woodruff?

10 A. After that, he took off towards Gate 9, and I
11 continued, you know, I started, I continued my rounds
12 and then started giving lunch breaks.

13 Q. Okay. And did you have occasion to see him
14 again on the rodeo grounds?

15 A. We saw each other again at Gate 4 when I was
16 giving Fantazia her break, her lunch break.

17 Q. Had she already left?

18 A. Yes.

19 Q. And did you talk to him during the Fantazia
20 lunch break at Gate 4?

21 A. Yes. He asked me who was stationed here. I
22 told him it was an Event Services person, and he asked
23 what they were doing. I explained that they were, they
24 were bidding people farewell as people exited and then
25 giving directions as people approached.

1 Q. Okay. And during that time, did anybody try to
2 enter Gate 4, to your knowledge?

3 A. No.

4 Q. How long did you give her her break for?

5 A. We do half-hour lunches.

6 Q. Did he talk to you at all about any
7 conversations he had with the rodeo security or the
8 rodeo management?

9 A. No.

10 Q. Did he tell you -- when you told him that this
11 was an Event Services staffed location, did he respond
12 or say anything further to you?

13 A. Not at that point, no.

14 Q. Okay. And then you were still covering her
15 break, and then he left?

16 A. Yes, he took off south through the RV camping
17 area. I don't know where he went after that. And I
18 stayed there until Fantazia returned from her break.

19 Q. Okay. And did you see Mr. Woodruff later in
20 the day?

21 A. Yes. After Fantazia came around, between
22 lunches, I always make another round just in case
23 anybody needs to go to the bathroom. And when I came
24 back around after her lunch, she was -- he was there
25 talking with her.

1 Q. Okay. Did you overhear the conversation?

2 A. I did not.

3 Q. And what was she doing when you came upon her?

4 A. When I came, when I first came around the
5 corner, she was sitting in the chair, and he was
6 standing in front of her. And it looked like she had
7 just handed her -- him her identification.

8 Q. Okay. And after that, did you talk to him
9 again?

10 A. I don't believe so. Yes, we did. After he got
11 done with Fantazia, he mentioned that it should have
12 been a security guard, to which I replied that she
13 wasn't doing any kind of security function. I
14 wouldn't -- an argument would be a strong term for it,
15 and we both kind of presented what we thought. And at
16 that point, I called one of the other event supervisors
17 to come so he could start monitoring breaks so I could
18 cover for it, if that came to that.

19 Q. Okay. Did he tell you anything, that she had
20 to leave or anything like that?

21 A. No.

22 Q. In this conversation when he told you that he
23 thought it was a security function gate --

24 A. M-hm (affirmative).

25 Q. -- did he mention any discussion at that time

1 that he had had a conversation with anybody from the
2 rodeo security or rodeo management?

3 A. No.

4 MR. CAMPBELL: I think, that's all I have. The
5 court's indulgence, or the Board's indulgence for one
6 second.

7 BOARD CHAIRMAN ZANE: Sure.

8 MR. CAMPBELL: That's all I have from
9 Mr. Larsen.

10 BOARD CHAIRMAN ZANE: Ms. Bordelove.

11 MS. BORDELOVE: Okay.

12

13 CROSS-EXAMINATION

14 BY MS. BORDELOVE:

15 Q. Mr. Larsen, so you were Ms. Gaither's
16 supervisor, correct?

17 A. Yes, ma'am.

18 Q. And did she at any point have any supervisor
19 from Event Services?

20 A. Not a specifically Event Services supervisor,
21 no.

22 Q. Okay. And you said that you would come by
23 about every 30 minutes. Do you remember how often you
24 came by on that day?

25 A. Not specifically, but it was probably roughly

1 the same. I kept to a pretty standard pattern.

2 Q. Did Mr. Iveson, the security manager for the
3 Reno Rodeo, was he aware that there was nonsecurity
4 personnel at Gate 4?

5 A. Yes, he was.

6 Q. Was that something you told him?

7 A. Every morning, when he arrives, we drive the
8 site together, and I explain what, who was in what
9 position. So, yes.

10 Q. Okay. And you testified that she was supposed
11 to call you if somebody tried to enter the gate?

12 A. Radio, yes.

13 Q. Is that correct?

14 A. Yes, radio me.

15 Q. Or, so she had a radio?

16 A. Yes, ma'am.

17 Q. If she called you, how long would it take you
18 to get there?

19 A. From the farthest point on the property, two
20 and a half minutes.

21 Q. Was she to talk to anyone who attempted to
22 enter?

23 A. If they stopped voluntarily, yes, but she was
24 not to stop or try and apprehend anybody from entering.

25 Q. And what was she supposed to say to them if

1 they stopped voluntarily?

2 A. Ask them where they were heading and give them
3 the appropriate directions to get there.

4 Q. Was she supposed to inform them that this was
5 an exit-only gate?

6 A. Yes, just for safety reasons, just because
7 she -- the people would then be, while she was talking
8 to them, they would be in oncoming traffic.

9 Q. Okay. So she was supposed to inform them,
10 though, that it was an exit-only gate?

11 A. Yes.

12 Q. And if people came through without stopping to
13 talk to her, would you characterize her job as to
14 observe and report that activity to you?

15 A. Technically, yes, in the fact that she was
16 observing it and she would tell me.

17 Q. Okay. And you testified that there were
18 additional "Do not enter" and "Do not turn" signs that
19 aren't shown in the picture that's Exhibit 3?

20 A. That's correct.

21 Q. In your opinion, did her presence change the
22 effectiveness of those signs?

23 A. No.

24 Q. So you believe that the signs would have been
25 equally effective had there been no tent or person

1 staffing the gate at all?

2 A. Yes.

3 Q. Let's see. You described the other gates as
4 access control gates. Why was this not an access
5 control gate?

6 A. There's no pass required to go in or out of
7 this gate. She's not stopping anybody from coming
8 and/or going. The other ones had specific passes of who
9 was allowed to go through, who was not. And we're to
10 abide by that no matter what. She was just there giving
11 directions to people that came through.

12 Q. Okay. Did any other, other than you, did any
13 other ESI Security personnel go by that gate or patrol
14 that gate during the day, or night, during the event?

15 A. The other event supervisors would have
16 broken -- that's a 24-hour gate. So they would have
17 given their Event Services staff breaks as well during
18 their shift. So, yes.

19 Q. Other than breaks, was there any security
20 personnel --

21 A. No, it was manned by an Event Services staffing
22 24 hours a day for the entire run of the rodeo.

23 MS. BORDELOVE: Okay. I think, that's all the
24 questions I have.

25 BOARD CHAIRMAN ZANE: Mr. Campbell?

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REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Would it be pretty obvious to anybody that came up to Gate 4 that it was an exit gate?

A. Yes.

Q. And so there was really no need to let really anybody know to tell them it was an exit, I mean it was clearly marked --

A. M-hm (affirmative).

Q. -- obvious, traffic was exiting all the time, the signs were on the street, no entrance, right?

A. Yeah.

Q. And did the tent where she was sitting under, did that in any way indicate that it was a security checkpoint?

A. No, it was a standard blue easy-up tent.

Q. And she wasn't wearing any security, she wasn't wearing any ESI Security --

A. She was wearing a standard Event Services shirt.

Q. Could you even see that shirt if you were, if you were on the street, you know, trying to turn into there?

A. No, because, for the most part, she was sitting down.

1 Q. And so you manned the rodeo, you were
2 supervisor in 2016, also?

3 A. Yes.

4 Q. And in 2017?

5 A. Yes.

6 Q. And you were there in 2016. Were you there for
7 15 straight days or thereabouts?

8 A. Yes, I was.

9 Q. In that entire 30 days in those two years, did
10 you ever see anybody try to go into Gate 4?

11 A. Not that I can recall.

12 MR. CAMPBELL: That's all I have. Thank you.

13 BOARD CHAIRMAN ZANE: Ms. Bordelove?

14 MS. BORDELOVE: I have no further questions.

15 BOARD CHAIRMAN ZANE: Thank you.

16 Any Board member questions?

17 BOARD MEMBER COLBERT: I have some.

18 BOARD CHAIRMAN ZANE: Please, Mr. Colbert.

19 BOARD MEMBER COLBERT: Were there any other
20 gates that were manned by the Event Services staff that
21 had just-for-exit purposes?

