

1 **LOUISIANA STATE BOARD OF PRIVATE SECURITY EXAMINERS**
2 **QUARTERLY BOARD MEETINGS**
3 **AND**
4 **ADJUDICATORY HEARINGS**

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9 **Louisiana State Board of Private Security Examiners**
10 **15703 Old Hammond Highway**
11 **Baton Rouge, Louisiana**

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15 **December 7, 2012**

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20 **Reported By**
21 **ANNETTE ROSS, CCR, RPR**

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Mr. Louis S. Gurvich, Jr., Chairman, District 1
Thomas L. Baer, District 3
Donald O. Cotton, District 5
Charles V. Duplechain, District 4
Kenneth R. Kennedy, Member at Large
Denise Lockett, Member at Large
George Rojas, Member at Large
James H. "Chip" Romero, Member at Large
Christine Vinson, Vice Chairperson, Member at Large

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Reported by: ANNETTE ROSS, CCR NO. 93001,
Certified Court Reporter, in
and for the State of Louisiana
(Annette Ross officiated in administering the oath
to the witnesses.)

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MR. GURVICH: Welcome, everyone, to the quarterly meeting of the Louisiana State Board of Private Security Examiners. I'd ask everyone to please rise. Chief Rogillio, would you please lead us in the Pledge, followed by a brief moment of silence. Chief.

MR. ROGILLIO: Yes, sir.

(Pledge of Allegiance, followed by moment of silence.)

MR. GURVICH: Thank you. May we please have a quorum call.

(Roll call.)

MR. GURVICH: There being a quorum present, let's proceed. Chief, what's your pleasure?

MR. ROGILLIO: The second item on the agenda is the Reading of the Minutes of the Previous Meeting.

MR. GURVICH: Do I hear a motion?

MS. VINSON: Motion.

MR. GURVICH: Joint motion by Mr. Rojas and Ms. Vinson, second by Mr. Gurvich. All in favor of waiving the reading of the minutes of the previous meeting say aye.

ALL BOARD MEMBERS: Aye.

MR. GURVICH: Any opposed? Next matter.

MR. ROGILLIO: Let's move on to the adjudicatory hearing, Mr. Gurvich.

1 MR. GURVICH: All right. Now, how many hearings
2 do we have?

3 MR. ROGILLIO: We have a total of four, and then
4 there's a request for a rehearing.

5 MR. GURVICH: All right. And one of which is a
6 contested or a motion hearing?

7 MR. ROGILLIO: Yes, sir.

8 MR. GURVICH: So how do you want to handle it?
9 Do you have some quick things we can dispose of --

10 MR. ROGILLIO: Yes, sir.

11 MR. GURVICH: -- so that all these folks don't
12 have to wait?

13 MS. MCLEARY: Yes, sir.

14 **RICKY HARRISON**

15 MR. ROGILLIO: One of those is a security
16 officer that is denied, and he is here. He has asked for
17 a hearing.

18 MR. GURVICH: All right. Is that gentleman
19 present?

20 MS. MCLEARY: Yes, sir, he is.

21 MR. ROGILLIO: Ricky Harrison.

22 MR. GURVICH: Okay. Mr. Harrison, if you
23 would -- I assume you want him to take the mic over here?

24 MS. MCLEARY: Yes, sir.

25 MR. GURVICH: And we're going to take testimony,

1 or what are we on?

2 MS. MCLEARY: Yes, sir. I mean, I'd like to,
3 you know, prove that, the finding -- you know,
4 Mr. Rogillio's actions and what prompted us here today
5 and then Mr. Harrison can.

6 MR. GURVICH: All right. Sir, this lady is
7 going to swear you in. And, if you would, proceed over
8 to that mic and that chair when she finishes.

9 (Mr. Ricky Harrison and Mr. Wayne Rogillio are
10 administered the oath.)

11 MS. MCLEARY: Yes, sir. Allison McLeary on
12 behalf of the board, sir. Mr. Ricky Harrison received a
13 letter dated November 15th issued by Mr. Rogillio denying
14 his application for licensure. He has submitted a
15 response to this letter that is in your packet -- I'm
16 sorry. He received it; October 26th was the date of his
17 letter. He responded to this November 9th that is in
18 your packet for your review. I call Mr. Rogillio at this
19 time.

20 EXAMINATION OF MR. ROGILLIO BY MS. MCLEARY:

21 Q. Mr. Rogillio, if you would, did you have an
22 opportunity to review an application for a guard
23 licensure of Mr. Ricky Harrison?

24 A. Yes, ma'am.

25 Q. And in your review of this application, did you

1 discover that Mr. Harrison is not able to be licensed at
2 the time?

3 A. Yes, ma'am.

4 Q. For what reason?

5 A. The FBI rap sheet indicated that there was a
6 conviction in 1975 for aggravated robbery. There was
7 also a conviction in 1981 -- I'm sorry.

8 MR. GURVICH: Look at that letter. Is that
9 aggravated robbery or aggravated assault?

10 MR. ROGILLIO: Aggravated robbery. Different
11 state than Louisiana.

12 MR. GURVICH: Oh, I got you. Okay. I see it.
13 I see it.

14 A. And then there was an arrest in '82 in which a
15 conviction occurred, aggravated assault and possession of
16 a firearm.

17 BY MS. MCLEARY:

18 Q. And did you determine that those convictions
19 precluded licensure of Mr. Harrison?

20 A. Yes, ma'am.

21 Q. And did you issue a letter to Mr. Harrison to that
22 effect?

23 A. Yes, ma'am.

24 MS. MCLEARY: I introduce -- label as Exhibit A
25 and introduce and file into evidence Mr. Rogillio's file

1 | regarding Mr. Harrison in globo to the board, and I'm
2 | done.

3 | (Exhibit A marked.)

4 | MR. GURVICH: Y'all are finished with the case
5 | in chief?

6 | MS. MCLEARY: Yes, sir.

7 | MR. GURVICH: Mr. Harrison, you have the right
8 | to cross-examine this witness if you so choose. Do you
9 | wish to ask any questions about Chief Rogillio?

10 | MR. HARRISON: No, sir.

11 | MR. GURVICH: Okay. Then you can proceed with
12 | your case.

13 | MR. HARRISON: First of all, I would like to say
14 | good morning to the members. And excuse me. I may be a
15 | little nervous, so just bear with me.

16 | About my charges, the aggravated assault was when I
17 | was young. I was in a club and a guy was drunk and he
18 | was belligerent to my girlfriend. That's how that
19 | occurred as far as the aggravated assault charge.

20 | And, the robbery charge, I was with my best friend.
21 | I lent him some money. And he was drunk. He called the
22 | cops. And we got in a discrepancy and he told the police
23 | that I was trying to rob him. That was the reason for
24 | the aggravated robbery charge.

25 | But, from then on, I have never been in any

1 trouble. I have worked hard. I have paid my dues. I
2 have been straight. All I did is serious for me to be
3 here.

4 I'm 60 years old, and this is my last chance and
5 opportunity to retire with a respectable job. And I'm
6 here because -- this is a simple fact: This is very
7 important to me. My kids are very happy that I'm doing
8 something that's for the law.

9 I never had the chance. I know that I could never
10 be a police officer or give any type of -- back to the
11 community. As far as being a security officer, that's
12 just as close as I can give back to the community for the
13 wrong I did.

14 But like I said, that was 30, 40 years ago. I have
15 not been in any trouble. I have recommendations from my
16 previous jobs and from security since I have been working
17 there. And I'm devoted to my work and I'm working. In
18 fact, I work two jobs, a part-time job.

19 I work and I'm back home and I take care of my kids
20 and my grandkids. That's how important it is for me
21 here. I'm doing it, not just for myself, but for my kids
22 and my grandkids.

23 I admit I was wrong then, and I'm very sorry. I
24 have been paying for it ever since. This is the only
25 opportunity I have had a chance to come forward to plead

1 my case and to say that I'm very sorry and I regret what
2 I did.

3 So, I mean, I can't make no long speech. But if you
4 would look at my recommendations of my job, I hope that
5 you can see and take it to heart to see that I am a
6 changed man and I'm very, very sorry for what I did when
7 I was younger.

8 MR. GURVICH: I had a question, sir: What
9 exactly is an aggravated robbery in Kansas; is that a
10 robbery with a gun?

11 MR. HARRISON: No. We were in a discrepancy.
12 We were fighting. And I guess by my taking the money
13 that he owed me, that's what they called aggravated. We
14 were fighting.

15 MR. GURVICH: Any questions for Mr. Harrison
16 from our board members?

17 MR. HARRISON: Can I submit my --

18 MR. GURVICH: Surely. He wants to submit some
19 documents. Do you want to review them?

20 MS. MCLEARY: I have no objections.

21 MR. GURVICH: We'll enter them as D-1.

22 (Exhibit D-1 marked.)

23 MR. GURVICH: Any questions for Mr. Harrison
24 from our board members?

25 MR. ROJAS: Mr. Chairman.

1 EXAMINATION OF MR. HARRISON BY MR. ROJAS:

2 Q. Mr. Harrison, how come you never put that on the
3 application about those two arrests?

4 A. Every application I ever filed, if they put on
5 felony, I put it on, my felony. I didn't deny anything
6 or deny that I wasn't convicted of a felony.

7 Q. It wasn't on the application submitted to the
8 board. It just says something about 1991 up in Wichita,
9 Kansas.

10 A. Yes, sir. But they said, was you ever convicted of
11 a felony, and I put yes.

12 Q. Yes, but you never explained which ones. You only
13 put one on there. Why you didn't put the other two?

14 A. Oh, I'm sorry, sir. I mean, I just read the
15 question as far as admitting my felony and where at and
16 what, what time I committed the felony.

17 MR. GURVICH: Have you had -- go ahead. I'm
18 sorry.

19 MR. HARRISON: No. Go ahead, sir.

20 MR. GURVICH: I see the conviction in 1975 in
21 Indiana, and I see a conviction in 1975 in Kansas. 1982,
22 is that a conviction, or is that just an event that
23 occurred in the course of this prosecution?

24 MS. MCLEARY: It looks like a separate
25 conviction, from what I'm understanding. Maybe

1 Mr. Rogillio can clarify.

2 EXAMINATION OF MR. HARRISON BY MR. GURVICH:

3 Q. 1982, is that crime for which you were convicted, or
4 are we talking only about 1975?

5 A. Well, I don't know. What was I charged with in
6 1975?

7 Q. Well, as I read it here, it says, on 9/3/75 in
8 Indiana and aggravated assault on 10/29 --

9 A. That's, that's a mistake. I have never been to
10 Indiana. I have never been arrested, I have never been
11 in jail in Indiana.

12 Q. All right.

13 A. I lived in Chicago, Chicago, but I have never been.

14 Q. Well, there was one or two crimes for which you had
15 a conviction?

16 A. Yes, sir.

17 Q. One or two?

18 A. It was one. It was the assault, the aggravated
19 assault charge.

20 MR. GURVICH: In Kansas. Now, you all are --

21 MS. MCLEARY: Mr. Chairman, we are asserting the
22 robbery also, both in Kansas.

23 EXAMINATION OF MR. HARRISON BY MS. MCLEARY (CONT'D):

24 Q. The aggravated robbery in Kansas in '75?

25 A. Yes. That was --

1 Q. And then it shows an ag assault in Kansas in '82?

2 A. Yes, yes, ma'am.

3 Q. But there also does show an ag assault in Indiana in
4 '75.

5 A. I have never been in Indiana.

6 MR. DUPLCHAIN: It looks like the robbery and
7 the assault on the same date.

8 MS. MCLEARY: That's two different states. I
9 don't.

10 EXAMINATION OF MR. HARRISON BY MR. GURVICH (CONT'D):

11 Q. But you're saying you were tried on this matter?

12 A. No. The aggravated --

13 Q. There was a trial?

14 A. Yes, sir.

15 Q. And you were convicted?

16 A. Yes, sir.

17 Q. And this happened one time --

18 A. Yes, sir.

19 Q. -- or more than one time?

20 A. Only one time.

21 MR. GURVICH: I mean, the dates are the same.

22 MS. MCLEARY: In looking at the return for
23 Mr. Rogillio, those are on the same date. There is not
24 an --

25 MR. GURVICH: So we are looking at one felony

1 crime.

2 MS. MCLEARY: Yes. One incident. He was
3 actually charged with both ag robbery and ag assault for,
4 it seems like, the same.

5 MR. GURVICH: The same event?

6 MS. MCLEARY: Yes, sir, yes, sir.

7 MR. GURVICH: Well --

8 MS. MCLEARY: Withdraw anything about Indiana.

9 MR. GURVICH: Does that conclude your case, sir?

10 MR. HARRISON: Sir?

11 MR. GURVICH: Is there anything more you wish to
12 say?

13 MR. HARRISON: Yes, sir.

14 MR. GURVICH: Now --

15 MR. ROMERO: Mr. Chairman.

16 MR. GURVICH: Mr. Romero.

17 EXAMINATION OF MR. HARRISON BY MR. ROMERO:

18 Q. On your application, you listed a 1991 charge. Can
19 you tell us what that's about?

20 A. No, sir. It was so far back, I didn't know exactly
21 what year. I just stated '91. But I know it was close,
22 either '91 or a little before '91.

23 Q. But you mentioned on here that it was for the sale
24 of drugs?

25 A. On there?

1 Q. Yes, sir.

2 A. Oh, I don't know about that, sir. I mean, what I
3 had put on there, I was supposed to put the year and what
4 I was charged for. And the lady that was interviewing
5 me, she was telling me to be sure to state why and where
6 did I commit my felony. She said, if it was drugs, then
7 to put down drugs too.

8 I didn't -- I wasn't convicted of drugs. I was
9 convicted of aggravated assault and aggravated robbery.
10 I don't know what -- why I put the drugs down. I guess I
11 was just nervous when she told me to put it on the
12 application.

13 MR. GURVICH: Mr. Duplechain had a comment or a
14 question.

15 MR. DUPLCHAIN: No. He answered it.

16 MR. GURVICH: Ms. Vinson.

17 MS. VINSON: Even though you weren't convicted,
18 were you arrested for the sale of drugs in '91?

19 MR. HARRISON: Oh, no, ma'am, no, ma'am, no,
20 ma'am, no, ma'am.

21 MS. MCLEARY: Ms. Vinson, the rap sheet does
22 reflect an arrest for possession of cocaine 7/6/90 and
23 distribution of cocaine. And it shows a six-year
24 sentence. I don't know if that was probably suspended.
25 You know, it may have been, but it does reflect a parole,

1 three years -- let me see. Release from parole,
2 11/26/97.

3 And then, balance owed, actually, you still had some
4 balance owed, so they restarted it and it ended 5/18/99.

5 MR. HARRISON: In '99?

6 MS. MCLEARY: Yes, sir, is when the parole
7 ended, is what it listed. It came back with your
8 fingerprints.

9 MR. HARRISON: I have only -- the aggravated
10 assault and the armed -- aggravated robbery.

11 MS. MCLEARY: And that's a Louisiana SID
12 number. So that happened here in Louisiana, Wade
13 Correctional Center.

14 MR. HARRISON: Excuse me. There is another
15 Ricky Harrison.

16 MS. MCLEARY: These came back with your
17 fingerprints, though, sir.

18 MR. HARRISON: My fingerprints?

19 MS. MCLEARY: Yes, sir. That's why, when we
20 submit your applications, that we get those fingerprints
21 from you. And you can review what we have as far as your
22 rap sheet if you'd like, but.

23 MR. HARRISON: Yes, yes, ma'am.

24 MS. MCLEARY: We can do that. I don't know if
25 the board would like for us to further clarify that one

1 charge, but we do have the other charges.

2 MR. GURVICH: I think we do owe it to the
3 gentleman to clarify exactly what charges.

4 MS. MCLEARY: And those were not a charge that
5 Mr. Rogillio relied upon for the denial, though, because
6 it was more than ten years ago. Even -- and that wasn't
7 a charge that Mr. Rogillio relied upon. It was the
8 crimes of violence.

9 MR. GURVICH: The drug arrest, but
10 non-conviction.

11 MS. MCLEARY: It does show a conviction.

12 MR. GURVICH: It does show a conviction?

13 MS. MCLEARY: Yes, sir. In 1999, he was
14 released from parole.

15 MR. GURVICH: Okay. Mr. Harrison -- give me the
16 specifics of the date and the place and the nature of the
17 arrest and the conviction for the drugs.

18 MS. MCLEARY: Of the arrest for the drugs. It's
19 a little hard to read on the rap sheet, because there are
20 several entries. But I can read every entry possibly
21 with Chief Rogillio's help.

22 It looks like there was an arrest 9/22/92 at
23 Cottonport. Booked into the Avoyelles Correctional
24 Center in Cottonport, Louisiana, on a Ricky Harrison for
25 a charge of possession, distribution of cocaine.

1 MR. HARRISON: May I say something?

2 EXAMINATION OF MR. HARRISON BY MR. GURVICH (CONT'D):

3 Q. Well, I'm going to ask you a question. Are you the
4 individual that was arrested for this crime at this time?

5 A. Sir?

6 Q. Are you the individual that was arrested for this
7 crime that our counsel just -- the one on -- there was an
8 arrest on September 22nd, 1992, in Cottonport,
9 Louisiana. And it was for possession and distribution of
10 cocaine. Are you the individual that was the subject of
11 that arrest?

12 A. I was arrested.

13 Q. All right. So what was the disposition of that
14 arrest?

15 MS. MCLEARY: Six years is what it lists;
16 however, there's several entries. It looks like there
17 was a probation and parole aspect of the charge. So
18 that's why there are several entries from DOC on the
19 charge.