22 THE WITNESS: No, that's the only exit-only.

23 BOARD MEMBER COLBERT: And was she advised or
24 given any instruction that should somebody pull up
25 inadvertently to an event, didn't know or wasn't paying

1 attention to the signs, was she to leave her seating
2 position and walk up to the car, or she was supposed to
3 yell from her seat position, or?

4 THE WITNESS: Whenever, especially that,
5 whenever we have a seating position like that, any time
6 anybody approaches, whether it's a pedestrian or a
7 vehicle, whenever anybody approaches, they're to stand.
8 So if a vehicle would come in, she would be standing at
9 that point.

10 BOARD MEMBER COLBERT: Okay.

11 THE WITNESS: But she was not to stop the
12 vehicle in any way.

13 BOARD MEMBER COLBERT: Could she approach the
14 vehicle, though, to --

15 THE WITNESS: She would just stand underneath
16 the tent, and if they stopped, she would then approach
17 to see if they had a question or need directions.

18 BOARD MEMBER COLBERT: And did you have any
19 other Event Services staff that their sole function was
20 just basically to waive goodbye to people leaving the
21 grounds?

22 THE WITNESS: No. But that wasn't her sole
23 purpose. She was also there to give directions.

24 BOARD MEMBER COLBERT: Okay. No further.

25 BOARD CHAIRMAN ZANE: Mr. Nadeau.

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

2 To your knowledge, does Mr. Iveson know the
3 difference between Event Services and ESI Security?

4 THE WITNESS: I explained to him they were
5 ushers and parking attendants, when he'd go around.
6 Because he noticed the difference in the shirt and asked
7 for an explanation. I told him these are not security
8 guards, they are just ushers and parking attendants and
9 purely for direction purposes.

10 BOARD MEMBER NADEAU: Thank you. Are there,
11 were there any other Event Services personnel at the
12 rodeo?

13 THE WITNESS: Yes. Depending on the day,
14 anywhere from one additional to 10 for some of the --
15 for the major roping events and everything.

16 BOARD MEMBER NADEAU: And what was their
17 function, for the most part?

18 THE WITNESS: The one, the one that was
19 additional, he was just directing people where to park.
20 Because the land is split between the rodeo and Washoe
21 County, he would just direct the Washoe County vehicles,
22 or more direct the rodeo vehicles to rodeo parking and
23 the Washoe County to Washoe County parking.

24 BOARD MEMBER NADEAU: And I've been to the
25 rodeo. I'm trying to visualize, but it seems like

1 there's parking, people out there directing parking, but
2 I don't recall that they were like uniformed people.

3 THE WITNESS: That's the rodeo volunteers, and
4 they only come in at 6:30 to 8:30 every night to collect
5 the money. And the parking attendant we have is for the
6 Bob Feist Invitational that happens on Monday morning,
7 afternoon. And he's there just to direct the Washoe
8 County vehicles into the Washoe County lot.

9 BOARD MEMBER NADEAU: Okay. So, basically, so
10 people aren't going over to the county lot?

11 THE WITNESS: Yes.

12 BOARD MEMBER NADEAU: And then I was looking at
13 the picture. Maybe I misunderstood you, but you said
14 the gate, when the gate's closed? It looks like to me
15 it's a rolling gate, and it's just wide open.

16 THE WITNESS: So it's a two-panel gate.

17 BOARD MEMBER NADEAU: Okay.

18 THE WITNESS: There's one panel that's on the
19 entry side and one panel that's on the exit side. The
20 exit side is open. And this is the entry side
21 (indicating), and that's closed. And that's the middle
22 of the traffic.

23 BOARD MEMBER NADEAU: Okay. Thank you.

24 THE WITNESS: Do you want me to show them
25 that?

1 BOARD MEMBER NADEAU: Yeah. I don't know if
2 they could see it or not. That was my questions.

3 THE WITNESS: So this gate (showing) is
4 actually two lanes. This is the entry side with the
5 gate pulled across it. And this is a single-lane exit
6 lane, and you can see the gate pulled back.

7 BOARD MEMBER NADEAU: All right. Thank you,
8 Mr. Chair.

9 BOARD CHAIRMAN ZANE: Any other Board
10 questions?

11 I have a couple. So what is the intent of that
12 gate?

13 THE WITNESS: For people to leave?

14 BOARD CHAIRMAN ZANE: To leave.

15 THE WITNESS: Just a more expedient way for
16 people to leave.

17 BOARD CHAIRMAN ZANE: So this gate wasn't the
18 sole gate to leave from, but there's more ways for
19 everybody to pull out?

20 THE WITNESS: It diverts people off of Wells,
21 which is a much busier street, and onto Sutro, which is
22 kind of a side street. So it gets people out a little
23 bit faster, and it gives the trucks time to turn so they
24 don't have to hold up traffic on the main road.

25 BOARD CHAIRMAN ZANE: And so how often during

1 the event is that gate used for egress?

2 THE WITNESS: The whole time. It never closes.

3 BOARD CHAIRMAN ZANE: Okay. So whenever
4 something's not going on, and people want to leave, they
5 leave through that gate?

6 THE WITNESS: Yep.

7 BOARD CHAIRMAN ZANE: Now, does that employee
8 assist those people when they're leaving?

9 THE WITNESS: No, just says goodbye. And a lot
10 of times, it's a bunch of cowboys. A lot of times,
11 they'll ask them if they want lunch. But other than
12 that, no.

13 BOARD CHAIRMAN ZANE: So would you, at any
14 time, would you consider any of that -- let me rephrase
15 that. When you were having the debate about the
16 necessity for the person there to have a work card --

17 THE WITNESS: M-hm (affirmative).

18 BOARD CHAIRMAN ZANE: -- your position that you
19 were coming from was based upon what?

20 THE WITNESS: That they weren't controlling
21 anything. The gates and the signs were doing what were
22 the control. They were mainly just to greet and a
23 direction giver. Which, to my mind, is not a security
24 function.

25 BOARD CHAIRMAN ZANE: Okay. So you don't

1 envision it to have anything whatsoever to do with
2 traffic control?

3 THE WITNESS: No.

4 BOARD CHAIRMAN ZANE: Thank you.

5 Any other Board questions?

6 Are you done with the witness? He can be
7 excused?

8 MR. CAMPBELL: Yes.

9 BOARD CHAIRMAN ZANE: Thank you.

10 THE WITNESS: Yeah.

11 BOARD CHAIRMAN ZANE: Anybody else,
12 Mr. Campbell?

13 MR. CAMPBELL: I'd like to call Mr. Hendi just
14 briefly.

15 BOARD CHAIRMAN ZANE: Okay.

16 MR. CAMPBELL: Do you want him to move?

17 THE REPORTER: It doesn't matter to me.

18 MR. CAMPBELL: Can you all see Mr. Hendi okay?

19 MR. INGRAM: Yes.

20

21 M A H M O U D H E N D I,

22 having been previously duly sworn,

23 was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Mr. Hendi, how long has ESI and/or Event Services been working the Reno Rodeo?

A. I would say, at least 17 years or 18 years.

Q. And have you been hands-on involved with that event for that entire time?

A. Yes.

Q. Okay. You heard Mr. Woodruff say that Gate 4 was changed between '16 and '17. Is that true?

A. No, actually, it never changed, always been an exit.

Q. And the entire time that the rodeo, that you've been working the rodeo, it's always been an exit gate?

A. Correct.

Q. And did you negotiate the contract with the Reno Rodeo Association for the security and/or guest services?

A. Yes.

Q. Okay. And in that negotiation, did you go over with them detail-by-detail staffing for positions where people are going to be located and what they were going to do?

A. Absolutely.

Q. Okay. And who at the Reno Rodeo did you

1 negotiate with?

2 A. Normally, it's the general manager. But, also,
3 the director of security, who is a volunteer, Josh
4 Iveson, would be present.

5 Q. And so Mr. Iveson was there so that you could
6 talk about all the different security functions at the
7 rodeo?

8 A. Yes.

9 Q. Okay. And did you talk about Gate 4,
10 specifically as to who was going to man that gate?

11 A. Yes.

12 Q. And did Mr. Iveson and the other person at the
13 rodeo association know that it was going to be Event
14 Services manning that gate?