20 BY MR. GURVICH:

21 Q. Okay. Mr. Harrison, did you plead guilty to or were
22 you tried and convicted of that charge?

23 A. I pleaded guilty on a, what you call, a plea
24 bargain.

25 Q. And what did you plea to; do you recall the nature

1 of the charge that you pled guilty to?

2 A. I can't remember. It's been so long ago.

3 Q. Okay. What was the result of that plea; you were
4 sentenced to something?

5 A. I was sentenced. I don't remember, it was so long
6 ago. But I was sentenced, and they put me on probation.

7 Q. Okay. Did you serve any jail time?

8 A. They gave me the time to serve that when they took
9 me to jail.

10 Q. Credit for time served?

11 A. Yes, sir.

12 Q. How long was that?

13 A. I don't -- I'm going to be honest with you. It was
14 so long ago, I can't remember, sir.

15 MR. GURVICH: All right. Any more information
16 or data on that particular charge that we can consider?

17 MS. MCLEARY: Yes, sir. There is a next entry
18 there, 4/17/96 from Probation and Parole in Minden,
19 Louisiana. It says -- it was just that they entered, so
20 maybe he was taken under supervision with Probation and
21 Parole in Minden. That's what that entry, most likely.

22 MR. GURVICH: One would assume, right.

23 MS. MCLEARY: Yes, sir. One can. The next
24 entry is that he was released on parole 11/26/97 from
25 LDC, sent 6/4/96 to balance owed on six years, three

1 years, and sent to three years HL respectively. Parole
2 begins 11/26/97. Parole ends 5/18/99.

3 That's a verbatim entry off the rap sheet.

4 MR. GURVICH: Right, okay. Which I guess I
5 understand why it's kind of hard to read. Okay.
6 Anything further?

7 MS. MCLEARY: There is one more entry, 6/4/96,
8 at the St. Gabriel Department of Corrections about
9 this -- I'm not -- chief, do you know? It's a bunch of
10 letters that there's not a key to, so it's P-B-V-G-T-P-V,
11 possession of cocaine.

12 MR. ROGILLIO: Yes. That was also possession of
13 cocaine.

14 MR. GURVICH: Is that a new arrest?

15 MR. ROGILLIO: Apparently so.

16 MS. MCLEARY: I'm not exactly sure.

17 MR. ROGILLIO: Apparently so.

18 MR. GURVICH: Well, we can't presume that it
19 was.

20 MR. HARRISON: May I say something?

21 MR. GURVICH: Yes, sir.

22 MR. HARRISON: When was this arrest? I haven't
23 been arrested in.

24 MR. DUPLCHAIN: Can I ask him a question?

25 MR. GURVICH: Well, we do have the 1992 charge,

1 correct. That's resolved. We know that you pled to
2 presumably a lesser. Okay. that happened.

3 MR. HARRISON: Yes, sir.

4 MR. GURVICH: Right. Now, who is that, then;
5 Mr. Duplechain, I believe?

6 EXAMINATION OF MR. HARRISON BY MR. DUPLECHAIN:

7 Q. A while ago you were asked why you had put down sale
8 of drugs, and you said you didn't, you never was arrested
9 for that.

10 A. Right.

11 Q. Is that right, or were you arrested for that?

12 A. Well, what I'm saying, it's been so long ago, I
13 didn't exactly remember. But I was into dealing drugs
14 back then at that time.

15 MR. DUPLECHAIN: All right. I'd like to make a
16 motion.

17 MR. GURVICH: The floor is open -- well, let me
18 make sure we get our housecleaning done.

19 Are you finished with your case in chief?

20 MS. MCLEARY: Yes, sir, I am.

21 MR. GURVICH: And, Mr. Harrison, do you have
22 anything further to say?

23 MR. HARRISON: Yes, sir.

24 MR. GURVICH: If you would, please be brief,
25 because we do need to move on.

1 MR. HARRISON: When I first applied for
2 security, I was honest with them. And they ran a
3 background check with me before they hired me. And they
4 approved me up until now. I mean, I don't know where all
5 this came from, because they had hired me before a
6 background check was -- until I came here.

7 And I have been off my 90-day probation, and I just
8 assumed that all my background was cleared up and that I
9 was able to work with them. So my point is this: I
10 don't know, sir.

11 MR. GURVICH: Go ahead.

12 MR. HARRISON: My point is that it took so long
13 for them to bring my background check. I have been
14 working with them for like four or five months now.

15 MR. GURVICH: Anything further, sir?

16 MR. HARRISON: No, sir.

17 MR. GURVICH: Okay. I believe Mr. Duplechain
18 wanted to --

19 MR. DUPLCHAIN: Just one minute. I'd like to
20 make a motion that we uphold the board staff denial.

21 MR. GURVICH: Board staff action? In other
22 words, we uphold the board staff's action of denying the
23 application of Mr. Harrison. All right. We need a
24 second to the motion.

25 MR. COTTON: Second.

1 MS. VINSON: Second.

2 MR. GURVICH: Motion by Mr. Duplechain, jointly
3 seconded by -- was that Mr. Cotton --

4 MR. COTTON: Yes.

5 MR. GURVICH: -- and Ms. Vinson. Debate?
6 Discussion? Counsel.

7 MS. MCLEARY: Nothing.

8 MR. GURVICH: Mr. Harrison, final words?

9 MR. HARRISON: No, sir.

10 MR. GURVICH: All right. Everyone has had an
11 opportunity to review the documents? I'll hold the
12 motion open until Mr. Kennedy and Mr. Cotton and
13 Mr. Rojas have had an opportunity to review the documents
14 submitted by the defendant.

15 MR. DUPLCHAIN: And a roll call vote, please.

16 MR. GURVICH: Okay. We're just letting them
17 take a look at the documents submitted by Mr. Harrison
18 just so that everybody gets to consider everything.

19 Okay. Everyone has had a chance to read those
20 documents. All right. Then I'll call for a vote.

21 (Ms. Ryland polls board members.)

22 MR. GURVICH: Yea.

23 MS. VINSON: Yea.

24 MR. BAER: Yea.

25 MR. COTTON: Yes.

1 MR. DUPLECHAIN: Yes.

2 MR. KENNEDY: Yes.

3 MS. LOCKETT: Yes.

4 MR. ROJAS: Yes.

5 MR. ROMERO: Yes.

6 MR. GURVICH: Okay. The motion upholding the
7 board staff's action carries, nine yeas, zero nays.

8 Thank you for appearing here today, sir. I'm sorry
9 we couldn't help you, but good luck.

10 Next matter.

11 MS. MCLEARY: If we could sir, I believe, if we
12 could skip to, not the rehearing of F.E.S.S., but the
13 F.E.S.S. first impression of the three guards that we're
14 here on. We have a stipulation.

15 MR. GURVICH: Well, is counsel for F.E.S.S.
16 present? Is that you, sir?

17 MR. BURKART: Barrett Burkart.

18 MR. GURVICH: And I do want to get to you. I
19 want to do this in the most expeditious way possible.

20 MS. MCLEARY: There is no testimony for this.

21 MR. GURVICH: We have two Charge Letters --

22 MS. MCLEARY: Yes, sir.

23 MR. BURKART: Correct.

24 MR. GURVICH: -- right, which is first
25 consideration. And we have a Motion for Rehearing --

1 MR. BURKART: Right.

2 MR. GURVICH: -- is that correct?

3 MS. MCLEARY: Yes, sir.

4 MR. GURVICH: And how do y'all want to handle
5 those?

6 MS. MCLEARY: If we could take the guards now
7 since we -- I believe we have a stipulation --

8 MR. BURKART: Correct.

9 MS. MCLEARY: -- as to those, as to the guards,
10 and then go and hear -- if Ms. Whitney Paul is present,
11 Mr. Macomber, and then the rehearing.

12 MR. GURVICH: You want to handle the two Charge
13 Letters together?

14 MS. MCLEARY: Together, yes, sir.

15 MR. GURVICH: Okay.

16 MS. MCLEARY: And then the request for rehearing
17 last, if we could.

18 MR. GURVICH: Well, is that expediting anything
19 for these other folks? I mean, maybe we should just try
20 and knock it all out.

21 MS. MCLEARY: We can put off the -- yes, sir.

22 MR. GURVICH: I do want to keep moving, because
23 I know we have people here that, you know, are paying
24 their attorneys and.

25 MS. MCLEARY: Yes, sir. I haven't had an

1 opportunity to talk to Ms. Paul, and Mr. Macomber is
2 going to be some significant -- or some testimony. So I
3 was just trying to dispose of some of the first
4 impressions.

5 MR. GURVICH: Who is Mr. Paul? Is he here?

6 MS. MCLEARY: Ms. Paul.

7 MR. GURVICH: What's the nature of that case; is
8 it something that can be disposed of quickly?

9 MS. MCLEARY: Yes, sir. I mean, she also was an
10 application denial, board action -- I mean a staff
11 action.

12 MR. GURVICH: Okay. And I do want to get to you
13 gentlemen. I just want to try and knock this out so
14 that -- keep the ball rolling.

15 MR. BURKART: One way or the other, we are going
16 to be here.

17 MR. GURVICH: Do you want to go with Ms. --

18 MS. MCLEARY: Is Mr. Macomber here? Okay.

19 Mr. Macomber got here. We were waiting. They weren't
20 here.

21 MR. GURVICH: That's going be like contradictory
22 testimony and all that sort?

23 MS. MCLEARY: Yes, sir.

24 **WHITNEY PAUL**

25 MR. GURVICH: Okay. Then why don't we handle

1 the easy stuff first and ask this lady to come forward
2 and be sworn and whatever else is necessary.

3 MS. MCLEARY: I haven't had an opportunity to
4 talk to her, but, yes.

5 MR. GURVICH: It's a guard application?

6 MS. MCLEARY: Yes, sir.

7 MR. GURVICH: And she was denied?

8 MS. MCLEARY: Yes, sir.

9 MS. VINSON: Do you need a minute?

10 MS. MCLEARY: If I could have just a minute off
11 the record.

12 MR. GURVICH: Go ahead. A minute in
13 consultation can save an hour in trial.

14 MS. MCLEARY: Yes, sir. Thank you.

15 (Recess taken.)

16 MR. GURVICH: We're going to have testimony?

17 MS. MCLEARY: Yes, sir.

18 MR. GURVICH: Ma'am, would you please come
19 forward and be sworn by this lady, or, chief, you can
20 swear too.

21 (Ms. Whitney Paul is administered the oath.)

22 MR. GURVICH: Counsel.

23 EXAMINATION OF MR. ROGILLIO BY MS. MCLEARY:

24 Q. Mr. Rogillio, did you have an opportunity to review
25 an application of Ms. Whitney Paul?

1 A. Yes, ma'am.

2 Q. And she applied to be licensed as a guard?

3 A. Yes, ma'am.

4 Q. And in the course of your investigation, did you
5 find anything that would preclude her from being
6 licensed?

7 A. Yes, ma'am.

8 Q. And what would that be?

9 A. It was a conviction for making false claims. She
10 was sentenced 9/15/06 to three years' probation. They
11 actually terminated her probation early. It was ended in
12 8/19/08. And we charged her with filing false
13 information, because her application shows no arrest, no
14 conviction. And this would not fall within the purview
15 of the ten-year cleansing. It would be -- '08, it would
16 be 2018 before she will be able to work.

17 Q. The charge that you discovered, was that a federal
18 charge?

19 A. Yes, ma'am.

20 Q. And did you verify whether or not that was a felony
21 charge or not?

22 A. Yes, ma'am.

23 Q. And it was a felony?

24 A. It was a felony.

25 Q. And, Ms. Paul, did she receive personal notice of

1 the board's action?

2 A. Yes, ma'am. We received a letter from Ms. Paul
3 requesting a hearing regarding her denial.

4 Q. By letter dated October 26, 2012, you notified
5 Ms. Paul of the denial?

6 A. Yes, ma'am.

7 MS. MCLEARY: I introduce, offer into evidence
8 Mr. Rogillio's file in globo as State's A. And I have no
9 further questions.

10 (State's Exhibit A marked.)

11 MR. GURVICH: And Ms. Paul has been sworn, I
12 believe?

13 MS. MCLEARY: Yes, sir.

14 MR. GURVICH: Ms. Paul, you have the right to
15 ask the board's witness, that is, Chief Rogillio,
16 questions about his testimony if you would like or
17 questions, period, about the case. Do you want to ask
18 him any questions?

19 MS. PAUL: No. I just want to say that it was
20 some family issues, some family member issues. And my
21 parents took care of, resolved the issue.

22 EXAMINATION OF MS. PAUL BY MR. GURVICH:

23 Q. Okay. Making false claims?

24 A. Yeah.

25 Q. In what context did that occur?

1 A. It was my brother who made the claims. And my
2 family, they just went on and took care of it and paid
3 what had needed to be paid.

4 Q. Well, I mean, did you ever -- were you required to
5 appear in court, or federal court, actually?

6 A. Yeah. We had to go to -- we got -- we had to go to
7 court for it.

8 Q. And did you -- was the case tried, or did you plead
9 guilty?

10 A. Yeah.

11 Q. You pled guilty, or the case was actually tried?

12 A. Well, I don't think it was trial. They just paid
13 what had needed to be paid.

14 EXAMINATION OF MS. PAUL BY MS. MCLEARY:

15 Q. Ms. Paul, the nature of the charges, was that --
16 it's listed as under Homeland Security in 2006. Would
17 that be some sort of application that you and your family
18 had made for aid, or what was the nature of the charge;
19 like, I believe we had discussed, was it a FEMA claim?

20 A. Yeah, uh-huh.

21 Q. Okay. And it has since been -- in your
22 understanding, it's since been all fines paid and taken
23 care of?

24 A. Yes, ma'am.

25 MS. MCLEARY: Thank you. Nothing further.

1 MR. GURVICH: All right. Ms. Paul, anything
2 further you wish to say, or do you have any witnesses?
3 You can call witnesses if you prefer.

4 MS. PAUL: No, sir.

5 MR. GURVICH: It's up to you. Anything further?

6 MS. PAUL: No, sir.

7 MR. GURVICH: Okay. So I guess our case in
8 chief for both sides has been presented.

9 MS. MCLEARY: Yes, sir.

10 MR. GURVICH: The floor is open if anyone cares
11 to make a motion.

12 MS. VINSON: I make the motion that we uphold
13 the board staff's action in denying the application.

14 MR. GURVICH: Okay. Do we have a second to the
15 motion?

16 MR. KENNEDY: I'll second.

17 MR. COTTON: Second.

18 MR. GURVICH: Motion by Ms. Vinson, I believe
19 jointly seconded by Mr. Cotton and Mr. Kennedy. Debate?
20 Discussion? Final comments? Ms. Paul, anything further?

21 MS. PAUL: Nothing.

22 MS. MCLEARY: Nothing further.

23 MR. GURVICH: All right. Then I'll call for a
24 vote on the motion.

25 MS. VINSON: Do you want to do a roll call?

1 MR. GURVICH: You want to do a roll call vote?

2 MS. VINSON: Yes.

3 MR. GURVICH: I can do it either way.

4 MS. VINSON: Roll call.

5 MR. GURVICH: All right. Well, I'll call for a
6 roll call.

7 (Ms. Ryland polls board members.)

8 MR. GURVICH: Yea.

9 MS. VINSON: Yea.

10 MR. BAER: Yea.

11 MR. COTTON: Yes.

12 MR. DUPLCHAIN: Yea.

13 MR. KENNEDY: Yes.

14 MS. LOCKETT: Yes.

15 MR. ROJAS: Yes.

16 MR. ROMERO: Yes.

17 MR. GURVICH: Ms. Lockett was a yea?

18 MS. LOCKETT: Yes.

19 MR. GURVICH: Okay. Motion passes nine yeas,
20 zero nays. So we are going to uphold the action in
21 denying your application. I'm sorry we couldn't help
22 you, but thank you for appearing here today.

23 MS. PAUL: All right. Thank you.

24 MR. GURVICH: Next matter. Now we're down to
25 the quick stuff.

1 MR. ROGILLIO: Ron Macomber.

2 MR. GURVICH: All right. Now, Mr. Macomber, do
3 we have witnesses; do we have counsel?

4 MR. ROGILLIO: Yes, sir.

5 MR. GURVICH: Do we have counsel for
6 Mr. Macomber present?

7 MS. MCLEARY: I don't believe so. Is the
8 witness Mr. Patin?

9 MR. PATIN: State's witness.

10 MS. MCLEARY: Okay. Do we have an attorney
11 for Mr. -- just you? Okay.

12 MR. GURVICH: Do we have other counsel present?

13 MS. MCLEARY: No, sir.

14 You don't have counsel, do you?

15 No, sir.

16 MR. GURVICH: Okay. So --

17 MS. MCLEARY: Since Mr. Macomber did -- I have
18 not had an opportunity to speak to Mr. Macomber or the
19 witness as they arrived when we were doing the first few.
20 Again, if we could have a few minutes, unfortunately, I
21 think we can save a lot of time.

22 MR. GURVICH: Okay. But, I mean, that may -- I
23 don't know if that's going to be any more expeditious a
24 hearing than the F.E.S.S. matter.

25 MS. MCLEARY: No, sir.

1 MR. GURVICH: I mean, I'm just trying to keep
2 the ball moving. I know people have attorneys that they
3 are paying an hourly fee to, and that can run up.

4 MS. MCLEARY: I think, F.E.S.S., we can
5 definitely hear, sir.

6 **F.E.S.S., INC.**

7 MR. GURVICH: Okay. Unless someone strenuously
8 objects, then I'm okay with F.E.S.S. So if you gentlemen
9 would please take your places over at the mic over here.

10 MS. MCLEARY: I believe, as far as the F.E.S.S.
11 first impression, the two Charge Letters that we referred
12 to earlier, we can enter into a stipulation as to that.

13 MR. GURVICH: Okay. The only logical problem
14 one has is, it's easy enough to enter into stipulation as
15 to the facts of whether this or that violation occurred.

16 MS. MCLEARY: Yes, sir.

17 MR. GURVICH: But one then goes into a fine,
18 punishment, whatever you want to call it mode.

19 MS. MCLEARY: Yes, sir.

20 MR. GURVICH: Now, would that be affected by the
21 outcome of the request for a rehearing or not?

22 MS. MCLEARY: No, sir. I don't believe it
23 would.

24 MR. GURVICH: Okay. So, I mean, I think it
25 sounds like you want to stipulate to the facts?

1 MR. BURKART: Yes.

2 MR. GURVICH: Then that's quick enough for me.
3 Okay. Let's go forward with that, and then we will go
4 back to the rehearing request.

5 MS. MCLEARY: Yes, sir. I believe, as it
6 relates to Ms. -- I'm sorry. Let me get it in front of
7 me -- to Ms. Jazzmine Broden, Mr. Keenan Jupiter, and
8 Ms. Kenya Boggs, we have entered into a stipulation that
9 these three individuals -- let me give you the --
10 Jazzmine Broden, date of birth 3/2/95; Keenan Jupiter,
11 date of birth 7/23/94; Kenya Boggs, date of birth
12 11/6/94, that applications were submitted on these three
13 individuals that showed -- applications were submitted to
14 the board for licensure for the guards and showed that
15 they were under the age of 18 at the time of
16 application.

17 And Ms. Broden and Mr. Jupiter showed a hire date of
18 March 30th, 2012. Ms. Kenya Boggs showed a hire date of
19 8/25/12, which at the time of their hire, they were in
20 fact under 18 years of age. I believe that's the
21 stipulation that we --

22 MR. GURVICH: Counsel, if you would be so kind,
23 introduce yourself and then respond to the stipulation
24 offer, if you would.

25 MR. BURKART: I'm Barrett Burkhardt on behalf of

1 F.E.S.S., Inc. I also have Mr. Paul Marsh with me as
2 well. I previously stated, we agree to the stipulation.
3 We have no -- nothing further to add.

4 MR. GURVICH: That is, to the three counts
5 contained in the two Charge Letters dated respectively
6 September 19th, 2012, and October 12th, 2012, then the
7 parties agree to stipulate that these three individuals
8 were in fact under age and did in fact work for
9 F.E.S.S.?

10 MS. MCLEARY: Yes, sir.

11 MR. GURVICH: Okay. I will grant the
12 stipulations, enter them into the record. Now we are
13 presumably in the penalty phase, correct?

14 MS. MCLEARY: Yes, sir. No penalty was assessed
15 in the letters. We deferred that for board action at
16 this time.

17 MR. GURVICH: Right. So this is a matter of
18 first impression for the board?

19 MS. MCLEARY: Yes, sir.

20 MR. GURVICH: We are not -- it's not an appeal
21 of administrative action or anything like that?

22 MS. MCLEARY: No, sir.

23 MR. GURVICH: Okay. Do you have anything to say
24 before we proceed?

25 MS. MCLEARY: No, sir. I don't believe that

1 | this was noticed in the letter as an egregious action on
2 | behalf of F.E.S.S. None of that was alleged in the
3 | Charge Letters to them, nor has that been agreed upon or
4 | alleged at this time. I don't feel that there is any
5 | further consideration, other than the stipulations and
6 | what was charged in the letters.

7 | MR. GURVICH: So it's the board staff's position
8 | that it was not charged as an egregious offense under the
9 | statute?

10 | MS. MCLEARY: Correct.

11 | MR. GURVICH: And that, therefore, the board
12 | cannot act in the penalty phase pursuant to that
13 | particular --

14 | MS. MCLEARY: No, sir. It was silent as to --
15 | the letters were silent as to whether or not Mr. Rogillio
16 | and staff felt it was egregious. It was not charged as
17 | an egregious, but it does not mean that the board cannot
18 | consider that in the penalty and assessment phases.

19 | MR. GURVICH: Counsel, what is your response to
20 | that?

21 | MR. BURKART: My response is, this is simply a
22 | under-age -- three persons of which I believe they turned
23 | age 18 within a number of weeks. Or, actually, I think
24 | it was a number of months from the date that they
25 | worked. Once again, I agree with counsel. It was not

1 | charged as an egregious action, and I don't believe it is
2 | in any way, shape, or form.

3 | MR. GURVICH. Well, the question before us now,
4 | is, could we consider it as an egregious act. In other
5 | words, do you feel that -- it wasn't charged as such in a
6 | letter, but, then again, there is some question. I think
7 | there is a very good question in my mind as to whether it
8 | can be considered an egregious act is something for the
9 | board to decide as opposed to being mandated or not by
10 | the letter.

11 | MR. BURKART: Well, I would hope that this
12 | board, if it was an egregious action, would put counsel
13 | on notice, as well as F.E.S.S., so that we can prepare
14 | accordingly. Our stipulation was to the purposes of this
15 | was a non-egregious action that was discussed, and that
16 | was the purpose of our --

17 | MR. GURVICH: And that's why I'm bringing it
18 | up.

19 | MR. BURKART: Right.

20 | MS. MCLEARY: Actually, we didn't address -- we
21 | were silent as to whether or not it was egregious in any
22 | way. I mean, we addressed mainly the underlying facts.
23 | They agreed to stipulate as charged in the letter.

24 | I was merely pointing out to the board that it was
25 | not charged as an egregious act in the letter, nor is

1 that what we stipulated to. But it was stipulated to
2 underlying facts.

3 Those circumstances that constitute whether or not
4 it's egregious are for the -- I see as the law reads, for
5 the board to consider whether or not those circumstances
6 exist in your determination as to the penalties. It was
7 not charged, nor was it stipulated to or even discussed,
8 as to whether or not it was an egregious action or not,
9 because that is really for the board to consider those
10 circumstances when you assess a penalty or not.

11 MR. GURVICH: All right. Nobody was carrying a
12 weapon or anything of that --

13 MS. MCLEARY: No, sir.

14 MR. BURKART: No one was carrying --

15 MR. GURVICH: Mr. Romero.

16 MR. ROMERO: Mr. Rogillio, can you please, if
17 you would, refresh my memory. Have there ever been any
18 charges brought that identified a violation as
19 egregious?

20 MR. ROGILLIO: Not from my office, no, sir.
21 That's a matter for the board to consider.

22 MR. ROMERO: That was my understanding as well.

23 MR. ROGILLIO: That's my understanding, yes,
24 sir.

25 MR. GURVICH: And I was trying to clarify that

1 for everyone's benefit, because the fine schedule changes
2 substantially, I think, more or less, by an order of
3 magnitude, does it not?

4 MS. VINSON: I'd like to make a motion.

5 MR. GURVICH: Okay. Well, I just want to
6 clarify -- we're going to get to that in one second.
7 It's my sense that the board could consider this as an
8 egregious act without whether it's charged in the letter
9 as such. Now, it may be that we can, you know, work
10 through that anyway. May I inquire preliminarily, what
11 is the current status of the F.E.S.S. licensure?

12 MR. ROGILLIO: It's active. Insurance is
13 intact.

14 MR. GURVICH: It's active. Insurance is
15 intact. All right. It's not on a probationary status at
16 the present time?

17 MR. ROGILLIO: No, sir.

18 MR. GURVICH: And there is an outstanding fine
19 which we are -- we'll talk about.

20 MR. ROGILLIO: Well, there was a fine that was
21 assessed by the board that has not been paid.

22 MR. GURVICH: Right. Which, by the way, this
23 rehearing request does not stay that, although we do have
24 the authority to grant additional time. And I would be
25 so inclined so that you guys work through that. But just

1 so you know, the request for rehearing doesn't stay the
2 penalty.

3 But we will get to that momentarily. All right. I
4 think we have the floor is open, and I will entertain a
5 motion from Ms. Vinson.

6 MS. VINSON: I'd like to make a motion that we
7 assess a fine of \$500 per violation.

8 MR. KENNEDY: Administrative fees.

9 MS. VINSON: Oh, plus the administration fees.
10 And I would like to place F.E.S.S. on a six-month
11 probationary status.

12 MR. GURVICH: All right. So you have a motion
13 by Ms. Vinson, as I understand, \$500 per violation, so
14 500 times, plus administrative costs, plus six months'
15 probationary status for the F.E.S.S. licensure. Do we
16 have a second to the motion?

17 MR. KENNEDY: I'll second.

18 MR. GURVICH: Motion by Ms. Vinson, second by
19 Mr. Kennedy. We have a motion on the floor. Counsel --

20 MS. MCLEARY: Nothing further.

21 MR. GURVICH: -- further discussion?

22 MS. MCLEARY: No, sir. Nothing further.

23 MR. GURVICH: Mr. Burkart.

24 MR. BURKART: Yes, sir, I would. Can I question
25 Mr. Rogillio with regard to fines?

1 MR. GURVICH: I'll allow it.

2 MR. BURKART: You'll allow it. Thank you.

3 EXAMINATION OF MR. ROGILLIO BY MR. BURKART:

4 Q. Mr. Rogillio, fines previously in the past for
5 violations such as this, do you recall what they have
6 been?

7 A. Not for that specific charge, because that's, that's
8 not been something that we have had happen a lot.

9 Q. If I give you the list that you previously produced
10 to me for fines assessed by this board for the past three
11 years, could you look at that list and tell me?

12 A. If I had the list in front of me.

13 MR. BURKART: Board members, may I give him the
14 list?

15 MR. GURVICH: Yes. Is that in evidence already
16 in some way, shape, or form?

17 MR. BURKART: No, it is not.

18 MR. GURVICH: Why don't we get our housekeeping
19 together on all this and everybody gets their records
20 entered into the -- their documents entered into the
21 record.

22 MS. MCLEARY: Yes, sir. I'd like to offer and
23 introduce Mr. Rogillio's file in globo as it relates to
24 Ms. Broden, Jupiter, and Boggs.

25 (Exhibit No. S-1 marked.)

1 MR. GURVICH: Counsel.

2 MR. BURKART: No objection.

3 MR. GURVICH: Did you want to enter some
4 documents of your own?

5 MR. BURKART: Yes, I will.

6 MR. GURVICH: Okay. Are we ready on the
7 documents for submission to be entered into the record?

8 MS. MCLEARY: Maybe it -- it definitely appears
9 that there is the nature of the name and the nature of
10 the fine and we need some time to look through them and
11 maybe Mr. Burkart can point out which ones would be --

12 MR. GURVICH: To respond adequately to his
13 question?

14 MS. MCLEARY: Yes, sir. It's several pages.
15 And, you know, as far as the nature of -- I mean, you are
16 asking for specifically under age?

17 MR. BURKART: I want to know how much, how many
18 fines were assessed and the amount of those fines in the
19 past three years.

20 MS. MCLEARY: For under-age guards?

21 MR. BURKART: Right. And if you are thinking
22 about it when you get to it, I want to know how many of
23 those are egregious acts or have been charged as
24 egregious acts.

25 MR. GURVICH: Well, the \$500 fine falls under

1 the older statute that is not egregious. In other words,
2 I think egregious will allow you to get up to a \$5,000
3 fine.

4 MR. BURKART: Okay.

5 MR. GURVICH: So the board is acting, I believe,
6 without using the egregious acts schedule.

7 MR. BURKART: Okay. Don't worry about that,
8 then.

9 MS. MCLEARY: Right. There -- that's what --

10 MR. BURKART: No, no. I'm talking about just
11 find in here the fines. Don't worry about that
12 egregious.

13 MR. ROGILLIO: Any fines?

14 MS. MCLEARY: For under-age fines.

15 MR. ROGILLIO: Just for under-age guards?

16 MR. BURKART: Correct. Thank you.

17 MS. RYLAND: They're not going to be in here.

18 MR. ROGILLIO: It's not going to be on here.

19 MS. RYLAND: Because they come in as a board
20 fine, and they are listed as a board fine.

21 MS. MCLEARY: Is this a listing of the fines
22 assessed by staff action?

23 MR. ROGILLIO: Right.

24 MS. RYLAND: Well, it can be --

25 MS. MCLEARY: The fine listing.

1 MS. RYLAND: Yes. It's most of them. I haven't
2 looked at the list.

3 MR. GURVICH: I have the statutes with me. We
4 can look up that egregious statute.

5 MS. MCLEARY: I have it right here.

6 MR. GURVICH: Now, correct me if I'm wrong, but
7 I think egregious acts magnifies the penalty that we can
8 assess from \$500 to \$5,000.

9 MS. MCLEARY: It's -- yes, sir. Administrative
10 penalty of not more \$5,000 per violation per day and
11 shall subject the person to revocation of his license.

12 MR. GURVICH: So we are really not acting under
13 the egregious act.

14 MR. BURKART: Okay.

15 MS. MCLEARY: That was my understanding.

16 MR. GURVICH: I think \$500 is the maximum fine,
17 not counting the egregious acts.

18 MS. MCLEARY: Yes, sir.

19 MR. GURVICH: So, I mean, but your question
20 still stands.

21 MR. BURKART: Just what's the typical fine
22 for -- if he can tell me.

23 BY MR. BURKART:

24 Q. And if you don't know, tell me you don't know.

25 A. I don't know. I mean, this was a board fine. It

1 was issued by the board. As you can see, I don't know
2 what it was -- I can't tell you what it was for.

3 MR. BURKART: Okay.

4 MR. GURVICH: I mean, if you don't know, you can
5 always say I don't know.

6 A. Well, and I don't. It spells it out, for instance,
7 late app, late term, late app, late term, late
8 verification training. I haven't seen any that are
9 listed for under age issued by the board.

10 MR. GURVICH: Well, we don't have that many
11 under-age cases or violations that come before the board.

12 MR. DUPLCHAIN: I don't remember the last
13 time. I don't remember one.

14 MR. GURVICH: But, Counsel, one thing does
15 strike me. And that is, of all the things that we do
16 with mandating training standards and background checks,
17 the easiest thing we do is, we should be able to figure
18 out who is under the age of 18 as should the
19 representative of any company, so.

20 MS. VINSON: Especially when they write it on
21 the application.

22 MR. GURVICH: And it's written on the
23 application. It's hard to miss that one, and if you need
24 a calculator for that, then --

25 MS. VINSON: Unless someone is not reviewing the

1 application.

2 MR. GURVICH: Right.

3 MR. ROMERO: Mr. Chairman.

4 MR. GURVICH: Well, we have counsel's question.
5 Has he adequately responded to your question?

6 MR. BURKART: Yes, he has. His response to me
7 was, a review of this document does not answer this
8 question -- my question one way or the other and he
9 doesn't know.

10 MR. GURVICH: He doesn't know the answer.

11 MR. BURKART: Correct.

12 MR. GURVICH: Counsel, any further questions?

13 MR. BURKART: No. Thank you.

14 MR. GURVICH: Now, someone had a motion. Was it
15 Ms. Vinson or Mr. -- or wanted to say something? Was it
16 Mr. Romero? I'm sorry. I lost track. Mr. Romero.

17 MR. ROMERO: I would like to say something,
18 please. Based on the charges at hand and the individuals
19 being applied for licensure that are under 18 years old,
20 with three violations in fairly short order, the board
21 could have considered the egregious violation. And I
22 think, quite honestly, you are being let off somewhat
23 leniently based on the circumstance, because this could
24 be considered an egregious violation and the board staff
25 has the ability to do that.

1 So I think, with that in mind, I don't think that
2 it's extreme what's being applied here. Quite the
3 contrary, I think it's being somewhat lenient.

4 MR. GURVICH: Further comments/questions from
5 board members? We have a motion on the floor. Final
6 comments/questions?

7 MS. MCLEARY: Nothing further, sir.

8 MR. GURVICH: Counsel.

9 MR. BURKART: No further questions.

10 MR. GURVICH: All right. I'll call for a vote.
11 Let's do a roll call vote.

12 (Ms. Ryland polls board members.)

13 MR. GURVICH: Yea.

14 MS. VINSON: Yea.

15 MR. BAER: Yes.

16 MR. COTTON: Yes.

17 MR. DUPLCHAIN: Yes.

18 MR. KENNEDY: Yes.

19 MS. LOCKETT: Yes.

20 MR. ROJAS: Yes.

21 MR. ROMERO: Yes.

22 MR. GURVICH: Okay. The motion passes, nine
23 yeas, zero nays. So we have disposed of that matter,
24 correct? All right.

25 Now we have, I believe, a request for a rehearing.

1 Let me ask two questions at the outset. I believe you
2 have ten days from the date of entry of the judgment to
3 request a rehearing. And you all submitted a request via
4 letter. I think you can do it verbally, but we would
5 accept --

6 MR. BURKART: We did it via letter and verbally
7 to Mr. Rogillio. We actually requested it before the
8 transcript came out, as well --

9 MR. GURVICH: And I would certainly be willing
10 to allow that. So I'm going to say that it's proper that
11 they are asking for a rehearing timely. The next matter,
12 as I understand, you have some discovery requests of the
13 board. Have they been satisfied?