15 A. Yes.

16 Q. And did they pay a different fee because of
17 that?

18 A. Yes.

19 Q. Okay. And so they knew and they paid for it,
20 paid for it as part of the contract negotiation?

21 A. Correct.

22 Q. Did they ever insist that you have different
23 staffing at Gate 4?

24 A. No.

25 Q. And in 2017, did you ever hear from anybody at

1 the rodeo association or the volunteer security staff
2 that that staffing with an Event Services person at
3 Gate 4 needed to be changed to an ESI Security?

4 A. No.

5 MR. CAMPBELL: That's all I have of Mr. Hendi.

6 BOARD CHAIRMAN ZANE: Ms. Bordelove.

7

8 CROSS-EXAMINATION

9 BY MS. BORDELOVE:

10 Q. Just a couple follow-up questions, I guess, to
11 that. You just testified that they pay a different fee
12 for Event Services personnel. Did they pay a lower fee
13 or a higher fee when it -- for Event Services versus ESI
14 Security Services personnel?

15 A. Normally, lower.

16 Q. Okay. Do you pay Event Services personnel
17 lower than what you pay ESI Security personnel?

18 A. It's normally our starting position. So, yes,
19 they do get lower hourly rate.

20 Q. Okay. So it costs you less to staff an area
21 with Events Services personnel than it does with
22 security personnel?

23 A. Not necessarily the rule, but normally.

24 MS. BORDELOVE: Okay. That's all I have.

25 BOARD CHAIRMAN ZANE: Okay. Mr. Campbell?

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REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q. Just one follow-up, Mr. Hendi. In your negotiations with the Reno Rodeo, if had they had asked for an ESI person at a particular location, that would have been part and parcel of the contract?

A. Yes.

Q. Okay. You didn't ever slip in an Event Services person where they had asked for an ESI person?

A. No.

Q. So they knew what they were getting at each location?

A. Yes.

MR. CAMPBELL: That's all I have.

BOARD CHAIRMAN ZANE: Thank you.

Any Board questions?

BOARD MEMBER COLBERT: I do.

BOARD CHAIRMAN ZANE: Please, Mr. Colbert.

BOARD MEMBER COLBERT: How many years have you been staffing this particular gate with Event Services people?

THE WITNESS: Ever since we started.

BOARD MEMBER COLBERT: So 15, 16 years?

THE WITNESS: 17.

BOARD MEMBER COLBERT: 17 years. Okay. I

1 don't have further.

2 BOARD CHAIRMAN ZANE: Any other questions?

3 Okay. Closing.

4 MS. BORDELOVE: Okay. You have heard testimony
5 here from a few individuals. Jason Woodruff testified
6 that he witnessed Ms. Gaither seated at that location,
7 being supervised by ESI personnel. I think, testimony
8 from all witnesses here has indicated that Ms. Gaither
9 was being supervised by ESI Security, and she had no
10 Event Services supervisors.

11 And I want to point out how this Notice of
12 Violation is a little bit different from the last
13 hearing, because we have two issues. One is that she
14 was performing a security function. And I do want to
15 point out that she -- her presence at the gate, in
16 telling people that this is an exit only and being the
17 only person present at that gate, enforced the fact that
18 it was an exit-only gate.

19 But in addition to that, she was also acting as
20 an employee of ESI. Her duties were based on ESI's
21 contract. Her supervisors were ESI only. She did not
22 have Event Services. She was given breaks by ESI
23 personnel.

24 And I want to point that out, because the NRS
25 Chapter 648 specifically states that no person may be

1 employed by a licensee unless that person is registered.
2 That applies to all employees.

3 And Chapter 648 of the Nevada Administrative
4 Code further states that the term "employed by" includes
5 any person who is performing the same duties as an
6 employee. It does not require that their paycheck come
7 from that person. So I want to really point that part
8 out.

9 Based on her duties here, she was acting as an
10 employee of ESI. And she -- there's no dispute here
11 that she was not registered. And that, I think, is the
12 strongest basis here for the violation.

13 BOARD CHAIRMAN ZANE: Mr. Campbell.

14 MR. CAMPBELL: Yeah. I think, Ms. Bordelove's
15 trying do bootstrap in Ms. Gaither's positions here.
16 She was not performing any security function. I think
17 that the testimony's pretty clear to that fact. She was
18 giving directions. She was waiving at people. She had
19 no duty or no instructions to try to prevent people. In
20 fact, she was told to get the heck out of the way of
21 guests if they ever tried to get through the gate.

22 The gate was clearly marked. Event Services
23 had been manning that position for the entire length of
24 the rodeo that they have been involved in it.

25 The rodeo security knew it was an Event

1 Services. The rodeo management knew it was an Event
2 Services. They negotiated with ESI and Event Services.
3 Ms. Bordelove doesn't know the contract negotiations.
4 And just because there was a different person there,
5 that there's no proof as to who that contract lay with
6 or that these were ESI, that she was an ESI employee.

7 She was not an ESI employee. This is very
8 similar to the last case. They saw something related to
9 what they thought was a security function. It was not.
10 For reasons that only Mr. Ingram and his counsel know,
11 is they decided to cite this as an ESI and try to
12 bootstrap this argument that since she was performing
13 security functions, albeit I don't think she was, and
14 the evidence doesn't show that she was, that she should
15 be considered an ESI employee. Because she was merely
16 supervised by an ESI employee doesn't mean anything,
17 doesn't mean that she is, in fact, an ESI employee.

18 She was an Event Services employee. She was
19 wearing an Event Services. She was not doing a security
20 function.

21 Again, this, this Notice of Violation is
22 simply, one, I think, it was wrongfully drafted against
23 ESI. But, second, either way you look at it, she was
24 not an ESI employee. She just doesn't fit into that.

25 Secondly, and most importantly, if you look at

1 Mr. Woodruff's statement, he says that she was
2 restricting ingress to traffic at Gate 4. That's not a
3 security function. I think, we've heard enough
4 testimony today that that, it's not a security function.
5 She was there as an Event Services person,
6 hospitality-type person.

7 So, again, I just don't think that this Notice
8 of Violation should be upheld. The facts support it.
9 And I don't think that the State proved their burden.

10 BOARD CHAIRMAN ZANE: Ms. Bordelove?

11 MS. BORDELOVE: Yes, a couple things to that.
12 One would be the Reno Rodeo, regardless of what the
13 contract says, which is true, we do not know what the
14 contract was, but neither ESI nor the Reno Rodeo
15 employees determine what is a security function. This
16 Board determines, based on the statutes and regulations,
17 what that function is. It is this Board's choice, not
18 what a contract says.

19 In addition to that, I want to point out the
20 prior hearing we had last time was a citation against
21 Event Services, was actually an anomaly and was
22 requested by ESI's counsel that it be filed that way.
23 And the decision, it's not, that decision, it is --

24 MR. CAMPBELL: I'm going to object.

25 MS. BORDELOVE: -- something that was made at

1 that time and that --

2 MR. CAMPBELL: I have an objection.

3 BOARD CHAIRMAN ZANE: I'm going to allow her a
4 lot of latitude, because it's closing. It's not
5 evidence, I mean.

6 MR. CAMPBELL: But still she's interjecting
7 evidence that was never introduced. I mean I tried to
8 go down that road to see what the reason was.

9 BOARD CHAIRMAN ZANE: Well, it's not being used
10 for that purpose.

11 MR. CAMPBELL: Okay.

12 BOARD CHAIRMAN ZANE: Go ahead.

13 MS. BORDELOVE: And he's, Mr. Campbell stated
14 that she was not instructed to prevent anyone from
15 coming in. Well, she was told to get out of the way.
16 Even if she were a security personnel, she would
17 probably have been instructed to get out of the way and
18 not try to physically block a car from coming in, for
19 her own safety. But it doesn't change the fact that
20 what she was doing was still a security function.

21 And I just want to reiterate that even if what
22 she was doing wasn't a security function, she was still
23 acting as an employee of ESI, which in and of itself is
24 a violation, because she was not registered.

25 BOARD CHAIRMAN ZANE: Okay.

1 MR. CAMPBELL: Just a quick follow-up.

2 BOARD CHAIRMAN ZANE: Please.

3 MR. CAMPBELL: She was not an employee of ESI.
4 There's no proof whatsoever that she was an employee of
5 ESI. All the proof is that she was an Event Services
6 employee.

7 And, secondly, Ms. Bordelove said that the
8 rodeo association doesn't determine what kind of
9 function she was doing. Well, if you'll remember
10 Mr. Woodruff, he said he based his Notice of Violation,
11 in part, of what the rodeo, he allegedly, what the rodeo
12 allegedly told him about what they wanted at that gate.
13 And they clearly did not see this as a security
14 function. And Mr. Hendi did not staff it because of
15 that negotiation he had. So that's just an incorrect
16 statement.

17 They did, in fact, base this Notice of
18 Violation on what Mr. Woodruff says was his conversation
19 with somebody at security, albeit he didn't know who it
20 was.

21 BOARD CHAIRMAN ZANE: Okay.

22 MS. BORDELOVE: Mr. Woodruff testified that
23 that, that he had those conversations. That was part of
24 his entire thing. He did not base everything off of it.
25 And what the requirement to do is based on their

1 contracts. But whether what she actually did is a
2 security function, the definition of a security function
3 is what's within the Board, the Board's purview to
4 decide.

5 And in terms of the proof that she is an
6 employee, again, we are -- nothing was presented as to
7 who she was paid by. I don't have that knowledge.
8 Neither side has presented anything. I'm not disputing
9 where she was paid by. But based on her duties and her
10 supervision and the fact that ESI was supervising and
11 controlling her, that is where her employment status
12 exists.

13 BOARD CHAIRMAN ZANE: Are you done?

14 MR. CAMPBELL: (Nodded head affirmatively.)

15 BOARD CHAIRMAN ZANE: Thank you.

16 Okay. That wraps up the evidence in the
17 matter. So Board comment, questions?

18 I'll entertain a motion.

19 Second call for a motion.

20 BOARD MEMBER FLYNN: This is Ray Flynn. I'll
21 make a motion that we uphold the citation.

22 BOARD CHAIRMAN ZANE: We have a motion to
23 uphold the citation. Is there a second?

24 BOARD MEMBER NIXON: I second.

25 BOARD CHAIRMAN ZANE: We have a motion and a

1 second. Any Board comment or questions regarding the
2 motion?

3 BOARD MEMBER NADEAU: No, I'd just like
4 justification. What was the rationale?

5 BOARD MEMBER FLYNN: I believe, in my opinion,
6 what they were doing there was a security function. I
7 believe, evidence was presented to support my
8 conclusion. That's all I need to say.

9 BOARD CHAIRMAN ZANE: Okay. Any other comment,
10 questions?

11 BOARD MEMBER NADEAU: I think, there's -- if I
12 may, Mr. Chair?

13 BOARD CHAIRMAN ZANE: Go ahead.

14 BOARD MEMBER NADEAU: I think, there's enough
15 information presented that, that there is sufficient
16 evidence to uphold the citation.

17 BOARD CHAIRMAN ZANE: Okay.

18 BOARD MEMBER NADEAU: In this case, there
19 wasn't a whole lot of confusion as far as he said she
20 said, whatever was said. And an access gate is a
21 control function. And so that's my -- I'll support the
22 motion.

23 BOARD CHAIRMAN ZANE: Any other Board comment?

24 I'll be inclined to oppose the motion, and the
25 reason being just simply from the aspect of no proof

1 presented. I was almost there, but not there all the
2 way.

3 This was a lot closer than the last one. But I
4 won't be supporting the motion. Because I don't believe
5 that we proved what I would anticipate would be the
6 elements of the issue.

7 I would feel more comfortable if we would have
8 had a witness from the rodeo association giving
9 testimony that could have brought us to a more clear
10 picture.

11 I would have felt better had there been a
12 little bit longer surveillance on the post to determine
13 whether or not this was parking assistance or actual
14 traffic control. Because traffic control is the only
15 thing that I can find in the administrative code that
16 falls under private patrolman that I could hang my hat
17 on as far as what duty this had.

18 So I would have liked more issues of the
19 elements of whatever might -- if we were dealing with a
20 criminal act, it would be the elements of the crime.
21 And I don't see that it got me to a preponderance. And
22 the burden of proof here is on us.

23 So I won't be supporting it.

24 BOARD MEMBER COLBERT: Mr. Chair, I can't
25 support it, either, and based upon the fact that we

1 don't have any actual proof such as you said. Had we
2 seen her, somebody mentioned or seen her actually stop a
3 vehicle on its way in or do something that would
4 actually show her working in that, in a role that she is
5 not designed for, that would be a difference here.

6 But based upon what we have here, I have no
7 other way to believe that it wasn't just simply a
8 greeter or somebody providing information to go here, go
9 there, next gate, or whatever, but that she's not really
10 having any exact function and nothing to support that.

11 BOARD CHAIRMAN ZANE: Additionally, and since I
12 had an opportunity to think while you were speaking
13 there, the other issue for me is I don't believe -- I
14 understand what the statute has said, and I understand
15 what the administrative regulation says about all
16 employees of a licensee. I know that it makes it easier
17 to enforce.

18 But I don't believe that in the history of this
19 Board that means that if I have a big enough facility
20 that I need to hire a plumber to keep my plumbing
21 running, that I need to get him a work card. I don't
22 believe that if I hire a full-time janitorial staff and
23 pay him hourly wages and have him as my employee, that
24 they need to get a work card. Because they're not
25 performing any duty that has an impact on public safety.

1 So to read it to the extent that every employee
2 of a licensee means every single person that gets a W-2
3 from that company, I think, is a far reach.

4 I understand that you might say, well, how
5 would we enforce it, if we couldn't just walk out and
6 cite whoever we felt like, just simply because they had
7 a relationship with this employer. And I would say that
8 that's not the purpose of the meaning of the statute or
9 regulation to make it easy on the government to enforce
10 the provisions. It's -- there's a certain element of
11 that that exists.

12 And, but when it comes back to a public safety
13 issue and whether or not we're holding somebody
14 accountable for an illegal act, I believe, one, it's our
15 responsibility to prove that illegal act through a
16 preponderance of the evidence.

17 And what we have here is a person. You'd think
18 that, clearly, if they felt that they were doing
19 something wrong, there was enough time between the first
20 check and the second check to get that person out of
21 there and staff it with a work-card-abled body.

22 So it very well may be that we're dealing with
23 something there that's a pure disagreement on whose job
24 is what and what I have to do. And, of course, we can
25 all sit around and say, well, why don't you take the

1 easy way out and just do it the most expedient way, the
2 more expensive way. But it's not our job to say, well,
3 if he's paying the person manning that gate less, he
4 might be doing some unethical competitive things to
5 another security company that would have not been able
6 to get that job had they had to pay that person more.

7 But in this particular situation, that's not
8 ours to deal with. It's the fact that his client hired
9 him to do something, he did it in the way that he
10 thought he could do it and make money. And we decided
11 to cite him for it. And it's our job today to prove it
12 up. And, I think, we lack that proof.

13 BOARD MEMBER NADEAU: Mr. Chair?

14 BOARD CHAIRMAN ZANE: Yes.

15 BOARD MEMBER NADEAU: I think, I think, counsel
16 had a compelling argument that this person knows she may
17 have been employed by Event Services, was, two, under
18 the direct control and supervision of ESI Security.
19 Any, any deviation was reported to ESI Security.

20 By her mere presence, she is a controlling
21 factor at that gate. She is. Whether or not she stops
22 a car, through testimony, if a car begins to come in
23 there, then she confront them, to me, that's a -- and
24 her role in that was to stop traffic from coming in and,
25 yes, telling them that, no, you can't enter here, entry

1 gates are around the corner and to the right, or
2 whatever.

3 But there was, I believe, there was compelling
4 enough information provided in testimony that her role,
5 though in conversation or in context, her role was to
6 confront anyone coming in and give them directions, to,
7 basically, stop and control that gate from people coming
8 in, regardless of how difficult it is, regardless of
9 whether it's the only exit side.