14 MR. BURKART: As of yesterday, yes.

15 MS. MCLEARY: Mr. Gurvich, if I could, on the
16 first point, point out, per the Administrative Procedures
17 Act, you actually -- the petition for a rehearing really
18 should set forth the grounds which justify the action.
19 And so I can -- 49:959, really, an application for a
20 rehearing really should state forth the grounds on which
21 he's request -- the basis on which he is requesting a
22 rehearing.

23 MR. GURVICH: Well, okay. Under the APA, and
24 they submitted a letter -- do we have that letter
25 handy -- and they did not ascribe the grounds for the

1 rehearing.

2 MS. MCLEARY: Correct.

3 MR. GURVICH: Now, the grounds would be contrary
4 to the law in evidence sort of thing?

5 MR. BURKART: Correct.

6 MS. MCLEARY: There are four circumstances
7 listed in the law that rehearings can be based upon. One
8 of them is decision and order contrary to law in
9 evidence.

10 MR. GURVICH: What are the others?

11 MS. MCLEARY: The others are, the parties
12 discovered since the hearing evidence important to the
13 issues which could not have, with due diligence, be
14 obtained before or during the hearing.

15 MR. GURVICH: Counsel, was that applicable in
16 this case?

17 MR. BURKART: I believe it may be. We have the
18 testimony and the witness of Mr. Benny Vandercliff we'd
19 like to present. He is -- or was, rather, the head of
20 security before Mr. Donald Paisant.

21 MR. GURVICH: Well, okay. Read that again. It
22 could not have been --

23 MS. MCLEARY: It could not have, with due
24 diligence, be obtained before or during the hearing.

25 MR. BURKART: So it may just simply fall under

1 the first.

2 MR. GURVICH: Contrary to the law in evidence.
3 Well, there are some others.

4 MS. MCLEARY: Yes, sir. The third one is, there
5 is a showing that the issues not previously considered
6 ought to be examined in order to properly dispose of the
7 matter.

8 MR. GURVICH: All right. Are there any issues
9 of that ilk; that is, issues which were not previously
10 examined?

11 MR. BURKART: Well, I think, once again, that
12 goes back to the testimony of Mr. Benny, which we
13 subpoenaed. And I'd like to get him to testify, because
14 I think his testimony is pertinent to some of the issues
15 that were addressed.

16 MR. GURVICH: Okay. We've got to get to that
17 point first. Where is that?

18 MS. MCLEARY: It's in Title 49, Section 959,
19 titled Rehearings. Yes, sir.

20 MR. GURVICH: Where is that letter requesting
21 the rehearing?

22 MS. RYLAND: The letter is in your packet on the
23 top, the July 3rd letter.

24 MR. GURVICH: If it's in the packet, I'll never
25 find it.

1 MS. RYLAND: It's the first set of papers in
2 your packet. It's the last letter in that stapled
3 packet, right above the minutes from the last meeting
4 pertaining to this hearing.

5 MR. GURVICH: Okay. Any other grounds for the
6 grant of a request for a rehearing?

7 MS. MCLEARY: Then there is one that is, there
8 is no other good ground for further consideration of the
9 evidence -- of the issues and the evidence in the public
10 interest.

11 MR. GURVICH: Run that by me.

12 MR. BURKART: I would like to note, it does not
13 say there is no other good ground. It says there is
14 other good ground.

15 MS. MCLEARY: I said other.

16 MR. GURVICH: There is other good ground.

17 MS. MCLEARY: Yes, sir. I'm sorry if I misread
18 it. There is other good ground for further --

19 MR. GURVICH: Okay. So there is other good
20 ground or contrary to law in the evidence.

21 MR. BURKART: It's a catchall.

22 MS. MCLEARY: Excuse me.

23 MR. GURVICH: All right. And it's pretty high-
24 powered. So I, acting on that basis, I think this letter
25 probably does provide adequate grounds contained within

1 | it to request a rehearing. So I'm going to allow that
2 | aspect of this proceeding to move forward. Okay?

3 | So we are now at the point where we are going to
4 | entertain the request for a rehearing. Counsel,
5 | comments?

6 | MS. MCLEARY: Well, I believe it would be
7 | Mr. Burkart at this point to make the request and assert
8 | to you. I don't feel it's --

9 | MR. BURKART: I agree.

10 | MR. GURVICH: Counsel --

11 | MR. BURKART: Yes.

12 | MR. GURVICH: -- you're the moving party.

13 | MS. MCLEARY: Yes, sir.

14 | MR. BURKART: Two points that I'd like to
15 | request a hearing, one being the \$250 fine per violation
16 | for the 159 violations. I'd like to just ask the board
17 | to reconsider that fine. I don't feel, once again, that
18 | this was an egregious act.

19 | F.E.S.S., as testified to by Ms. Tammy Bauer after
20 | the event did in fact have the paperwork filled out,
21 | ready to go. She forgot to mail it in. And that really
22 | is the sum of it. This is an expensive clerical error on
23 | her part if there is going to be a \$40,000 fine assessed
24 | against them for this.

25 | They admitted as to the 90 and said, look, guys, we

1 did it, we are sorry. The only ones that they don't
2 admit are the 69.

3 MR. GURVICH: Counsel, let me interrupt you one
4 second.

5 MR. BURKART: Yes, sir.

6 MR. GURVICH: It's becoming apparent to me, what
7 this is, is a request for a partial rehearing on the
8 quantum of the fine, not any of the facts?

9 MR. BURKART: Well, it's twofold: The quantum
10 of the fine, which is absolutely correct, which I was
11 just explaining, and also the findings of violations for
12 the 69 board members that -- I mean, staff members that
13 were not stipulated to.

14 MR. GURVICH: All right. So there were 90; my
15 recollection says there were 90 that were stipulated.

16 MR. BURKART: Correct.

17 MR. GURVICH: And there are 69 that were not,
18 but that the board found that the violation had in fact
19 occurred.

20 MR. BURKART: Correct.

21 MR. GURVICH: So it's still, I guess, a partial
22 rehearing on the 69 violations and on the quantum of all
23 the fines established, correct?

24 MS. MCLEARY: Reconsideration and rehearing are
25 in the same statute, so if they're --

1 MR. GURVICH: Right. We are not talking about
2 the facts regarding -- I think you guys stipulated to the
3 90 violations anyway.

4 MR. BURKART: Yes, sir.

5 MS. MCLEARY: Yes, sir.

6 MR. GURVICH: So that's not going to be. So
7 we're talking about a request for a partial rehearing on
8 69 violations, whether or not they occurred, and the
9 quantum of the fines assessed throughout the previous
10 hearing; that is the subject matter of this rehearing if
11 it were to be granted?

12 MR. BURKART: That is correct.

13 MR. GURVICH: Counsel, I'm sorry. I just wanted
14 to get everything squared.

15 MR. BURKART: That's perfectly fine. I
16 understand that can be a bit confusing. Like I said,
17 that we ask for the reconsideration on the fine. As to
18 the 69 violations, I feel that there needs to be evidence
19 presented and proper cross-examination done by an
20 attorney in this case, especially considering the amount
21 of fines that are being assessed.

22 I would like to cross-examine Mr. Thornton with
23 regard to his investigation, what his knowledge was, his
24 reliance upon the sign-in sheet, which I find somewhat
25 questionable.

1 I also find quite questionable the fact that that
2 sign-in sheet, in my opinion, was not verified. There is
3 no one that testified as to the validity of the
4 information contained in it. I feel like the board
5 relied quite heavily on that sign-in sheet.

6 I'd like to bring that testimony also forward with
7 Mr. Benny in the back, who was the head of security for
8 Superdome prior to Mr. Paisant. I'd also like to get
9 Mr. Paisant back up here, who I subpoenaed today and did
10 not show up.

11 MR. GURVICH: I'm sorry?

12 MR. BURKART: I subpoenaed Mr. Donald Paisant,
13 and he did not show up today.

14 MR. GURVICH: Okay.

15 MR. BURKART: I mean, that's no fault of their
16 own. They did their job, actually got the letter that he
17 was delivered for that and everything. He just did not
18 show up today.

19 But I would like to question him with regard to what
20 his knowledge was, what he can attest to, factually
21 attest to, not assume, not guess, not look at a document
22 and say, yeah, I presume they are there. I want him to
23 tell me actually what he knows. Those questions weren't
24 asked at the last hearing.

25 They are very important to this, because the board

1 has a burden of proof in these matters. Under
2 Administrative Procedure Act, they have a burden of
3 proof. I don't feel like they met that burden of proof.

4 Furthermore, I feel like that sign-in sheet was
5 hearsay. Hearsay, while allowed under the Administrative
6 Procedure --

7 MR. GURVICH: Probative to the evidence,

8 MR. BURKART: Yes. It's perfectly allowable --

9 MR. GURVICH: We don't have a hearsay now. We
10 have a probative relevancy, materiality sort of thing.

11 MR. BURKART: Exactly. But I would argue to
12 this court and provide the court with case law which says
13 that hearsay is not competent. You are required to rely
14 on competent evidence for finding a violation. We don't
15 have that. And, of course, I would argue that to the
16 board.

17 MR. DUPLECHAIN: Can I ask a question?

18 MR. GURVICH: Let me -- one brief question
19 first. If this request for rehearing would be granted,
20 would you wish to proceed with it today, right now, or do
21 you wish to brief it and call, subpoena witnesses and
22 that sort of thing? I mean, what if?

23 MR. BURKART: I would prefer -- if Mr. Paisant
24 had shown up, I would have preferred to move forward. We
25 were prepared today to move forward, but he is very

1 important. A lot of his testimony was used by this board
2 to render its decision.

3 MS. MCLEARY: Mr. Gurvich, I would object to the
4 rehearing should it be granted being held today. As I
5 understand it, discovery was still being had yesterday,
6 Wednesday or Thursday of this week. I have not had an
7 opportunity to conduct discovery or prepare, knowing just
8 now as to the scope of the rehearing and having that be
9 decided or ruled upon today.

10 I would ask that I be allowed time to prepare and
11 respond to the request for rehearing and the request for
12 reconsideration and sufficient -- and do what I would
13 need to do and brief issues and prepare, which I have not
14 had an opportunity to do.

15 MR. GURVICH: And we'll get to that point, I
16 guess, very soon. And I think Mr. Duplechain had a
17 comment or a question.

18 MR. DUPLECHAIN: I wasn't here for the last
19 board meeting. Were you here?

20 MR. BURKART: No, sir, I was not. I was not.
21 They came, I believe Ms. Tammy Bauer from F.E.S.S. came
22 with Mr. Rodrigue, Rodriguez, as well as Ms. Phyllis.
23 And I'm not aware of Phyllis's last name. I believe it
24 was the three of them that came by themselves.

25 MR. GURVICH: Counsel, did you want to respond

1 to Mr. Burkart's comments or not?

2 MS. MCLEARY: No, sir. I feel -- well, I will
3 provide a limited response. I do not -- the board's
4 decision, we feel, should stand. We do feel competent
5 evidence was put on, clearly that the decision and order
6 issued by the board is not contrary to the law in
7 evidence; that sufficient evidence in fact were put on
8 that would support board action. And we do not feel that
9 the issues brought up by F.E.S.S. constitute sufficient
10 cause for the granting of a rehearing.

11 MR. GURVICH: Counsel.

12 MR. BURKART: I have no further response.

13 MR. GURVICH: Nothing further? Then we are
14 ready for a motion. Just I throw this out there.
15 Perhaps we should divide this question. You have a
16 rehearing on the facts regarding 69 allegations that were
17 not stipulated to, and you have a rehearing on all the
18 fines that you were assessed. Well, did you wish to
19 proceed with a single motion in that regard, or do you
20 wish to divide the question into two separate motions?

21 MR. BURKART: I would request that we just get
22 it all handled at one time. So, I presume, if that's
23 best, then, really, that would be up to the board to make
24 that decision. I have no opposition one way or the
25 other. If you think it's best to handle it separately,

1 then so be it; together --

2 MR. GURVICH: I'm just looking for input. I
3 mean, the floor is open for motions.

4 MR. KENNEDY: Mr. Chairman.

5 MR. GURVICH: Mr. Kennedy.

6 MR. KENNEDY: I'd like to make a motion that we
7 deny petition for rehearing.

8 MR. GURVICH: All right. Motion by
9 Mr. Kennedy. Do I hear a second?

10 MR. COTTON: Second.

11 MR. GURVICH: All right. We have a motion on
12 the floor, I believe, that was seconded by Mr. Cotton
13 back there. All right. Comments? Questions? Final
14 words?

15 MR. DUPLCHAIN: I'd like to recuse myself from
16 the vote since I wasn't here.

17 MR. GURVICH: I think that's probably
18 appropriate under the circumstances. Please note that
19 accordingly. Anyone else?

20 MR. ROJAS: Yes. I was not here. I was out of
21 town on June 28th.

22 MR. GURVICH: All right. So we have Mr. Rojas
23 and Mr. Kennedy, I think, quite -- not Mr. Kennedy. I'm
24 sorry. It was Mr. Duplechain recusing himself. That
25 leaves us with seven members. And so it's a request for

1 rehearing, so I think a simple majority either way on the
2 motion. All right. Final comments?

3 MS. MCLEARY: No, sir, other than to re-urge
4 that we do feel that the decision in order was not
5 contrary to law in the evidence presented.

6 MR. GURVICH: All right. Let's have a roll call
7 vote.

8 (Ms. Ryland polls board members.)

9 MR. GURVICH: Nay.

10 MS. VINSON: Yes.

11 MR. BAER: No.

12 MR. COTTON: Yes.

13 MR. KENNEDY: Yes.

14 MS. LOCKETT: No.

15 MR. ROMERO: Yes.

16 MR. GURVICH: All right. The motion passes,
17 four yeas, three nays, so the rehearing is denied. And I
18 presume the record is intact. I think I know where this
19 is going, so we leave it at that. Gentlemen, thank you
20 for being here today.

21 MS. RYLAND: What about the fines?

22 MR. GURVICH: Right. In other words, we handled
23 it on one motion, and so it's done. Now, the record,
24 everybody is square with the record? We've got all our
25 documents?

1 MS. MCLEARY: Yes, sir. I'm assuming we're
2 going to get a copy of what was presented today.

3 MR. GURVICH: Thank you. Next matter. Shall we
4 take a ten-minute break?

5 MS. MCLEARY: Yes, sir. Thank you.
6 (Recess taken.)

7 MR. GURVICH: Okay. Let's go back on the
8 record. I want to do some housecleaning real quickly,
9 getting back on the F.E.S.S. matter. First of all, on my
10 authority as chairman, I need to grant a stay of the
11 penalty payment, because, otherwise, I don't believe the
12 rehearing interrupts the applying of the judgment, if you
13 will.

14 MR. BURKART: Correct.

15 MR. GURVICH: So on my authority to give counsel
16 time to do whatever he's got to do in the 19th JDC, I'm
17 going to grant a 30-day stay.

18 MR. BURKART: That's what I'm --

19 MR. GURVICH: -- on the payment of the fines
20 assessed at the original hearing that was the 39,000-odd
21 dollars, plus cost.

22 MS. MCLEARY: I understand that, on the 90, that
23 that has been paid. So part of it has been paid; in
24 fact, the majority of it or two-thirds of it.

25 MR. BURKART: Yes. The fees for the filing for

1 the security guards for the 90 that were stipulated to
2 has been paid. And, of course, that would not be
3 included in the stay order.

4 MR. GURVICH: All right. I'm going to stay the
5 running of whatever remains unpaid for 30 days.

6 Secondly, I would like to assign as my reasons for
7 the nay vote on the motion, because I'd like to say that
8 I concur with the findings of fact. And the reason for
9 my nay motion had to do with the fact that I felt that
10 perhaps a lesser penalty should have been assessed on the
11 90 stipulations. I had no problem with the findings of
12 fact, and I'd like to enter that into the record as
13 well.

14 Is there anything further that we, any of us, might
15 have missed that needs to get done for the housecleaning
16 so this can go wherever it's going to go?

17 MR. BURKART: I think that handles everything.

18 MS. MCLEARY: No, sir. I think the record is
19 complete for whatever.

20 MR. GURVICH: Okay, good. We want to get that
21 straight so they can do what they've got to do.

22 MR. BURKART: Thank you all.

23 MR. GURVICH: Next matter.

24 **RONALD MACOMBER, JR.**

25 MS. MCLEARY: Yes, sir. If we could hear the

1 Ronald Macomber matter.

2 MR. GURVICH: Okay. Mr. Macomber.

3 MR. MACOMBER: yes, sir.

4 MR. GURVICH: If you would, come forward and be
5 sworn by this nice lady and take a seat over by the mic
6 there. And I understand we have witnesses in this
7 matter.

8 MR. MACOMBER: I also have documentation for
9 each of your board members.

10 MR. GURVICH: Okay. Come forward, if you would.
11 We are going to get all that handled. Where are our
12 witnesses in this matter? We have one gentleman in the
13 back. Okay.

14 MS. MCLEARY: I call Mr. Patin and Ms. Sutherlin
15 and Mr. Rogillio.

16 MR. GURVICH: Let's get everybody sworn.
17 (Mr. Matt Patin and Ms. Charlene Lee-Sutherlin are
18 administered the oath.)