10 I think, the compelling part for me was she was
11 under the direct control of ESI Security and reported to
12 them if there was any deviation.

13 And aside from the fact that they've been doing
14 it that way for X amount of years and have not been
15 confronted or advised to change that or have that
16 conversation, I understand, but just because we've
17 always done it that way does not mean it's always done,
18 that we've always done it the right way.

19 So that is my -- I think, that's what convinced
20 me on this one.

21 BOARD CHAIRMAN ZANE: Thank you.

22 Any other Board comment?

23 Okay. We have a motion. We have a second.

24 All in favor, say "aye."

25 BOARD MEMBER NADEAU: Aye.

1 BOARD MEMBER FLYNN: Aye.

2 BOARD MEMBER NIXON: Aye.

3 BOARD CHAIRMAN ZANE: All opposed, say "no."

4 BOARD MEMBER COLBERT: No.

5 BOARD CHAIRMAN ZANE: No. Three to two. The
6 citation is upheld.

7 Next?

8 MS. BORDELOVE: I'll just let Jason know he's
9 free to leave.

10 MR. INGRAM: Jason, are you still there? Okay.
11 He's free to go.

12 BOARD CHAIRMAN ZANE: Free to go.

13 Ms. Bordelove, are you ready?

14 MS. BORDELOVE: Sure. As a preliminary matter,
15 I just wanted to -- I know I let Mr. Campbell know this
16 in the past, but state that there are six individuals
17 listed on this Notice of Violation.

18 I guess, we want to admit the Notice of
19 Violation as Exhibit 1. It's Notice of Violation
20 I-010-16.

21 And the preliminary matter was that three of
22 the individuals we are dismissing off of this, and
23 continuing to prosecute on the other three. The three
24 we are dismissing are Tera Trujillo, Jordan Wadleigh and
25 Sierra Baltar.

1 BOARD CHAIRMAN ZANE: It was Wadleigh,
2 Trujillo, and which other one?

3 MS. BORDELOVE: Sierra Baltar, the sixth one.
4 So we're proceeding with one, two and four.

5 BOARD CHAIRMAN ZANE: Is that your
6 understanding, Mr. Campbell?

7 MR. CAMPBELL: Yes.

8 BOARD MEMBER FLYNN: Mr. Chairman, it's Ray
9 Flynn. I have a question.

10 BOARD CHAIRMAN ZANE: Yes, sir.

11 BOARD MEMBER FLYNN: This is for our Board
12 counsel. Is it appropriate for me to ask why they were
13 dismissed? I'm asking Board counsel.

14 MR. DETMER: I'm uncertain about the basis for
15 the dismissal.

16 MS. BORDELOVE: Well, I would say, based on
17 privileged discussions, it was a decision entered into
18 it, a decision made by myself and PILB staff.

19 BOARD MEMBER FLYNN: So the answer's no.

20 MS. BORDELOVE: No.

21 BOARD MEMBER FLYNN: Okay.

22 MS. BORDELOVE: I don't have a great answer for
23 you.

24 BOARD MEMBER FLYNN: Okay. I can accept no.

25 MR. DETMER: And this is, this is -- well, it's

1 the prosecutor's case and her decision for discretion as
2 to what to prosecute. So she's dismissing. That's her
3 discretion.

4 BOARD MEMBER FLYNN: I just was being notified
5 a minute before this starts that we're dismissing cases.
6 I'm curious. So I will look forward to hearing the
7 other three.

8 MS. BORDELOVE: Okay. And for an opening, I
9 just want to state the three at issue here, Grady
10 Foster, Lucas Downs and Linda Clark, were hired by ESI
11 Security and attended orientation prior to becoming
12 provisional. They had applied for their work cards, but
13 none had received provisional status yet.

14 And the, I guess, statutes that I'll point to
15 here are some of the same we've had already, where,
16 essentially, no person may be employed by a licensee
17 unless that person is registered pursuant to this
18 chapter.

19 These individuals were employed and worked.
20 They may not have been working in a security function in
21 terms of working in front of the public at this time.
22 They were attending training. But the statutes state
23 clearly what they state, that they would need to be --
24 they are employees.

25 I think, it's pretty clear, based on the

1 statutes, essentially, that they would need to be fully
2 registered before they can start work at all, and since
3 they were hired and fully made employees of a security
4 company prior to being registered.

5 BOARD CHAIRMAN ZANE: Does the alteration of
6 the complaint by the removal of the three people, does
7 that change anything?

8 MR. CAMPBELL: No, all three of these were, in
9 fact, they're the same fact situation, if we could say
10 that. But the fact situation is that by attending an
11 orientation class, the PILB staff has considered them as
12 working and required a PILB work card before they could
13 attend an orientation class.

14 That's, to my understanding, that's the nature
15 of the violation. None of the other three they
16 dismissed changes that. And the issue today will be
17 what was their status when they attended that
18 orientation and as opposed to when they got their PILB
19 card.

20 BOARD CHAIRMAN ZANE: But you don't have any
21 objection? Is that a problem?

22 MR. CAMPBELL: No, no, I don't have any
23 objection. They can dismiss everyone.

24 (Agenda Item 7: Exhibit 1 was admitted.)

25 BOARD CHAIRMAN ZANE: Three dismissals. So was

1 that your opening as well?

2 MR. CAMPBELL: Yes.

3 BOARD CHAIRMAN ZANE: Okay. Ms. Bordelove, do
4 you want to call your witness?

5 MS. BORDELOVE: Okay. Lori Irizarry.

6

7 L O R I I R I Z A R R Y,

8 having been previously duly sworn,

9 was examined and testified as follows:

10

11 DIRECT EXAMINATION

12 BY MS. BORDELOVE:

13 Q. Will you state and spell your name for the
14 record, please?

15 A. Lori Irizarry, I-R-I-Z-A-R-R-Y.

16 Q. And what is your job title?

17 A. Chief of Operations.

18 Q. And was that your job title in -- let's see.
19 Since this one is -- it was awhile, it's taken us awhile
20 to get to this one. What was the date on this one?

21 A. Top corner, it should be the top.

22 Q. Was it up in the top corner or where you signed
23 it? You signed it, let's see, November 2015. What was
24 your job title at that time?

25 A. I believe, my job title at that time was Chief

1 of Operations.

2 Q. Okay. And can you briefly tell me, I guess,
3 the background for issuing this Notice of Violation
4 I-010-16?

5 A. So since I am not located in the north, most of
6 my investigations are done over the phone or through
7 work card applications where I could verify through what
8 I see. And the violation's issued for three individuals
9 whom I believed or had also confirmed that they were
10 working in -- well, they attended orientation for the
11 company before they were made provisional.

12 MS. BORDELOVE: Okay. And, I think, I'll bring
13 in the exhibit -- I don't know if these are to be as
14 separate. I think, one had it as an attachment. But, I
15 guess, for clarity, we'll make them exhibits 2 and 3.

16 Mr. Campbell, I sent these to you ahead of
17 time. Exhibit 2, that I'd like to admit, is a letter or
18 email from Mike Hendi. And Exhibit 3 is a response from
19 Ms. Irizarry.

20 MR. CAMPBELL: I'll stipulate to those
21 admissions.

22 BOARD CHAIRMAN ZANE: They'll be admitted.

23 (Agenda Item 7: Exhibits 2 and 3 were
24 admitted.)

25 MS. BORDELOVE: And you can give a copy to

1 Lori.

2 BY MS. BORDELOVE:

3 Q. Okay. For Exhibit 2, do you recognize that?

4 A. Which one's 2?

5 Q. This one's 2.

6 A. Okay. Yes, I do. It wasn't an email. It was
7 mailed to me.

8 Q. Oh, it was mailed, it was a letter?

9 A. Yes.

10 Q. Okay. And Exhibit 3, do you recognize that;
11 was that a letter as well?

12 A. Yes. My revision, correct.

13 Q. Okay. And did you write Exhibit 3?

14 A. Yes.

15 Q. Okay. Can you briefly describe to me your
16 investigation with regards to Grady Foster?

17 A. Okay. So like I previously explained, I am not
18 available in the north to view certain citations or
19 investigations. So what you see on Exhibit Number 1,
20 Grady Foster, in black is what -- when I was issuing the
21 violation, Mr. Mike Hendi responded back to me in a
22 letter his explanation of the violation and why he
23 believes that he should not receive the violation. And
24 his statements, they're in black. And my response is
25 right below in blue.

1 Grady Foster was brought to my attention from
2 another investigator who had spoke to them on the phone,
3 and they explained that they had attended orientation
4 training with ESI prior to be getting made their
5 provisional. Which their provisional was issued on the
6 19th, and they attended orientation training on the 15th
7 of January.

8 Q. Thank you. And can you briefly describe your
9 investigation with respect to Lucas Downs?

10 A. Certainly. So Lucas Downs, something, it was
11 very similar. Mr. Lucas was brought to our attention
12 based off of their work card application. They had
13 mentioned that they were an employee of ESI. Through
14 follow-up, Mr. Hendi responded to me stating that he
15 does agree that Mr. Lucas did attend new hire
16 orientation on the 26th, but he did not start his first
17 shift, as he explains here, until February 5th, and that
18 they're going to revise their process and make sure that
19 no one attends orientation until they've been made
20 provisional.

21 And I mention here in the violation that I
22 actually issued a violation because they attended
23 orientation prior to being given a provisional work card
24 and going through our background process.

25 Q. And, lastly, will you describe your

1 investigation with respect to Linda Clark?

2 A. Linda Clark, very similar. Mr. Hendi explained
3 in his appeal of my original violation that she also
4 attended orientation training about a week or so before
5 she was actually made provisional.

6 And I explained, because of that, I'm still
7 going to issue a violation, because they did not
8 complete, go through our background training. She was
9 not clear to start working for a licensee before she was
10 going through orientation.

11 Q. And do you have any knowledge as to what this
12 specific orientation entailed?

13 A. Not exactly, but based off of previous
14 violations and hearings that we've had. I know when
15 Kevin went up to speak to ESI, they explained that their
16 new hire does attend an orientation training. But
17 exactly what's said in that training, I'm not aware of.

18 Q. Okay. And so you don't know whether this
19 orientation involved any -- was, you know, simply in a
20 classroom or in an office setting, versus any in the
21 field?

22 A. No, I'm not aware.

23 Q. Okay. And each of these individuals, you spoke
24 to them on the phone?

25 A. Yes and no. For Grady Foster, I did not. That

1 was from another investigator, who did the background.
2 I believe, I did for Downs and Foster, but I'm not --
3 I'm sorry, Downs and Clark, but I'm not certain.

4 MS. BORDELOVE: Okay. And I want to say that
5 might be all I have at this time. The facts on this one
6 are simpler.

7

8 CROSS-EXAMINATION

9 BY MR. CAMPBELL:

10 Q. Ms. Irizarry, can you look at Exhibit Number 1,
11 which is the Notice of Violation?

12 A. I don't have Exhibit 1 in front of me.

13 MS. BORDELOVE: Here, mine has notes on it. Do
14 you have it?

15 (Mr. Saladino handed Exhibit 1 to the witness.)

16 THE WITNESS: Yes, I have it.

17 BY MR. CAMPBELL:

18 Q. As to Mr. Foster, number 1 in the Notice of
19 Violation, you said he was hired and started working for
20 ESI prior to when his provisional work card was issued
21 on 1-19-2016. Do you see that?

22 A. Yes.

23 Q. When was Mr. Foster's hire date?

24 A. I don't -- well, based off of Exhibit 3, I
25 don't know his exact hire date, but I know what date he

1 was given a provisional. I know the date he attended
2 orientation, but not his exact hire date, essentially.

3 Q. So you don't know, as you wrote this Notice of
4 Violation, whether Mr. Foster was actually employed by
5 ESI or Event Services when he attended the orientation?

6 A. This violation was issued on the 5th. The
7 conversation with the investigator was on the 19th. So
8 at this time, I did know. Because when he spoke, when I
9 spoke to the investigator, the investigator confirmed
10 that he attended orientation prior to that, on the 15th.

11 Q. I know he confirmed that he attended
12 orientation. But you have no -- you have nothing in the
13 record, there's no testimony to tell the Board when
14 Mr. Foster was actually hired?

15 A. To me, that's hired. When you attend
16 orientation, you're hired. You wouldn't attend
17 orientation if you weren't employed.

18 Q. Okay. But you don't know, you've never
19 attended an orientation, you don't know who attends
20 these orientations, what's in the orientation, and when
21 the orientation is conducted?

22 A. I've never attended ESI's orientation, correct.

23 Q. Okay. So all you know as to Mr. Foster is that
24 he attended an orientation prior to receiving his
25 provisional work card?

1 A. Correct.

2 Q. Okay. Let's move down to Mr. Downs. You say
3 Mr. Downs was hired and started working for ESI prior to
4 receiving his provisional work card which was issued on
5 2-3-16. Do you see that?

6 A. Correct.

7 Q. When was Mr. Downs hired?

8 A. I believe, he indicated on his application that
9 he was an employee of ESI. But I don't have the
10 application in front of me.

11 Q. But you don't know, you don't know if you
12 talked to him, and you don't have any records showing us
13 and the Board when his actual hire date is, as we sit
14 here today?

15 A. As we sit here today, no. All I have is
16 Mr. Hendi's statements stating that he attended
17 orientation prior to his provisional date, correct.

18 Q. Yeah, and that's just orientation, there's
19 nothing in there that indicates when he was actually
20 hired, correct?

21 A. Correct.

22 Q. And then the third one down, Linda Clark, do
23 you see that it says that Ms. Clark was hired and
24 started working for ESI prior to receiving his -- his,
25 so I guess, it's a typo -- her provisional work card

1 which was issued on 2-3-2016. Do you know the date, the
2 start date or the hire date for Linda Clark?

3 A. No. I only know her orientation date that she
4 attended.

5 Q. So, again, you didn't attend that orientation
6 that she attended -- I guess, it's a she -- and so you
7 don't know when that orientation took place, what was
8 talked about in that orientation; your only allegation
9 in response to Mr. Hendi, as is shown in Exhibit
10 Number 3, would be that the orientation took place prior
11 to the provisional?

12 A. Correct.

13 Q. And who was the -- who were the other
14 investigators that fed you information about Foster,
15 Downs and Clark?

16 A. No one gave me information about Downs and
17 Clark, it was just regarding Grady Foster, and that was
18 Investigator Shelly Donald in compliance, who does our
19 work card backgrounds.

20 Q. So just to make sure, if I look at Exhibit
21 Number 2, you responded to Mr. Hendi and said that the
22 violation will stand because the -- an orientation was
23 taken four days prior to being made provisional,
24 correct, that's the basis?

25 A. You mean Exhibit 3 --

1 Q. Exhibit --

2 A. -- you mean?

3 Q. Exhibit 3. I'm sorry. Yes.

4 A. Yes.

5 Q. Okay. And the same for Mr. Downs, the only
6 allegation, or the only response you had to Mr. Hendi,
7 that the violation will stand because Mr. Downs attended
8 orientation prior to obtaining his provisional work
9 card, correct?

10 A. Correct.

11 Q. And that would be the same for Linda Clark?

12 A. Correct.

13 Q. And so it was the fact of attending an
14 orientation prior to getting a PILB work card, that was
15 the sole basis of you upholding the violations?

16 A. Correct.

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

18 BOARD CHAIRMAN ZANE: Ms. Bordelove?

19

20 REDIRECT EXAMINATION

21 BY MS. BORDELOVE:

22 Q. Did any of these employees state that they
23 worked for another of Mr. Hendi's companies or just ESI?

24 A. ESI Security, not any other company.

25 Q. Let's see.

1 MR. CAMPBELL: I'm going to object. I'm going
2 to object even though she answered the question. I
3 don't believe she -- I think, it mischaracterizes her
4 testimony. She didn't say that they worked -- her
5 testimony wasn't that they, these employees said that
6 they worked for ESI. They said they had attended an
7 orientation at some point.

8 BY MS. BORDELOVE:

9 Q. Then, let me ask that. Did any of these
10 individuals state to you that they worked for or were
11 employed by ESI Security?