19 MR. GURVICH: Okay. Mr. Macomber, why don't you
20 take a spot over there. And, Counsel, you have
21 witnesses --

22 MS. MCLEARY: Yes, sir.

23 MR. GURVICH: -- or these are defense witnesses?

24 MS. MCLEARY: I have witnesses.

25 MR. GURVICH: How many witnesses do you have?

1 MS. MCLEARY: I have Mr. Rogillio, Mr. Patin,
2 and, if necessary, Ms. Sutherlin as a rebuttal.

3 MR. GURVICH: Okay. And so Mr. Macomber has a
4 witness; is that this gentleman in the back row?

5 MR. MACOMBER: Yes, sir.

6 MR. GURVICH: Okay. So let's proceed.

7 MS. MCLEARY: Okay. This is a matter of first
8 impression with the board. It is a denial of a
9 instructor application of a Mr. Ronald Macomber. Staff
10 action was taken by letter dated November 20th, 2012. It
11 was received by Mr. Macomber by hand delivery of
12 Mr. Thornton, 11/20/12, same day.

13 MR. GURVICH: What you are saying is, the board
14 staff did take action?

15 MS. MCLEARY: Yes, sir, they did. They denied
16 an instructor application.

17 MR. GURVICH: They denied, so this is an appeal
18 from board staff's action.

19 MS. MCLEARY: Oh, yes, sir. Appeal from board
20 action -- staff action. Appeal from staff action denying
21 Mr. Macomber's application for an instructor license by
22 letter dated November 20th and hand-delivered the same
23 day by Mr. Thornton.

24 EXAMINATION OF MR. ROGILLIO BY MS. MCLEARY:

25 Q. Mr. Rogillio, did you have an opportunity to review

1 an instructor application of a Mr. Ronald Macomber?

2 A. Yes, ma'am.

3 Q. And did you approve or grant that application?

4 A. No, ma'am, I did not. And it was based on an
5 internal investigative report issued by Mr. Patin with
6 Weiser Security Services.

7 Q. And how is it that you came about obtaining this
8 report from Weiser?

9 A. This report was sent to my office as part of the
10 public record regarding Mr. Macomber's behavior with
11 Weiser.

12 Q. Was Mr. Macomber previously employed with Weiser?

13 A. Yes, ma'am.

14 Q. And was he licensed through the board as part of
15 that employment?

16 A. As an instructor, yes, ma'am.

17 Q. And does the board have record of what happened with
18 that previous employment with Weiser?

19 A. He was terminated, to my knowledge. And I have the
20 report that was issued by Weiser here that indicates that
21 there were a number of things. And I'm sure Mr. Patin
22 can testify as to the reasons.

23 Q. And you reviewed this report from Weiser as part of
24 your consideration of his application?

25 A. Yes, ma'am, I did.

1 Q. And what did you decide?

2 A. I decided to not grant the instructor license.

3 Mr. Macomber, of course, appealed, and that's why we're
4 here this morning.

5 Q. What was the basis of your denial?

6 A. It was based on the report that I received from
7 Weiser.

8 Q. And what aspects of that report?

9 A. That there were a number of tests that were graded
10 by Mr. Macomber in which several people were just granted
11 100 percent score.

12 Q. Now, these were tests administered when -- I mean,
13 by Mr. Macomber?

14 A. By Mr. Macomber, yes, ma'am.

15 Q. Were these tests administered as part of his
16 instructor duties with Weiser?

17 A. Yes, ma'am. Under the requirements of the Board of
18 Private Security Examiners.

19 Q. And in this report, it was brought to your attention
20 that these tests were graded incorrectly?

21 A. Yes, ma'am.

22 Q. And who was the -- and all that is outlined in the
23 report?

24 A. In the report. Yes, ma'am.

25 Q. Are there specific findings in the report that you

1 | did rely upon --

2 | A. Yes, ma'am.

3 | Q. -- for your decision?

4 | A. Yes ma'am.

5 | Q. What would those be?

6 | A. Okay. There were a number of persons that were
7 | trained, according to the report, that had incorrect
8 | scores given to them. You will have to give me a moment
9 | to find out. I just marked it.

10 | Okay. There was one test that was regraded, and
11 | Ms. Martin is not here to verify this. But according to
12 | her, there was a discrepancy in the first eight hour
13 | score. And then there was another retested, and as a
14 | result --

15 | Q. Was that retested or regraded?

16 | A. No. It was retested. So if you will just give me a
17 | moment. Okay. There was a Lynn Lefort. Training
18 | verification form shows first and second tests were both
19 | scored at 100 percent. After regrading those tests, it
20 | was found scored 94 percent on Test 1 and 92 percent on
21 | Test 2.

22 | A Christal Boudreau, the form shows Tests 1 and 2
23 | were both scored at 100 percent. After regrading, it was
24 | found the score was 98 percent on Test 1 and 100 percent
25 | on Test 2.

1 A Marc Franklin, verification form showed Tests 1
2 and 2 both scored 100 percent. Regrading found that he
3 scored a 98 percent on Test 1 and 100 percent on Test 2.

4 Karen Dace, the form shows Tests 1 and 2, both,
5 scored 100 percent. Regrading, it was found that this
6 person scored 96 on the Test 1 and 100 on Test 2.

7 Anthony Jones, form shows Tests 1 and 2, both,
8 scored 100. After regrading the test, it was found he
9 scored 100 percent on 1 and 94 on 2.

10 Q. As a result of Wisner's (sic) findings about these
11 tests, you then denied Mr. Macomber's subsequent
12 application?

13 A. Yes, ma'am. There is also a synopsis in this report
14 of regrading of tests. There were a total of 29 officers
15 who were found to have grading errors on their tests.
16 There were a total of 42 tests out of 125 that were
17 scored incorrectly. Out of that 42 grading errors, 41
18 tests received passing scores after regrading.

19 Q. Did you make a determination that Mr. Macomber did
20 not meet his obligations as an instructor?

21 A. It was questionable to me, enough for me to deny the
22 license.

23 Q. But Mr. Macomber's activities at Wisner --

24 A. Weiser.

25 Q. -- Weiser, sorry, Weiser, are they what you would

1 | expect of instructors' license by the board?

2 | A. That I would expect?

3 | Q. Right.

4 | A. Oh, definitely not.

5 | Q. That led you to the finding that his suitability, he
6 | was not, as cited in this letter, a person of good moral
7 | character, honesty, and integrity?

8 | A. Yes, ma'am.

9 | Q. Did you obtain the report as part of your background
10 | investigation for the application?

11 | A. It was voluntarily sent to my office.

12 | Q. Prior to the point at which he applied for an
13 | instructor?

14 | A. For his second license with a different company.

15 | Q. But you did utilize it in your background
16 | investigation on the subsequent application?

17 | A. Yes, ma'am.

18 | MS. MCLEARY: I have nothing further of
19 | Mr. Rogillio.

20 | MR. GURVICH: Mr. Macomber, you have the right
21 | to cross-examine, that is, to ask questions of Chief
22 | Rogillio.

23 | MR. MACOMBER: Okay. Thank you, sir.

24 | EXAMINATION OF MR. ROGILLIO BY MR. MACOMBER:

25 | Q. First of all, Mr. Rogillio, I don't disrespect you

1 at all, so if I ask these questions, please don't feel
2 that way.

3 The report that Weiser Security gave to you
4 voluntarily that has the names read out, the dates, and
5 the test scores, is there documents to follow that, or is
6 it just a chart they made up on a computer?

7 A. No. This is all strictly in the report.

8 Q. It is not the actual test with the state board
9 symbol on it --

10 A. No, sir.

11 Q. -- to verify or prove what they are saying? So,
12 basically, he can write a chart up and put anyone's name
13 on it and have no document to prove that?

14 A. Right.

15 MR. GURVICH: Let me interject real quick.
16 Mr. Macomber has these documents that he is able to
17 examine the documents to which you make reference?

18 MS. MCLEARY: Mr. Macomber, do you --

19 MR. MACOMBER: Yes, ma'am.

20 MS. MCLEARY: Yes, sir.

21 MR. GURVICH: You've received a copy of
22 everything we referred to in the testimony?

23 MS. MCLEARY: And it's included in all of your
24 packets. And it will be made a part of the state's file,
25 offered and introduced.

1 MR. GURVICH: I'm just trying to make sure
2 everybody is on the same page.

3 MR. MACOMBER: Thank you, sir.

4 MR. GURVICH: Thank you.

5 BY MR. MACOMBER:

6 Q. Also, Mr. Wayne, in regard to the tests that are
7 being used as evidence for the documents for this chart,
8 there are several names on this that you see in the right
9 column. Certified letter mail sent to them or e-mail
10 sent to them to verify that they were trained or had
11 probably been trained by myself or graded.

12 They never replied certified mail or e-mails. But,
13 yet, it was used against me in evidence as people saying
14 they were not properly trained by me. I don't know how
15 they could put names of people that they have never
16 spoken to at all and answer for them.

17 MR. GURVICH: Well, just what you are doing at
18 this point is just asking questions of the board's
19 witness. In other words, you will have plenty of time to
20 make statements or introduce evidence or question your
21 own witnesses.

22 MR. MACOMBER: Thank you, sir.

23 BY MR. MACOMBER:

24 Q. Mr. Wayne, in the past year that I was a licensed
25 instructor granted by the board, was there any complaints

1 or any violations sent by Weiser Security of my alleged
2 wrongdoings or not properly training?

3 A. Not that I'm aware of.

4 Q. Okay. And it was only come to your attention after
5 my license was going to be renewed for a second year and
6 that I was going to another security company that this
7 came to your attention?

8 A. It was prior to your applying with the second
9 company.

10 MR. MACOMBER: Thank you.

11 MR. GURVICH: Further questions?

12 MR. MACOMBER: No, sir.

13 MR. GURVICH: Redirect?

14 MS. MCLEARY: No, sir, nothing.

15 MR. GURVICH: Next witness.

16 MS. MCLEARY: Yes, sir. If I could call
17 Mr. Patin.

18 MR. GURVICH: And where do you want to put him?

19 MR. PATIN: Do you want me to pull a chair up?

20 MR. GURVICH: And, I'm sorry, that's Mr.?

21 MR. PATIN: Patin, P-a-t-i-n.

22 MR. GURVICH: And you have been sworn, sir?

23 MR. PATIN: Yes, sir.

24 EXAMINATION OF MR. PATIN BY MS. MCLEARY:

25 Q. Mr. Patin, if you could give your name for the

1 record here today.

2 A. Matthew Patin.

3 Q. And are you currently employed?

4 A. Yes, ma'am.

5 Q. By whom?

6 A. Weiser Security as their corporate compliance
7 officer.

8 Q. When did you get this position with Weiser?

9 A. April of this year.

10 Q. Okay. What are some of your job duties as corporate
11 compliance officer?

12 A. I am responsible for licensing for all of our
13 branches across the country. I oversee licensing, make
14 sure each branch is submitting applications on time,
15 following the different state guidelines. Under that
16 also falls training.

17 Q. Okay. As part of these job duties, did you have
18 responsibility for Louisiana licensees?

19 A. Yes, ma'am.

20 Q. And as part of that, where do you have branches or
21 where do you have licensees working here in Louisiana?

22 A. Louisiana, we have three branches: New Orleans,
23 Baton Rouge, and Shreveport.

24 Q. How did -- did Mr. Macomber -- how did he come to
25 your attention?

1 A. The whole investigation started after the human
2 resource manager from the New Orleans office, Tina
3 Martin, who was also a state instructor, came to me
4 saying that there were several test scores that she got
5 that were all 100s, 98s, just a high level scores.

6 And she stated the first test, that's unlikely, for
7 it's a harder test, and most people make 80s, some 70s,
8 some 90s, but it's hard to get so many tests with 100
9 percents on it. So --

10 Q. And she had this -- she herself observed this and
11 brought this to you?

12 A. Yes. As the HR manager for the branch, one of her
13 job duties is to audit the employee files when they come
14 in and processing of the applications. So through her
15 internal audits, that's when she noticed this.

16 Q. And the tests that you say were -- the scoring was
17 suspect to Ms. Martin, who was the instructor
18 administering those tests?

19 A. Mr. Macomber was.

20 Q. What did you then do subsequently with that
21 information?

22 A. What we initially did, once she brought that to my
23 attention, we pulled a few tests that Ron had, actually,
24 four, and we had her regrade them. And three of those
25 four had different scores on them. The scores that were

1 on the verification forms weren't actually the scores
2 that the people made.

3 The answer sheets, it appeared that he didn't even
4 grade them. There were no markings or anything on them.
5 The blank on the answer sheet where you write the
6 percentage score, nothing was there.

7 So she would regrade them. She found several errors
8 on some of them and gave them back to us. When I say
9 "us," I mean the corporate side.

10 Q. Yes. Now, if -- and these tests were submitted to
11 her for maintenance in the official records of the
12 company?

13 A. Yes. To be included in the employees' folder.

14 Q. As well as submitted to the board?

15 A. Yes.

16 Q. Do you know the names of those five individuals --
17 four individuals whom you initially had pulled?

18 A. The initials were Lynn Lefort, Christal Boudreau,
19 Marc Franklin, Karen Dace, and Anthony Jones.

20 Q. And those are reflected in your report as to what
21 you just testified to?

22 A. Yes, ma'am.

23 MS. MCLEARY: I have some documents, if we
24 could.

25 MR. GURVICH: Let's give everything to everyone.

1 MS. MCLEARY: Yes, sir. I'll just introduce
2 them all.

3 MR. GURVICH: He has had an opportunity to
4 examine them?

5 MS. MCLEARY: Yes, sir. You have an opportunity
6 to look at this, because I am going to be interviewing
7 them, showing them to the witness and then subsequently.

8 MR. MACOMBER: This is the first time I have
9 seen them.

10 MS. MCLEARY: Right.

11 MR. GURVICH: They are admitted without
12 objection, then. We need a number.

13 MS. MCLEARY: State A -- State 1?

14 MR. GURVICH: Let's make it State 1. That's the
15 way I kind of keep track.

16 MS. MCLEARY: State 1. Thank you.

17 (Exhibit S-1 marked.)

18 BY MS. MCLEARY:

19 Q. Mr. Patin, if you could look at these documents and
20 identify them for me, please, if you can.

21 A. This is a spread sheet, as well as all the actual
22 answer sheets and classroom verification forms that we
23 found inaccurate scores reported on by Ron Macomber.

24 Q. Okay. Were these pulled and identified by you
25 during this investigation?

1 A. The way these came about, after our initial
2 investigation where we pulled those files, we decided to
3 do a supplemental investigation where we had Tina Martin,
4 the HR manager, pull a list of everybody that she had
5 trained by Ron. What we did from there was pull her test
6 sores and have Tina regrade those tests also just to make
7 sure everybody received a passing score and to see if
8 there were any more inaccuracies, which we did find out
9 there were.

10 Q. And is this reflected in the report they provided?

11 A. Yes, ma'am.

12 Q. Where is that reflected?

13 A. The third page.

14 Q. Okay. If you could, read us that section where that
15 is reflected in your report.

16 A. Under Synopsis of Re-graded Tests, it says:

17 "The lists of Security Officers trained by
18 Ron Macomber shows he trained a total of 64
19 employees since obtaining his instructors
20 certification. Of these...officers, 48 are
21 currently active with Weiser Security and 16 are
22 inactive.

23 "There were a total of 29...officers who
24 were found to have grading errors on their
25 tests. There were a total of 42 tests out of

1 125 that were scored incorrectly. Out of the 42
2 test with grading errors, 41 test received
3 passing scores..."

4 And, "One officer was found to have
5 failed the test that was sent in by Ron...as
6 passing."

7 Q. And are these tests that you reflect in this, in
8 your report right here, are these in the packet?

9 A. Yes. You have two packets. The first one is
10 employees with licenses where we did not have to retrain
11 them. They had inaccurate scores, but they still
12 passed. And they said they received all the training.

13 MS. MCLEARY: I have one more packet. I'm going
14 to be introducing these.

15 BY MS. MCLEARY:

16 Q. Mr. Patin, you just referenced a second set of
17 documents. Is this the set you were describing?

18 A. Yes.

19 Q. And what do these documents reflect?

20 A. This document has officers who we had to retrain.
21 And the spread sheet that Mr. Macomber referred to
22 earlier that's in your initial report goes hand in hand
23 with this.

24 Q. You relied upon these documents in the compilation
25 of the spread sheet that Mr. Macomber referred to?

1 A. Yes. What we did, after we found out that we had
2 all of these employees that he inaccurately reported
3 scores on, we wanted to call the employees to make sure
4 they received two days of training also. The reason why
5 we did that is because the gentleman that failed
6 originally told us, "There are more guards that you need
7 to talk to about this. I'm not the only one. We have
8 other guards who weren't even receiving the full
9 training."

10 So we decided to call every guard that we have
11 verification forms on from Ryan. Myself and our two
12 human resource assistants went down and made contact with
13 them, asked them how many days of training they
14 received. We made a list going off of that.

15 We also made an attempt to contact our inactive
16 employees which were the ones he referred to about
17 certified letters. These inactive employees, we sent
18 certified letters to, with a return envelope, postage
19 marked, saying, Can you please answer these five
20 questions for us? Those questions are in the report.

21 And we didn't receive any returns on them yet, but
22 those weren't used against him, like you said. Those, we
23 just listed in here. We wanted to make sure the
24 terminated employees weren't working for another security
25 company and working under inaccurate training. We were

1 going to pay to retrain them at our expense if they were
2 with another company. We just wanted to make sure that
3 everybody, active and active, with Weiser got the
4 training they were supposed to have.

5 So the second packet has the officers that we had to
6 retrain. One of them is the gentleman that failed. Ron
7 turned his score in as a 96 percent when he actually made
8 a 30 percent. He failed. He shouldn't have been
9 licensed. He didn't pass the training. So we
10 immediately retrained him and submitted his retraining
11 work.