12 A. Not to the me personally. In regards to Grady
13 Foster, they specified that to another investigator.

14 Q. What, they stated that they -- you testified
15 they stated that they attended an orientation class.
16 Did they, on their applications or otherwise, make any
17 other indications of that they worked for ESI Security?

18 A. I believe that it was for Downs and Clark, was
19 the name, Downs and Clark, that they indicated on their
20 application.

21 MS. BORDELOVE: That's all I have.

22 BOARD CHAIRMAN ZANE: Mr. Campbell?

23 MR. CAMPBELL: Nothing further. But I would
24 like to make a motion to the Board. I don't think -- if
25 that's the rest of Ms. Bordelove's case, I don't think

1 there's any proof here whatsoever that these were
2 employees of ESI at all.

3 I think, that's the fundamental question here.
4 There's no proof to that. That could easily have been
5 proved, and to prove their case, you know, the issue of
6 whether they attended an orientation prior to getting
7 the PILB work card, I don't -- is a different issue, to
8 my mind. And we're certainly willing to address issue.

9 But I don't think they've proved their case
10 here. There's no proof whatsoever that these
11 employees --

12 MS. BORDELOVE: I --

13 MR. CAMPBELL: -- actually, actually were
14 employed by ESI at the time they attended that
15 orientation.

16 BOARD CHAIRMAN ZANE: Ms. Bordelove?

17 MS. BORDELOVE: I have additional witnesses I
18 can call that would testify as to hire dates listed
19 on -- in the PILB systems, as well as whether or not the
20 individuals were -- I can ask any questions regarding
21 whether or not these individuals were paid for the
22 orientations.

23 BOARD CHAIRMAN ZANE: Are the witnesses here
24 now, ready to go?

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

1 MR. CAMPBELL: I think, she's rested her case.

2 BOARD CHAIRMAN ZANE: Okay. We'll call another
3 witness.

4 MS. BORDELOVE: I have no other questions for
5 Ms. Irizarry.

6 BOARD CHAIRMAN ZANE: Oh, okay.

7 Mr. Campbell, any questions?

8 MR. CAMPBELL: I have a follow-up question.

9 BOARD CHAIRMAN ZANE: Ms. Irizarry.

10 THE WITNESS: Oh.

11 BOARD CHAIRMAN ZANE: Thank you.

12 THE WITNESS: Sorry.

13

14

REDIRECT EXAMINATION

15 BY MR. CAMPBELL:

16 Q. Ms. Irizarry, when you wrote this Notice of
17 Violation, did you have any information in front of you
18 that showed ESI employment records that these people
19 were actually employed?

20 A. I don't have their employment records, no.

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

22 BOARD CHAIRMAN ZANE: Okay. Ms. Bordelove?

23 MS. BORDELOVE: I'd like to -- I have no
24 further questions for Ms. Irizarry. I'd like to call
25 Kevin Ingram. And I don't believe he's been sworn yet.

1 MR. INGRAM: I have not.

2 MR. DETMER: Did the Board have any questions
3 for Ms. Irizarry?

4 BOARD MEMBER FLYNN: No.

5 Mr. Chair, can we take a five-minute bio?

6 BOARD CHAIRMAN ZANE: Yes, sir. Would you make
7 sure that Ms. Irizarry sticks around, because I failed
8 to ask the Board if they have any questions. So if she
9 could hang out a little bit.

10 THE WITNESS: Yep.

11 BOARD MEMBER FLYNN: Okay. She'll be here.

12 * * * * *

13 (A break was taken, 2:51 to 3:01 p.m.)

14 * * * * *

15 MR. INGRAM: It looks like we're ready in the
16 south.

17 BOARD CHAIRMAN ZANE: Okay. We're ready here.
18 Ms. Bordelove.

19 MS. BORDELOVE: Okay. I'm actually going to
20 just call Mr. Hendi.

21 BOARD CHAIRMAN ZANE: Pardon me?

22 MS. BORDELOVE: I'm actually just going to call
23 Mr. Hendi.

24 BOARD CHAIRMAN ZANE: Okay.

25 MS. BORDELOVE: And I only have a couple

1 questions.

2

3

M A H M O U D H E N D I,

4

having been previously duly sworn,

5

was examined and testified as follows:

6

7

DIRECT EXAMINATION

8

BY MS. BORDELOVE:

9

Q. I guess, since we're in a new hearing,

10

Mr. Hendi, can you state and spell your name for the

11

record?

12

A. M-A-H-M-O-U-D, last name Hendi, H-E-N-D-I.

13

Q. Okay. And did ESI Security Services pay Grady

14

Foster, Lucas Downs or Linda Clark for the time that

15

they attended their new hire orientations?

16

A. It depends if they worked for -- if they were

17

hired. And if they were hired for Event Services, the

18

answer would be yes.

19

Q. And if they had not been hired for Event

20

Services, they would have attended without being paid?

21

A. They wouldn't have been invited.

22

Q. Were Grady Foster, Lucas Downs or Linda Clark

23

ever employees of Event Services?

24

A. As I sit here, I'm not sure. I would have to

25

look at the record. But all the indication says that

1 they were.

2 Q. Do you routinely hire employees into Event
3 Services and then train them for security?

4 A. The orientation is a 45-minute classroom
5 instruction talking about our philosophy, our -- what we
6 look for, what's our expectation. And the big issue,
7 which Mr. Ingram attended, we talk about the difference
8 between security officers for ESI Security and Event
9 Services. So that's what we talk about. That's the
10 gist of our orientation. There is no training. There
11 is no other instructions, just our philosophy and the
12 difference between a security officer and Event
13 Services.

14 Q. Okay. And my last question, I think, would
15 just be do you -- are you aware of any employee -- or,
16 sorry, of any individuals that you have had attend this
17 orientation that were not paid for their time?

18 A. No.

19 MS. BORDELOVE: Okay. That's all I have.

20 BOARD CHAIRMAN ZANE: Are there any other
21 witnesses?

22 MS. BORDELOVE: Did you have any questions,
23 Mr. Campbell?

24 MR. CAMPBELL: Not at this point. I may want
25 to call Mr. Hendi on my direct examination.

1 MS. BORDELOVE: Okay. I have no other
2 witnesses.

3 BOARD CHAIRMAN ZANE: Okay. Is Ms. Irizarry
4 still there?

5 MS. BORDELOVE: Yes.

6 BOARD CHAIRMAN ZANE: Okay. I forgot earlier.
7 Were there any Board members that had any questions of
8 Ms. Irizarry?

9 BOARD MEMBER FLYNN: No.

10 BOARD CHAIRMAN ZANE: All right. Thank you.
11 Mr. Campbell.

12 MR. CAMPBELL: I don't think that calling
13 Mr. Hendi's resolved the problem, that there's no proof
14 here that these people were actually employees of ESI
15 when they attended the orientation class, whatever it
16 may have been.

17 So I think that the Notice of Violation should
18 be dismissed. There's no fundamental proof here. The
19 fundamental claim is that they were employees of ESI
20 when they attended the orientation class. I think, they
21 need to prove that in their case in chief. They
22 haven't. Ms. Irizarry didn't know. Mr. Hendi wasn't
23 expecting this questioning. I would assume that they
24 would have had some proof to substantiate their case.
25 And there's just absolutely no proof here.

1 So, you know, I think, the Notice of Violation
2 should be dismissed.

3 BOARD CHAIRMAN ZANE: Okay. Ms. Bordelove,
4 your response?

5 MS. BORDELOVE: My response would just be that
6 I -- to the extent that -- I think, this is an
7 interpretation issue for the Board as to when an
8 individual is considered an employee, I mean if they're
9 brought in. They were clearly being paid for their
10 orientation. And they -- which they were required to
11 attend it prior to doing any other work.

12 It's an interpretation for the Board as to
13 whether they were employees at that time of the company
14 that was giving them the orientation.

15 BOARD CHAIRMAN ZANE: Okay.

16 MR. CAMPBELL: There was no evidence to that
17 effect. I mean it's -- Ms. Bordelove can testify, but
18 there was no evidence to that effect, that they were
19 paid or when they were employed.

20 You know, that's -- this is a fundamental error
21 and lack of proof here in this case to move forward and
22 prove their case. The whole case is riding on these
23 people were employees of ESI and then attended an
24 orientation class. So they ought to have proof of that
25 fact before we started down the road on it.

1 BOARD CHAIRMAN ZANE: Well, since the --

2 MS. BORDELOVE: I --

3 BOARD CHAIRMAN ZANE: -- the motion is
4 dispositive, that would certainly need to be made by the
5 Board, I believe.

6 I'm sorry. Ms. Bordelove, did you have
7 something else?

8 MS. BORDELOVE: I was just going to say that
9 Mr. Campbell just stated there's no proof that they were
10 paid. And I just want to point out that Mr. Hendi just
11 testified he's never had an employee attend this
12 orientation without being paid.

13 MR. HENDI: Employee.

14 MS. BORDELOVE: Individual is actually what I
15 asked him and what he testified to. I apologize. I
16 misspoke when I said "employee."

17 BOARD CHAIRMAN ZANE: All right. Mr. Campbell
18 has raised an issue for dismissal. It would be
19 appropriate for us to deliberate on that.

20 I don't believe, based upon prior Board
21 counsel's representations, that the Chairman has the
22 ability to independently grant or deny a dispositive
23 motion.

24 So that would mean if somebody wants to dismiss
25 it, they would need to bring a motion and explain that

1 way, and we have vote, or not, was my understanding.

2 BOARD MEMBER FLYNN: Nothing down here.

3 BOARD CHAIRMAN ZANE: Okay. We have to make a
4 decision to move forward since there is a motion. So.

5 BOARD MEMBER FLYNN: Mr. Chair, I'm a little
6 confused, and that's typical of me. My understanding is
7 Mr. Campbell is asking for dismissal. You interpret
8 what we're supposed to do that we can only do that with
9 a motion for dismissal. We don't have a motion for
10 dismissal. I don't believe we need a motion to
11 continue.

12 BOARD CHAIRMAN ZANE: No, he's moved that the
13 case be dismissed because the State has failed to prove
14 their case in chief. So for the most part, he's saying
15 "I shouldn't have to go beyond this part, and I move for
16 the complaint to be dismissed."

17 So that's dispositive. I can't make a ruling
18 on that order. So if we want to say denied and move on,
19 I think that the Board has to make a determination
20 whether or not we continue with the hearing or we
21 dismiss the charge for lack of proof as the state. But
22 we have, it seems we have to make a determination in
23 order to move so the record is clear as to whether or
24 not we treated the licensee in a disequitable,
25 unequitable fashion.

1 All I'm trying to make sure is the record's
2 clear.

3 BOARD MEMBER FLYNN: So what are you seeking?
4 Because you guys are pretty quiet up north there.
5 That's why I'm confused. What are you seeking, what do
6 you want somebody to speak up to?

7 BOARD CHAIRMAN ZANE: Make a motion that
8 Mr. Campbell's motion to dismiss is denied or approved.
9 We do a vote. That vote dictates whether we continue
10 with this hearing or we're done here.

11 BOARD MEMBER FLYNN: Okay. Clear, crystal.

12 BOARD CHAIRMAN ZANE: But from the way I liken
13 it is, in a criminal case, if you go to preliminary
14 hearing and the state fails to prove up the probable
15 cause, the J.P. boots it. And then we all come back and
16 regroup and do it by information in the district court
17 anyway. But that's not the administrative law.

18 BOARD MEMBER NADEAU: Mr. Chair?

19 BOARD CHAIRMAN ZANE: Yes.

20 BOARD MEMBER NADEAU: So am I to understand
21 that counsel -- counsel has no additional case,
22 witnesses or anything that is being presented?

23 BOARD CHAIRMAN ZANE: Correct.

24 BOARD MEMBER NADEAU: You've completed your
25 side of the case: is that correct?

1 MS. BORDELOVE: Right.

2 BOARD MEMBER NADEAU: I'll make the motion. I
3 think, we grant the motion. I don't think there's been
4 adequate -- well, I'll comment on my motion after, if
5 there's a second. If there's no second, then somebody
6 else can make a motion.

7 BOARD CHAIRMAN ZANE: We have a motion. Is
8 there a second?

9 BOARD MEMBER COLBERT: I'll second.

10 BOARD CHAIRMAN ZANE: We have a motion and a
11 second. Any Board conversation on the motion?

12 BOARD MEMBER NADEAU: I'll explain why I made
13 the motion, unlike some of my colleagues. But my motion
14 is, we have not received any documentation that will
15 prove that any of these employees, any of these
16 individuals were on the payroll for ESI Security at the
17 time they went to orientation.

18 We haven't heard anything if they are on the
19 employment of Event Services. We don't know where
20 they're employed. We have nothing. No concrete
21 evidence has been presented, that I've seen, that said
22 that they could show that they were employees anywhere.

23 BOARD CHAIRMAN ZANE: Any other Board
24 conversation?

25 BOARD MEMBER NIXON: I tend to disagree, only

1 because on number two, Lucas Downs, Mr. Hendi responded
2 saying that he's revised his process based off of this,
3 you know, violation. But that, that is the only thing
4 at this point.

5 BOARD CHAIRMAN ZANE: Any other?

6 BOARD MEMBER NADEAU: We don't have any -- no.
7 Never mind. I've made my argument. And I'll just live
8 with it.

9 BOARD CHAIRMAN ZANE: Any other comment or
10 question from the Board?

11 We have a motion and a second to dismiss. All
12 in favor, say "aye."

13 BOARD MEMBER NADEAU: Aye.

14 BOARD MEMBER COLBERT: Aye.

15 BOARD CHAIRMAN ZANE: Aye. All opposed, say
16 "no."

17 BOARD MEMBER FLYNN: No.

18 BOARD CHAIRMAN ZANE: We only got one no.

19 BOARD MEMBER NIXON: No, two. Sorry. No.

20 BOARD CHAIRMAN ZANE: Okay. Three to two. The
21 motion carries to dismiss the violation.

22 MS. BORDELOVE: Well, that's finished for this
23 one.

24 I just wanted to, since I will be the one
25 writing the order on agenda item number five, I just

1 wanted to ask the Board if it wanted to visit the issue
2 of attorney's fees on agenda item number five.

3 BOARD CHAIRMAN ZANE: Number five. And that
4 would be just a yes or no, correct? We wouldn't --

5 MS. BORDELOVE: I mean the Board would need a
6 motion or otherwise to decide something, if it is to be
7 included in the order. I did put -- I know prior
8 hearings haven't always had this, but I did come with
9 knowledge of what attorney's fees amounts are, without
10 including today, up and through -- up until the hearing,
11 but not including the hearing, if the Board wants that
12 information.

13 BOARD CHAIRMAN ZANE: It's the pleasure of the
14 Board. So if somebody wants it to go one way or
15 another, bring a motion, and we'll fight about it.

16 Is there a motion to include attorney's fees
17 for agenda item number five?

18 Second call for attorney's fees for agenda item
19 number five.

20 Last call for attorney's fees for agenda item
21 number five.

22 I believe, that indicates no attorney's fees
23 for agenda item number five. Unless I'm mistaken.

24 MR. CAMPBELL: I think, that's correct.

25 MR. DETMER: That's correct.

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BOARD CHAIRMAN ZANE: Now, do we have any public comment? Public comment in the south?

MR. INGRAM: No public.

BOARD CHAIRMAN ZANE: Public comment in the north? Anybody like to say anything?

Okay. Motion to adjourn.

BOARD MEMBER COLBERT: Yes.

BOARD CHAIRMAN ZANE: Thank you all for coming.

* * * * *

(The meeting adjourned at 3:16 p.m.)

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REPORTER'S CERTIFICATE

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

That I was present at the Office of the Attorney General, 100 North Carson Street, Mock Court Room, Carson City, Nevada, on Tuesday, December 5, 2017, at 9:00 a.m., and commencing at 9:05 a.m. took stenotype notes of a meeting of the State of Nevada Private Investigators Licensing Board;

That I thereafter transcribed the aforementioned stenotype notes into typewriting as herein appears, and that the within transcript, consisting of pages 1 through 214, is a full, true, and correct transcription 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 9th day of January, 2018.

SHANNON L. TAYLOR
Nevada CCR #322, RMR