12 And the other five people said they only were
13 trained for one day. They never received two days of
14 training.

15 Q. And when you say they said they didn't receive the
16 training, how was that information obtained?

17 A. That was obtained through phone calls by myself and
18 the two HR assistants in my office.

19 Q. And you spoke with those individuals?

20 A. Either myself or the other two people did.

21 Q. And is that information also reflected in your
22 report?

23 A. Yes, ma'am.

24 MS. MCLEARY: I would like to identify, offer,
25 and introduce into evidence State's 2, which has been

1 identified by Mr. Patin, those employees who actually
2 failed the test provided -- or submitted by Mr. Macomber
3 and/or had inadequate training.

4 MR. GURVICH: Is that the packet that
5 Mr. Macomber was just allowed to review and he has no
6 objections?

7 MS. MCLEARY: Yes, sir. That is also a spread
8 sheet as well as the official -- both have, Documents
9 States 1 and 2 contain an initial -- the first page is a
10 spread sheet created by Weiser Security as well as a
11 number of pages that includes the official testing
12 documents provided by the board, which includes marks by
13 the student, or tester -- testee, as well as the grading
14 and regrading that Mr. Patin reflected.

15 MR. MACOMBER: May I make a quick statement,
16 sir, as far as that evidence?

17 MR. GURVICH: I'm sorry?

18 MR. MACOMBER: I just want to make a quick
19 statement or make it known about the evidence. I just
20 want it known that this is the first time I have seen
21 that. That's all I'm saying, I agree that's what it is.
22 I don't know if it's my paperwork or not. I'm just
23 saying I agree I saw this. This is first time I'm seeing
24 it, so I don't want it to be known that that is my
25 paperwork. I did all that, all that work.

1 MR. GURVICH: All right. So you're objecting to
2 the authenticity.

3 MS. MCLEARY: I can give you additional time, if
4 you want to look at it, to verify if those are --

5 MR. MACOMBER: I'm just wondering how, when it
6 was turned in to the board and the unemployment office,
7 none of these documents were there and we testified
8 before.

9 MS. MCLEARY: This wasn't turned in to the
10 board. This is something that we are presenting here to
11 support our action.

12 MR. MACOMBER: Okay. I don't agree with the
13 authenticity of the paperwork. Some of those writings,
14 there is no signature on there from a guard saying this
15 is my test. You see what I'm saying? It's just -- it's
16 a paper --

17 MR. GURVICH: Well, I can allow it into evidence
18 subject to his review.

19 MR. MACOMBER: Right. You can allow it. I'm
20 just going to say I'm not agreeing that that's all my
21 stuff.

22 MS. MCLEARY: Would you feel that additional
23 time to look at it would clarify some of your concerns?

24 MR. MACOMBER: I'm just wondering how it --

25 MR. GURVICH: We'll allow it into evidence on

1 the condition that he has an opportunity to review each
2 of the documents that you want to enter. And if he has a
3 problem with the authenticity, then I will entertain it
4 at that time.

5 MR. MACOMBER: Thank you, sir.

6 (Exhibit S-2 marked.)

7 MS. MCLEARY: I understand that they are
8 entered. Do I need to address the authenticity issues
9 now?

10 MR. GURVICH: They are entered. They are
11 subject to objections on authenticity grounds.

12 MS. MCLEARY: I don't have under subpoena
13 clearly every guard to verify whether or not that is
14 their test.

15 MR. GURVICH: Well, but we can allow hearsay
16 evidence, so that is not fatal.

17 MS. VINSON: This is from our office?

18 MS. MCLEARY: No, it's not. But we can compare
19 these to the board records, if you'd like.

20 MR. GURVICH: Right.

21 MS. MCLEARY: You know, these were presented to
22 me by --

23 MR. GURVICH: You have Mr. Patin. Patin?

24 MR. PATIN: Either one.

25 MR. GURVICH: His testimony is certainly alive

1 and here and not --

2 MS. MCLEARY: And he did provide these
3 documents, but they are documents that are on file here
4 with the board that we can, if necessary, compare to.

5 MR. GURVICH: Probative evidence, materiality,
6 the relevancy, that's all I care about. It can be
7 hearsay.

8 MS. MCLEARY: Right.

9 BY MS. MCLEARY:

10 Q. Mr. Patin, are you still currently employed as a
11 corporate compliance officer?

12 A. Yes, ma'am.

13 Q. Did you have any conversations with Mr. Rogillio
14 about the information or the circumstances contained in
15 your report and/or Mr. Macomber?

16 A. At the conclusion of the investigation, I came here
17 and made a presentation to him. We self-reported it to
18 him. We wanted to let him know that we found these
19 violations internally and let y'all know what we found
20 and talked to him about why we were going to be
21 resubmitting some special verification forms on the
22 people we retrained. So we talked about it at the end of
23 the investigation.

24 Q. Do you have anything further to say?

25 A. Not, not at this time.

1 MS. MCLEARY: I'm done with this witness,
2 Mr. Chairman.

3 MR. GURVICH: Thank you. Mr. Macomber, you have
4 the right to ask questions of Mr. Patin.

5 CROSS-EXAMINATION OF MR. PATIN BY MR. MACOMBER:

6 Q. In regards to these alleged tests that you have
7 presented today for evidence, why wasn't that presented
8 to the board or Mr. Wayne when you gave your initial
9 report? because it says here it's an internal
10 investigation report. And when we had the unemployment
11 hearing and all documents were supposed to be present,
12 none of these forms were entered or used against me at
13 that investigation, but they appear today?

14 A. They weren't included in the initial report.
15 Mr. Rogillio and this office have access to all those
16 records internally as it is, so there was really no
17 reason for me to include them. They have them all in the
18 file room here where they can go get them and look at
19 them if they would like.

20 Q. So every test result that is in evidence right now,
21 have you matched it up with what the board has; it's
22 going to be the same?

23 A. Correct.

24 Q. You're a hundred percent sure?

25 A. The classroom verification forms. The answer

1 sheets, they don't have; the classroom verification
2 forms, they do.

3 Q. No offense, but I would much rather have it come
4 from the board than --

5 MR. GURVICH: Well, just ask questions at this
6 point. You can bring that matter up later.

7 BY MR. MACOMBER:

8 Q. All right. Also, I'm looking at a form here that
9 Weiser Security Human Resources received from the
10 unemployment office.

11 MR. MACOMBER: And this is just going to show
12 the integrity and honesty that they are accusing me of
13 not providing.

14 BY MR. MACOMBER:

15 Q. Down here, it says two questions (as read by
16 Mr. Macomber):

17 "Did the associate have prior written
18 warning or same similar violation to this
19 violation? And, if yes, please attach
20 warning."

21 You marked "Yes."

22 The second one said (as read by Mr. Macomber):

23 "Did associate have prior verbal warning
24 for the same or similar violation? If
25 yes, mark and attach document."

1 Both questions were marked, "Yes."

2 During my unemployment hearing, it was presented
3 that they made false claims to that, that I had never
4 been written up before for anything or talked to about
5 anything. So it just shows of their honesty and
6 integrity by lying to the state, to Unemployment.

7 A. I'm not sure what sheet you're referring to. I
8 don't handle unemployment claims. That's done by our
9 human resource department.

10 Q. Tina Martin was very inter volutional in the
11 investigation. She helped out in the investigation. But
12 she is not here today, nor she was not here at my
13 unemployment hearing.

14 MR. GURVICH: Well, okay. But just right now --
15 BY MR. MACOMBER:

16 Q. I want to know why she was conducting my audit and
17 not someone outside the office, a third party.

18 A. Because it was an internal investigation, meaning
19 somebody from inside.

20 Q. But wasn't Ms. Martin also under investigation, same
21 thing?

22 A. Ms. Martin is not under investigation for anything
23 compliance-wise, nothing that I have investigated her
24 for.

25 Q. Right. And then the five people that actually

1 attended the retraining class --

2 A. Uh-huh.

3 Q. -- I think the data, you and Michael Burke, who was
4 the vice president who terminated me, you said it in
5 front of myself and Mike Burke that those five people
6 were trained eight hours the first day and eight hours
7 the second day. Isn't that correct?

8 A. They were still in training while you were there.

9 Q. Okay. But you testified that they're going to have
10 to get 8 hours' training to the unemployment hearing, but
11 you did testify for 16 hours to be trained?

12 A. No. They received the full curriculum. The first
13 day we were there, they did not -- we weren't in the
14 classroom for a complete eight hours. We were limited by
15 the number of hours we could be in there. It was a state
16 office we were doing the training in. But the complete
17 curriculum was given to the officers.

18 I discussed that with Mr. Rogillio and Ms. Ryland,
19 and they were okay with it since all the training was
20 given. Since we lost an hour and a half of time, we
21 eliminated breaks. We just did our lunch break during
22 the training. But the officers did receive their
23 complete training that day. It wasn't eight hours, but
24 they received the complete training on the first day.

25 Q. Okay. And the second day?

1 A. The second day, I believe we were in there for seven
2 hours.

3 Q. And you are under oath, right?

4 MR. MACOMBER: He is under oath, right?

5 MR. GURVICH: Yes.

6 BY MR. MACOMBER:

7 Q. Okay. The state office that you were referring to,
8 isn't that the LA Works, the Houma Division, that I set
9 up; for the past almost two years --

10 A. Correct.

11 Q. -- I had worked with them to set up this training,
12 had people sign in and sign out?

13 A. Correct.

14 Q. Okay. So when they sign in and sign out, there is a
15 record of them attending my classes for the whole eight
16 hours each day, but not for yours.

17 A. We have a sign-in and sign-out showing where
18 everybody arrived for nine o'clock. The last person that
19 signed out on the first day was at 3:30.

20 Q. So you wouldn't be surprised that I have three
21 statements and I have a witness present that attended
22 those classes that deny everything you are saying about
23 the training and the time?

24 A. What's there to deny? I just said that --

25 Q. They weren't there.

1 A. They were there and your witness signed out at
2 two-something that afternoon. The last person signed out
3 at 3:30 after finishing the test.

4 Q. So, basically, I was terminated and accused of not
5 training people properly, but you and Ms. Tina Martin did
6 it for two days?

7 A. You were terminated for falsifying the state
8 documents, for not grading the tests and submitting
9 inappropriate test scores, as well as some other false
10 documents that weren't even associated with the state
11 board.

12 Q. And then, again, hearsay, is there documents to show
13 that? I mean, you are putting my reputation on the line
14 here. This is my career.

15 A. Yes. We have testimony from our vice president of
16 HR, but it's not related to your licensing, for the
17 profiles that were falsified also for applicants by you.
18 But that's not related to the licensing here, so there is
19 no documents on file for that with the board.

20 MR. GURVICH: Okay. Now, we are just asking
21 questions of Mr. Patin regarding his testimony. Or,
22 well, you can ask questions outside of his testimony, but
23 I want to -- and you are going to have a whole case in
24 chief to present --

25 MR. MACOMBER: Okay.

1 MR. GURVICH: -- with your witnesses and
2 everything else. I just want to keep this thing moving
3 along so we don't get bogged down.

4 MR. MACOMBER: Yes, sir.

5 BY MR. MACOMBER:

6 Q. My last question is: Was this audit investigation
7 brought on me because of Tina Martin, or is it some kind
8 of personal vendetta you had against me since we had
9 words?

10 A. No personal vendetta at all.

11 Q. Really?

12 A. Yeah.

13 Q. Okay. It had nothing to do with about me mentioning
14 your previous employment, being fired for malfeasance in
15 office and all that and doing rad stuff, so you are
16 accusing me of it?

17 A. Me being fired for malfeasance in office?

18 Q. Yeah. That's what I was told.

19 A. No.

20 MR. MACOMBER: Okay. There are no further
21 questions.

22 MR. GURVICH: Redirect?

23 REDIRECT EXAMINATION OF MR. PATIN BY MS. MCLEARY:

24 Q. Other than what was contained in your internal
25 investigative report that you submitted to Mr. Rogillio

1 and the discussions that you have already previously
2 testified to with Mr. Rogillio when you submitted this
3 document, have you related to Mr. Rogillio after that
4 date any information about Mr. Macomber?

5 A. No, ma'am.

6 Q. Have you had any conversations about Mr. Rogillio --
7 about Mr. Macomber with Mr. Rogillio, outside of what was
8 presented in the internal report?

9 A. No. Just the day that we spoke about the
10 investigation, that was the only time we talked about it.

11 MS. MCLEARY: Thank you. Nothing further.

12 MR. GURVICH: Okay. Thank you, sir.

13 MR. PATIN: Sure.

14 MR. GURVICH: Next witness.

15 MS. MCLEARY: I'd like to call Ms. Sutherlin,
16 Ms. Charlene Sutherlin.

17 MR. GURVICH: Okay. Ms. Sutherlin.

18 MR. MACOMBER: I object.

19 MR. GURVICH: Have you been sworn,
20 Ms. Sutherlin?

21 MS. SUTHERLIN: Yes.

22 MR. MACOMBER: I object to her testimony. She
23 was nowhere present in any of this investigation or
24 showed up for my unemployment hearing.

25 MR. GURVICH: Okay. What's the nature of the

1 testimony if we can delve into that?

2 MR. MACOMBER: And there is nothing in the
3 report too that she wrote or anything, statements.

4 MS. MCLEARY: Ms. Sutherlin was present during
5 the interviews of the employees and, with Mr. Patin,
6 helped conduct the investigation along with Mr. Patin.

7 MR. GURVICH: Okay. We are going to confine her
8 testimony to when she was present at the --

9 MS. MCLEARY: Yes, sir.

10 MR. MACOMBER: Okay. I'm sorry. I thought he
11 said that him and three other people made phone calls. I
12 didn't know they were all together on the phone call. So
13 I don't know how that's relevant.

14 MS. MCLEARY: We will get into the nature of her
15 involvement.

16 MR. GURVICH: We'll get into it. If we get too
17 far afield and she's -- we begin testifying about facts
18 of which she has no direct knowledge, then you can object
19 at that time, or I will make an objection myself.

20 Ma'am, you have been sworn?

21 MS. SUTHERLIN: Yes, sir.

22 MR. GURVICH: Okay. Counsel.

23 EXAMINATION OF MS. SUTHERLIN BY MS. MCLEARY:

24 Q. Thank you, Ms. Sutherlin. Can you identify yourself
25 for the board.

1 A. I'm Charlene Sutherlin. I'm the vice president of
2 human resources for Weiser Security.

3 Q. How long have you been employed by Weiser?

4 A. Eleven and a half years.

5 Q. Okay. How long have you been the vice president for
6 human resources?

7 A. About eight years.

8 Q. Okay. Are you familiar with an investigation of
9 Mr. Macomber?

10 A. Yes.

11 Q. And when were you made aware or how were you made
12 aware of the investigation?

13 A. Matt brought to me the initial finding from Tina
14 that the test scores were not graded correctly. And he
15 started the investigation.

16 I was involved with -- after the original five
17 people that were rescored that we found to be incorrect,
18 participated in an interview with Matt and Mr. Macomber
19 to go over what we found to find some sort of explanation
20 for it.

21 And then Matt continued on with his investigation,
22 and then I became involved again with a second interview
23 with Mr. Macomber and Matt to go over the entire findings
24 from the licensing investigation and our other internal
25 audits within the company.

1 Q. The nature of the first interview or first
2 conversation that you had, that you and Matt had with
3 Mr. Macomber, what was the nature of that conversation?

4 A. We wanted to bring Mr. Macomber in so that we could
5 find out, okay, what happened. We were just asking
6 questions about why were the test grades not accurate and
7 if he could have an explanation for it.

8 Originally, he told us he made some mistakes on the
9 grading. We looked at it and thought, okay, that could
10 be part of it, but, you know, if there were mistakes on
11 this first part, that's when we wanted to go back and
12 make sure that all the people he trained were graded
13 correctly just so that the records with the state were
14 accurate.

15 Q. Whose decision was that, to expand it beyond the
16 five?

17 A. It was mine.

18 Q. And was that done?

19 A. Yes.

20 Q. Okay. The nature of the second conversation, I
21 believe, you testified to was at the conclusion of the
22 investigation?

23 A. Yes.

24 Q. And what was the nature of that conversation with
25 Mr. Macomber?

1 A. You know, the first conversation, we wanted to
2 really find out what Mr. Macomber's side of the story
3 was. After we expanded the investigation, we learned
4 that there were a lot of instances of falsifying company
5 documents as well as what we found to be inaccurate
6 reports of testing to the state.

7 So we brought him in again to go through all of
8 these to see what the explanations were, to find out if
9 there were some way that we could continue on with
10 employment, because considering he denied everything, we
11 felt that it was in the best interest at that time that
12 we terminated employment.

13 So the second conversation was to go through and see
14 if he could explain it and figure out what was happening,
15 give him an opportunity to tell us what was going on, and
16 to, you know, fix the problems.

17 Q. Were you involved in conversations or the submitting
18 of the report to the state board?

19 A. No. Matt did that.

20 Q. Did you have any conversations with Mr. Rogillio or
21 Ms. Ryland about the investigation or Mr. Macomber?

22 A. No.

23 Q. Did you participate in any questioning or interviews
24 or conversations with the guards or employees that were
25 involved, outside -- other than Mr. Macomber?

1 A. I talked with Tina at the branch office, and I
2 talked to, you know, other staff employees.

3 Q. Did you talk to any of the guards who were tested
4 or --

5 A. No.

6 Q. Do you concur with Matt's findings? I believe it's
7 been testified that Matt had written this initial report
8 that's been submitted. Do you concur with the findings?

9 A. Yes.

10 Q. Do you have any concerns about the impartiality of
11 the information contained in the report?

12 A. No. Matt has done several audits at several
13 different branches, and we have never had any issues, you
14 know, pertaining to his partiality.

15 MS. MCLEARY: Thank you very much for your
16 testimony.

17 MR. GURVICH: Okay. Mr. Macomber, you have the
18 right to cross-examine, that is, ask questions of
19 Ms. Sutherlin.

20 MR. MACOMBER: Yes. Thank you, sir. I just
21 wanted a few things to clear up. I think Mr. Patin
22 testified that him, along with Charlene and some other
23 Human Resources, made phone calls to the guards and all
24 that. Am I correct on that testimony? because she just
25 said now she didn't do that.

1 MS. SUTHERLIN: No. I think Matt said that the
2 two human resource assistants and himself called the
3 employees, so those other two human resource assistants
4 are under me at the corporate office.

5 CROSS-EXAMINATION OF MS. SUTHERLIN BY MR. MACOMBER:

6 Q. And if they are under you, that means you are the
7 supervisor. Who gave him that direction to do that? I'm
8 mean, you are the boss.

9 A. I have already testified that I told them to do the
10 investigation.

11 Q. But you didn't talk to any guards at all?

12 A. No.

13 Q. Okay. When you called me in the office that day, do
14 you remember the first question you asked me?

15 A. The first or second meeting?

16 Q. The first meeting, the first question.

17 A. No.

18 Q. It had nothing to do with a prior branch manager,
19 Gary Marino, that had gone to another security company
20 and that you questioned my integrity, that I was talking
21 to him, meeting with him, and possibly going to take
22 clients?

23 A. I didn't question your integrity. I asked if you
24 were speaking with a former employee which we had already
25 said to all the employees in the area, please don't talk

1 to him about our current clients or current employees or
2 prospects that we were talking to.

3 Q. But that was the first question asked to me when I
4 was called into the so-called investigation of my
5 wrongdoing; the first thing, was I talking to an
6 ex-employee and possibly taking other work. That was
7 initial -- I believe that was the initial investigation.
8 That was the initial thing why you guys called me in,
9 because, when I didn't answer to you, that's when you
10 pulled out these statements. Is that a right statement?

11 A. We had already started the investigation with the
12 testing. That was just another piece that we were
13 looking into.

14 Q. Okay. Did I write a statement yet that day?

15 A. Yes, after the meeting, I believe.

16 Q. And did I write a statement the second day?

17 A. The second day or after the second meeting?

18 Q. The second meeting.

19 A. I think, after the second meeting, you wrote a
20 statement, yes.

21 Q. Where are those statements?

22 A. They are in there.

23 Q. I never got them. I never seen them after that. I
24 was told I couldn't see them at the unemployment
25 hearing.

1 A. You wrote this, didn't you? I don't know. I
2 thought Matt had them.

3 Q. And I was the only one that was audited?

4 A. No.

5 Q. Did you make the statement that the company was
6 audited also, including myself?

7 A. I made a statement the company was audited?

8 Q. You just said, I was audited and the company-wide
9 was.

10 A. I don't know what the question is.

11 Q. I just want to know, you know, I was the only one
12 audited, and we have how many instructors? That's all.

13 A. You weren't the only one audited. Matt went through
14 the New Orleans Branch to make sure that all the records
15 were accurate.

16 Q. And you have documentation to prove to the state
17 board and all, that everything is --

18 A. It was found that your testing was inaccurate. So,
19 I mean, Matt goes to all the branches. You know that's
20 so when you were employed. He goes to all the branches
21 and audits on a regular basis.

22 Q. Weren't some of these alleged tests that weren't
23 corrected right or people not trained, wasn't this, like,
24 back in like November and December and January? When I
25 say "November/December," I mean last year. And it came

1 to his attention in -- I'm sorry -- in July, and he had
2 been employed there since April.

3 A. Okay.

4 Q. I mean, I know why it caused the investigation, you
5 know, but why did he wait till July to look into an audit
6 on me and nobody else?

7 A. He didn't wait till July to look into an audit on
8 you and nobody else. That's when it was reported to
9 him. That's when he started his investigation. It
10 wasn't the first audit he had completed within the
11 company. He had previously done Baton Rouge before
12 July. So this -- he -- you know, when he -- we are on a
13 schedule to audit all branches, but when he gets a report
14 of something that happens, that's when he looks into it.

15 Q. And Tina Martin was at no time under investigation
16 by Weiser or by the board for her means of training and
17 the way she did things?

18 A. I have no idea if she is under investigation by the
19 board, but she was not --

20 Q. Nothing, nothing came to your office by the branch
21 manager Nicole or other managers that she was wrongfully
22 training people in the New Orleans office?

23 A. Not to my knowledge.

24 Q. Well, I remember giving you information on those
25 days that she was doing that, and she refused to teach or

1 she would put the camera on, the TV on. I remember all
2 those dates.

3 A. But you made complaints that she would not train new
4 hire employees. That does not mean she was doing
5 inaccurate training or inaccurate grading. There were
6 complaints about her not wanting to train, but there were
7 not complaints about the training that she did.

8 Q. Did the state board ever send documentations to you
9 or Matt in regards to Tina Martin and fines?

10 MS. MCLEARY: I'm going to object as to the
11 relevance of the line of questioning.

12 MR. MACOMBER: They're using -- they're using
13 Ms. Tina as evidence --

14 MR. GURVICH: Hold on. Let counsel finish her
15 objection.

16 MS. MCLEARY: I'm going to object as to
17 relevance of this line of questioning about Ms. Tina
18 Martin. I have not brought her here today as a witness.
19 I have -- I am not presenting anything that Ms. Tina
20 Martin has said. If he is going to question Ms. Tina
21 Martin's veracity, then that would only be relevant if
22 Ms. Tina Martin was here as my witness. I would object
23 to the relevance of just this whole line of questioning.

24 MR. GURVICH: Do you want to respond?

25 MR. MACOMBER: Yeah. I think the relevance is

1 that they put in their report and they both testified
2 that Tina Martin assisted in their investigation and
3 brought it to her attention that I was doing something
4 wrong, but, yet, she is not here today. So how can they
5 testify on what she said as far as --

6 MS. MCLEARY: I don't believe they're testifying
7 as to what she said.

8 MR. MACOMBER: They used her in the
9 investigation against me, ma'am.

10 MS. MCLEARY: I don't believe that Ms. Sutherlin
11 has just testified as to what Ms. Martin said.

12 MR. GURVICH: Well, but, of course, we allow
13 hearsay --

14 MS. MCLEARY. Correct.

15 MR. GURVICH: -- as long as it's relevant and
16 material.

17 MS. MCLEARY: As long as it's relevant.

18 MR. GURVICH: Right.

19 MR. MACOMBER: I don't see a report or nothing
20 from Tina.

21 MS. SUTHERLIN: Can I clarify Tina's role?

22 MR. GURVICH: Hold on one second. We've got to
23 get rid of this issue first.

24 BY MR. MACOMBER:

25 Q. I just don't understand, if Tina Martin brought this

1 to your attention and she helped you investigate by
2 grading these tests and calling people that didn't take
3 the test or didn't take my 16-hour course, why did she
4 write a statement? Why is she not here to testify? Why
5 wasn't she at my unemployment hearing to testify to
6 this? You guys are saying she did this. That's a key to
7 your investigation.

8 MS. SUTHERLIN: Can I clarify what Tina's role
9 was in the investigation?

10 MR. GURVICH: Well, okay, in one second. I want
11 a -- it's a procedural housekeeping matter on this. So
12 you've objected. He responded.

13 MR. MACOMBER: I mean, am I wrong?

14 MS. MCLEARY: I mean, I'm not going to answer
15 all of his questions.

16 MR. MACOMBER: I mean, I don't know. Am I
17 wrong? It's just, if --

18 MR. GURVICH: That's what we're trying --

19 MR. MACOMBER: -- someone accused me of
20 something, they should be here.

21 MR. GURVICH: That's what we're trying to
22 determine. Okay. For limited purposes, you had a
23 comment you thought might elucidate the --

24 MS. SUTHERLIN: I was just going to say, a
25 clarification of Tina's role was, she did not participate

1 in any part of the investigation, except to regrade the
2 tests, because we have to have a certified instructor to
3 grade the tests. That was her only role. She reported
4 the inaccuracy and then regraded the tests.

5 MR. GURVICH: Okay. Mr. Macomber, that's what
6 she said: She regraded the tests.

7 MR. MACOMBER: I must have misunderstood. I
8 just don't understand. If she was used to grade these
9 tests and that's why I was terminated, because I
10 allegedly falsified these tests, she should be here to
11 testify on that behalf. Okay?

12 How do we know she tested, had the scores right? We
13 have had very, very many, many falling-outs back and
14 forth about things. Okay. So then one day she just
15 wants to stay around to doing this and then you believe
16 it? How would you know she did anything right or wrong?
17 That's what I'm trying to get at.

18 MR. BAER: Do you have a statement; didn't you
19 have a statement from Ms. Martin?

20 MR. MACOMBER: No. That's just it.

21 MR. BAER: I thought you said they had one.

22 MR. MACOMBER: No. They use her in the
23 investigative report that Matt put in there that she did
24 this and she made a statement about them not getting the
25 right test scores and all that. Well, then they used her

1 in that investigation and she should be here so I can
2 question her and testify why -- you know, maybe she
3 lied. In my opinion, she did.

4 MS. MCLEARY: And Mr. Macomber could have
5 subpoenaed Ms. Martin, should he be concerned about --

6 MR. MACOMBER: But I shouldn't have to do
7 that --

8 MR. GURVICH: Well, hold on one second. My
9 concern is, I'm not saying that Mr. Macomber, that his
10 objection is fatal to your case, because our rules of
11 evidence do allow hearsay. But there does appear to be a
12 gap in the case here, at least as regards direct
13 testimony.

14 MS. MCLEARY: Correct. I had understood that
15 Ms. Martin was going to be here today, first off. She is
16 not. We do allow the hearsay testimony or hear -- have
17 actually actual testimony from Mr. Patin saying that he
18 met with Ms. Martin and what was related to him and what
19 action he took thereafter, as well as Ms. Sutherlin's
20 testimony as to a conversation with Ms. Sutherlin -- with
21 Ms. Martin and what action was taken thereafter. I can't
22 explain Ms. Tina Martin's absence today.

23 MR. GURVICH: Did y'all subpoena her?

24 MS. MCLEARY: No, we did not.

25 MR. GURVICH: Well, that explains it.

1 MS. MCLEARY: Well, but it was understood that
2 she was going to be here.

3 MR. DUPLCHAIN: Question.

4 MR. GURVICH: Mr. Duplechain.

5 MR. DUPLCHAIN: Didn't you say earlier that you
6 did make a mistake on scoring some of these tests?

7 MR. MACOMBER: No. I said I might have, but I
8 wasn't sure. They were threatening me to write something
9 on paper and you have to give me an answer because I
10 don't believe you, I don't believe you, and they kept on
11 me and on me.

12 I said, I could have made a mistake. I could have
13 wrote a 98 instead of a 96. And if you see some of these
14 test scores, if I gave them 100 and they got a 98 or if I
15 gave them a 96 and they actually got a 98, okay, they
16 passed the test. There was nothing done, you know,
17 intentionally anything wrong. All right?

18 MR. GURVICH: Well, let me ask you this: Is
19 there any doubt that, I believe, somewhere in the report,
20 42 people were found to have errors in the test?

21 MS. MCLEARY: They didn't all pass. One
22 actually was reported as a pass that was not.

23 MR. GURVICH: But only of those -- the correct
24 answers, had it been graded correctly, only one would
25 have resulted in a failure that was passed?

1 MS. MCLEARY: Correct, but there were 41
2 reported inaccurately.

3 MR. GURVICH: So it might have been a 96 percent
4 instead of a 100 percent.

5 MS. MCLEARY: Or 100 percent when it was -- down
6 the board when it was actually 96, 94, 98.

7 MR. GURVICH: But we're not affecting the
8 outcome --

9 MS. MCLEARY: I'm confused on this. One
10 affected the outcome. It was reported as 100 and it was
11 a 33.

12 MR. GURVICH: Ultimately, we are going into
13 intent here, you know.

14 MS. MCLEARY: Correct. I don't know what the
15 intent was when all of them were listed as 100s and they
16 did not. And I think, believe, testimony has been had
17 that they didn't look like they had been scored at all.
18 There was no notation in the score box. There were no
19 notations. They were reported as 100 when it was not in
20 fact 100.

21 MR. GURVICH: Clarification for the board: We
22 have a couple things going here. One is that the tests
23 were improperly graded, right?

24 MS. MCLEARY: Correct, yes, sir.

25 MR. GURVICH: We have an allegation that the

1 classroom, neither the individuals who were purportedly
2 in attendance weren't in attendance or that the number of
3 hours didn't actually achieve the stipulated required
4 number of hours?

5 MS. MCLEARY: No, sir. The way the training
6 comes in, and, actually, we're here on Mr. Rogillio's
7 denial of his application for an instructor for a
8 subsequent company.

9 MR. GURVICH: Right.

10 MS. MCLEARY: But only because Mr. Rogillio
11 relied upon this report are we getting into the
12 underlying matter. Yes. We are saying that he
13 improperly graded the tests as reflected in the report,
14 and that's what Mr. Rogillio relied on.

15 The second part about the classroom instruction or
16 the training is that a lot of these -- I don't even know
17 the exact number -- had to be retrained. I would have to
18 look at that. I think it's six had to actually be --
19 either one who had failed the test who had actually been
20 reported as a pass and then others had to be retrained
21 because it wasn't clear whether or not their training was
22 sufficient.

23 Mr. Macomber is now saying that the retraining
24 provided, as I understand it, the retraining provided was
25 inadequate and that it was six hours instead of eight or

1 it was -- it was inadequate in some ways. That's what
2 Mr. Macomber is claiming, that their retraining of the
3 guards was also inadequate.

4 MR. GURVICH: Well, here is a concern I have:
5 Looking at the Charge Letter of November 20, 2012, issued
6 by the board staff, can you glean from that letter the
7 particulars of the offenses alleged against
8 Mr. Macomber?

9 MS. MCLEARY: No, sir. That's why I put on the
10 testimony of Mr. Rogillio as far as what he relied upon
11 to make the determination that he found that Mr. Macomber
12 was not a person of good moral character or integrity.

13 MR. GURVICH: Well, reading the Charge Letter,
14 it tells me that you are put on notice that you've got to
15 attend this hearing. Where does it say what he did
16 wrong; in the Charge Letter, where does it say --

17 MR. ROGILLIO: He is not charged with anything,
18 Mr. Gurvich. We are here to hear his appeal.

19 MR. GURVICH: Right. We are hearing an appeal
20 from a denial.

21 MR. ROGILLIO: We are telling him -- we are
22 simply telling him in this letter that he has a right to
23 the hearing and that the board can also uphold the
24 denial.

25 MS. MCLEARY: And that he's been denied --

1 MR. GURVICH: But the denial is based on --

2 MR. ROGILLIO: Is based on this report.

3 MR. GURVICH: -- some presumed violation.

4 MS. MCLEARY: No, sir. The report --

5 MR. GURVICH: Well, yes, actually, ultimately.

6 MS. MCLEARY: Well, ultimately, I mean, but
7 Mr. Rogillio took the report and the totality of the
8 report into consideration before he made his decision
9 that he was not a person of good character to be licensed
10 as an instructor by the board.

11 MR. GURVICH: Okay. I see where you're going.

12 MS. MCLEARY: It wasn't -- it's not the
13 individual violation.

14 MR. GURVICH: The report, you have provided to
15 Mr. Macomber?

16 MS. MCLEARY: Yes, sir.

17 MR. GURVICH: With the Charge Letter?

18 MS. MCLEARY: Oh, no, sir.

19 MR. GURVICH: When did Mr. Macomber first see
20 the report?

21 MS. MCLEARY: I don't know.

22 MR. GURVICH: Mr. Patin, you had a comment or a
23 question?

24 MR. PATIN: Yes. He was sent a copy of the
25 report for his unemployment hearing. He filed for

1 | unemployment benefits.

2 | MR. MACOMBER: The day before.

3 | MS. MCLEARY: And when was that; that was weeks
4 | ago?

5 | MR. PATIN: Telephone hearing was conducted on
6 | October 19th. So he received it the day before. It
7 | would have been October 18th when he received it.

8 | MR. MACOMBER: Can I make a comment on that,
9 | please, sir?

10 | MR. GURVICH: Well, I'm just -- there is a very,
11 | very fundamental preliminary issue that I'm trying to
12 | overcome here, which is to say that, the nature of this
13 | proceeding is, it's an appeal from a denial of board
14 | staff action. But the board staff action has to be based
15 | on some reason, which ultimately is based on alleged
16 | misbehavior or violation of our rules, serious violation
17 | of our rules.

18 | I'm not -- I don't know for sure that he knew why he
19 | was coming here until he got this report.

20 | MS. MCLEARY: Mr. Rogillio's determination as to
21 | him being a person of good character is not necessarily
22 | solely based on or even maybe in part based on violations
23 | of rules or charge -- previous charges of violations of
24 | your rules.

25 | Mr. Rogillio's basis as far as the totality of his

1 background investigation into the application includes
2 and included this report from his previous employer. And
3 so Mr. Rogillio reviewed the application, and as part of
4 it, he reviewed the findings of Mr. Macomber's actions at
5 his previous employment as a licensed member of -- board
6 licensee. And he has testified that he took that into
7 consideration.

8 We did not outline the basis of Mr. Rogillio's
9 determination that he wasn't a person of good character.
10 We just said, Mr. Rogillio has decided that you do not
11 meet the suitability requirements to be an instructor
12 licensee and so, therefore, you are denied and you have
13 the ability to appeal that. We didn't outline everything
14 that went into Mr. Rogillio's determination of his
15 suitability.

16 MR. ROMERO: Mr. Chairman.

17 MR. GURVICH: Mr. Romero.

18 MR. ROMERO: I have no reason to question the
19 veracity or the accuracy of the report submitted by
20 Weiser Security Services. Quite frankly, at this point,
21 I have no reason to question the veracity or accuracy of
22 the testimony that this gentleman has provided.

23 I would feel more comfortable with making a ruling
24 on this if we had more testimony from someone directly
25 involved such as the individuals who had to be retrained

1 and retested. I think that testimony is material to this
2 case and the ability to make an accurate decision,
3 because it sounds like, to me, that we are basing that
4 denial on the information provided by an ex-employer.

5 But, again, I have no reason to question the
6 veracity or accuracy of that which has been reported,
7 same as I mentioned, with the testimony provided by him.
8 So I would have difficulty, based on what has been
9 presented here, to -- I'd have difficulty in upholding
10 the decision of the board staff based on the information
11 that has been presented.

12 MR. KENNEDY: Mr. Chairman.

13 MR. GURVICH: Mr. Kennedy.

14 MR. KENNEDY: I have a question. I notice, in
15 this report, it states that six persons only received one
16 day of training, not two as required by the board. My
17 question is, was a training certificate submitted to the
18 board for these six people showing classroom training day
19 one and classroom training day two, first eight hours and
20 second?

21 MR. PATIN: Yes, sir. The forms that were
22 submitted to our HR manager by Ron after conducting the
23 training were submitted to the board.

24 MR. KENNEDY: So, those six people, a training
25 certificate was submitted to the board that stated they

1 received two days of training, not one?

2 MR. PATIN: Yes, sir, yes, sir.

3 MS. VINSON: Did the students sign those
4 training documents as well?

5 MR. PATIN: No. They are not signed by the
6 students. It's just signed by the instructor.

7 MR. KENNEDY: It should be signed on the top.
8 There should be a line on the top half of the training
9 certificate with the signature of the student on it
10 attesting to the fact that those two days are correct.

11 MS. LOCKETT: Mr. Chairman.

12 MR. PATIN: Correct. They are signed on the
13 top.

14 MR. KENNEDY: So you do have one with their
15 signature on it saying they received two days of
16 training?

17 MR. PATIN: Yes, sir.

18 MS. VINSON: You might have an issue with some
19 of those officers falsifying their --

20 MR. PATIN: Sure.

21 MR. MACOMBER: Mr. Chairman.

22 MR. GURVICH: Bear with me a moment.
23 Mr. Macomber.

24 MR. MACOMBER: I just want to clarify that the
25 six people that Ms. Vinson just mentioned, those are the

1 six people retrained by Tina Martin, not me, and the
2 signatures on both two days, not me. That wasn't me that
3 did the retraining. This is after we had those six come
4 to Houma and do the retraining. That wasn't me.

5 MR. KENNEDY: That was my question.

6 MR. MACOMBER: Yeah. They did it, and they --

7 MR. KENNEDY: Did they submit a training
8 certificate from you showing two days of training?

9 MR. MACOMBER: Not from me on those six people,
10 because that was after the fact.

11 MS. SUTHERLIN: The original, they were
12 originally trained by Mr. Macomber --

13 MR. MACOMBER: The original, the original ones I
14 did back then like January and February --

15 MR. GURVICH: Hold on. One at a time.
16 Ms. Sutherlin.

17 MS. SUTHERLIN: So, yes. Upon original hire,
18 those six people, their original training was submitted
19 by Ron Macomber to the state. We retrained and
20 resubmitted the training documents again after we
21 retrained them, when we found that they were -- they said
22 they were not trained the full 16 hours.

23 MR. KENNEDY: The full class.

24 MS. SUTHERLIN: Right. We wouldn't have been
25 able to get them licensed if we haven't -- didn't show

1 the original training to begin with, so.

2 MR. GURVICH: I have -- I think there is some
3 sentiment here that there is -- the man's livelihood is
4 at issue. A key witness is missing, and there are some
5 other aspects to the case that I have from a different
6 perspective about the Charge Letter and the man receiving
7 the report today.

8 And I want to say that I think the report submitted
9 by Weiser is sterling. I mean, it's very good stuff.
10 And I concur entirely with Mr. Romero that I don't have
11 any -- take any issue with it whatsoever. But we are
12 dealing with a man's livelihood.

13 Just, and I throw this out as a suggestion. I think
14 we are missing some things here, and I don't suggest that
15 we start over. But I, for one, would be willing to
16 finish up hearing from witnesses that are here today and
17 continue the matter into the next hearing date, at which
18 point we will presumably have this missing witness and
19 Mr. Macomber would be able to cross-examine her and
20 whatever else needs to happen would happen.

21 I mean, I throw that out there. I may be shot down
22 very quickly, I don't know, but I just have some problems
23 with this, not anything to do with Weiser's internal
24 handling of this, which I think has been sterling.

25 MS. MCLEARY: I would not have any problem with

1 holding the record open for just that additional
2 testimony, should it be the board's pleasure.

3 MR. GURVICH: Ms. Vinson had a comment or a
4 question?

5 MS. VINSON: I think that we should also
6 identify some officers or students to bring in as well.

7 MR. GURVICH: I mean, yes. We need witnesses,
8 because we are dealing with the man's livelihood, and I
9 would be willing to entertain --

10 MS. VINSON: Yes. Not just one, a couple.

11 MR. KENNEDY: I would like it to be those six we
12 just talked about. They talked to us about that.

13 MR. GURVICH: Right. Okay. Well, let me make a
14 motion, then. And I will make a motion that we continue
15 with the hearing to receive testimony from all of the
16 witnesses present here today, but that we will not
17 conclude the hearing today. We will continue it to the
18 next board hearing day, at which point, presumably, the
19 state, and perhaps Mr. Macomber, will have the witnesses
20 present and whatever other documents and testimony so
21 that we can complete the hearing. Do I hear a second to
22 the motion?

23 MR. ROMERO: Second.

24 MR. GURVICH: Motion by Mr. Gurvich jointly
25 seconded by Mr. Duplechain, Mr. Romero, and Ms. Vinson.

1 Yes, sir. We have a motion on the floor.

2 Mr. Duplechain.

3 MR. DUPLECHAIN: I just wanted to see if you
4 could add maybe to make sure like the two human resource
5 people are here.

6 MR. GURVICH: Well, I'm going to let the
7 state -- I mean, and the board, there, is going to decide
8 and bring whatever witnesses she will. I would suggest
9 that we need people who can testify directly to these
10 events. But I heartily endorse Mr. Duplechain's, and, I
11 think, Mr. Kennedy's and Ms. Vinson's concerns about this
12 case.

13 MS. MCLEARY: Yes, sir.

14 MR. GURVICH: It's not part of the motion, but
15 it's your, your call.

16 MS. MCLEARY: Understood.

17 MR. ROMERO: Mr. Chairman.

18 MR. GURVICH: Mr. Romero.

19 MR. ROMERO: Should there be any consideration
20 given for a conditional approval of his ability to train
21 until such time as this issue is resolved? because we
22 are not going to meet until next year.

23 MR. MACOMBER: And I will be out of a job after
24 today.

25 MR. GURVICH: Well, so where are we? He applied

1 and was denied.

2 MS. MCLEARY: Yes, sir.

3 MS. VINSON: I'm okay with a conditional
4 probationary.

5 MR. GURVICH: All right. And then I will accept
6 an amendment to the motion, and in the interim, of the --
7 for the -- until the next board meeting, the
8 administrative staff board action be overruled and a
9 permit granted -- or license granted to Mr. Macomber for
10 the period through the next board meeting or continuation
11 thereof. Okay?

12 MR. ROGILLIO: First of all, let me say on my
13 behalf --

14 MR. GURVICH: Hold on. I need a second to the
15 motion.

16 MS. VINSON: Second.

17 MR. GURVICH: Okay. Motion as amended, second
18 by Ms. Vinson. Yes, sir.

19 MR. ROGILLIO: May I speak now?

20 MR. GURVICH: Yes.

21 MR. ROGILLIO: When I got this report, I have an
22 obligation to make sure that this matter is corrected
23 before a license is issued. And that's why we're here.
24 Mr. Macomber appealed my decision. I don't know
25 Mr. Macomber, have never met him prior to this. I have

1 | talked to him on the phone one time.

2 | So please understand, this is not anything against
3 | Mr. Macomber. It's simply doing what I think was the
4 | right thing to make sure that this is all corrected
5 | before this man is licensed. And I have no objections to
6 | him getting a license if y'all want to grant him one.

7 | MR. GURVICH: No. And no one here is
8 | insinuating that anything impro -- as far as I can see,
9 | all the parties to this, that is, Weiser and the state,
10 | have acted appropriately. But we are talking about a
11 | man's future livelihood. And so, and by the way, the
12 | granting of this license, assuming all other
13 | qualifications are met, it's only until this rehearing
14 | takes place, at which time a decision will be made on the
15 | license.

16 | Now, we have a motion on the floor. Any further
17 | debate or discussion?

18 | MR. DUPLECHAIN: Yes.

19 | MR. GURVICH: Mr. Duplechain.

20 | MR. DUPLECHAIN: One more thing: Would there
21 | possibly be a way, like the ones that he trains now, that
22 | the copy of the answer sheet is sent in with the training
23 | certificate?

24 | MR. MACOMBER: I have, the company I am with
25 | now, the HR present here, and I can do whatever the board

1 asks. I can make 15 copies. I can do everything --

2 MR. GURVICH: You will stipulate that that will
3 occur --

4 MR. MACOMBER: Yes, sir.

5 MR. GURVICH: -- if the motion passes?

6 MR. MACOMBER: Because you're -- this thing
7 today would let me know if I'm employed or not. I was
8 purposely hired to be state trainer and a firearms
9 trainer and do things like that. And if I can't do this,
10 then I don't have a job.

11 MR. BAER: You have those copies?

12 MR. DUPLCHAIN: No, he doesn't.

13 MR. BAER: You're talking about the ones he's
14 already --

15 MS. MCLEARY: In the future.

16 MR. BAER: You have those copies?

17 MS. RYLAND: In the future.

18 MR. DUPLCHAIN: They'll be doing it.

19 MR. MACOMBER: In the future, yeah, I'll take
20 care of that.

21 MR. BAER: Do you have copies of the ones you
22 have already done?

23 MR. MACOMBER: No. They took them all.

24 MR. BAER: You don't have those.

25 MR. MACOMBER: No. I haven't done nothing. I

1 haven't trained nobody since I was terminated from
2 Weiser. But I was hired by -- they're the company with
3 the conditions. They knew of my integrity, that you are
4 going to get this cleared up, Ron, don't worry about it,
5 you know, we will keep you afloat until this hearing
6 date.

7 MR. GURVICH: We have a motion on the floor.
8 All in favor of the motion as stated say aye.

9 ALL BOARD MEMBERS: Aye.

10 MR. GURVICH: Any opposed? The motion passed
11 unanimously.

12 Now, so we are going to continue, or we are going to
13 actually continue and keep open this hearing through the
14 next board meeting. But we have received testimony, and
15 so, these folks, we are not suggesting that any of this
16 has to be redone. But we are going to accept all the
17 testimony that's been delivered today.

18 Is there anything further in the way of your
19 witnesses that are here today that you want to present?

20 MS. MCLEARY: No, sir. I believe I'm done with
21 Ms. Sutherlin.

22 MR. GURVICH: So we have a gentleman who is here
23 at Mr. Macomber's behest to testify?

24 MR. MACOMBER: Yes, sir. I had trained him
25 earlier in the year and he was one of the six that was

1 called back to retrain and he would testify.

2 MR. GURVICH: Okay. Well, he's here.

3 MR. MACOMBER: Yes, sir.

4 MR. GURVICH: And I know he has spent a
5 significant part of his day to be here. Why don't we
6 receive his testimony while we're here and absolve him of
7 having to come back. Sir, if you would, come forward.
8 Be sworn if you haven't already. Find a mic somewhere
9 and --

10 MR. MACOMBER: Do you want me to be excused over
11 here?

12 MR. GURVICH: I'm sorry?

13 MR. MACOMBER: Do you want me to be excused so
14 he can sit here or?

15 MR. GURVICH: No. I mean, Any way you want to
16 handle it. Counsel, what do you want to do -- defense
17 witness?

18 MS. MCLEARY: Your pleasure.

19 MS. RYLAND: He can sit over there with them.

20 MR. GURVICH: Yes. You can sit over there and
21 use that mic. That makes it a little easier. Okay. You
22 have been sworn, sir? You haven't? Okay. Why don't you
23 give this lady your name and be sworn.

24 (Mr. Seth Becnel is administered the oath.)

25 MR. GURVICH: This gentleman is -- your name,

1 | sir?

2 | MR. BECNEL: Seth Becnel.

3 | MR. GURVICH: Becnel? Mr. Becnel?

4 | MR. BECNEL: Yes, sir.

5 | MR. GURVICH: Okay. Now, Mr. Macomber, he is
6 | your witness. You wish to ask him some questions,
7 | obviously?

8 | MR. MACOMBER: Yes, sir.

9 | DIRECT EXAMINATION OF MR. BECNEL BY MR. MACOMBER:

10 | Q. Seth, prior to being hired by Weiser Security
11 | earlier this year, I was the one who hired you?

12 | A. Yes, sir.

13 | Q. When you came to me, you brought a temporary blue
14 | card that was issued from another security company, and
15 | you said that you had the training, correct?

16 | A. Yes, sir.

17 | Q. I called the state board like I always do to verify
18 | your training, and it came back there was nothing on
19 | record; therefore, I retrained you?

20 | A. Yes, sir.

21 | Q. How many days did I train you?

22 | A. Two days.

23 | Q. And besides our lunch period, how many hours were
24 | you there?

25 | A. I was there for the full hours.

1 Q. And where did this training take place?

2 A. Houma in the LA Works.

3 Q. Did you sign in and sign out at the LA Works, saying
4 that you were there?

5 A. Yes, sir.

6 Q. When you were called by Weiser Security of one of
7 the six as they mentioned to be retrained, who trained
8 you that day?

9 A. The next trainer I went to was Ms. Tina.

10 Q. Did you try to question why you were being retrained
11 again and tell her that you did the proper training?

12 A. Yes, sir.

13 Q. And what was Ms. Tina Martin's statements to you?

14 A. She told me she didn't know why I was being
15 retrained, but I had to take the class anyway.

16 Q. What time did that class start on the first day?

17 A. I'm not really sure, but it wasn't around nine
18 o'clock. It was little bit after that.

19 Q. Were there problems with the DVD player so the
20 videotape can be played?

21 A. Yes, sir.

22 Q. So that made you not be able to start training until
23 about 10:45, 10:50?

24 A. Around that time.

25 Q. Did you take a lunch that day?

1 A. Yes, sir.

2 Q. And you returned?

3 A. Yes, sir.

4 Q. And you took a test?

5 A. Yes, sir.

6 Q. Was that eight hours?

7 A. No.

8 Q. When you asked about your test scores, what was

9 Ms. Tina's answer?

10 A. She told me, don't worry about that, that she will

11 do it.

12 Q. Okay. Second day, where was your training at?

13 A. LA Works Center in Houma.

14 Q. Did you sign in and sign out at the LA Works?

15 A. Yes, sir.

16 Q. How many hours did Ms. Tina train you?

17 A. It wasn't fully eight.

18 Q. About what time do you think you got out or started?

19 A. Started about ten and maybe left about three

20 o'clock.

21 Q. Have you been threatened or anything to give your

22 testimony today by either myself or Weiser Security?

23 A. No, sir.

24 Q. Okay. Do you know of any other guards, especially

25 the six, were threatened not to testify on my behalf or

1 talk to me in any way or they'd be terminated?

2 A. Not that I'm aware of, but I know that they are
3 afraid of retaliation.

4 Q. A field supervisor told you that she was not -- she
5 was told by Weiser manager not to talk to me, Randy
6 Favors?

7 A. Randy Favors, I have talked to her, and she said she
8 was not doing a statement.

9 MR. MACOMBER: That's all I have.

10 MR. GURVICH: Counsel, questions?

11 MS. MCLEARY: Yes, sir. If I could.

12 CROSS-EXAMINATION OF MR. BECNEL BY MS. MCLEARY:

13 Q. I believe you just testified that you didn't do the
14 full hours; you said you just weren't sure. I mean, do
15 you have -- you seem to recall that it started about ten
16 o'clock on the first day; was that your testimony?

17 A. Yes, ma'am. They didn't start at nine o'clock like
18 they were supposed to.

19 Q. Okay. Were you there at nine o'clock?

20 A. Yes, ma'am.

21 Q. Okay. What time were you there the second day?

22 A. Same time. I left work that morning at six and went
23 straight to Houma.

24 Q. Okay. And so, if I could --

25 MS. MCLEARY: I will show this to you too.

1 MR. GURVICH: What have we got?

2 MS. MCLEARY: It will be the sign-in sheets for
3 his training.

4 MR. GURVICH: Has that already been introduced,
5 or is that --

6 MS. MCLEARY: No, sir.

7 MR. GURVICH: That's No. 3?

8 MS. MCLEARY: Yes, sir. This is State 3.

9 MR. MACOMBER: I have some questions on that.

10 MS. MCLEARY: Okay.

11 BY MS. MCLEARY:

12 Q. If I could show this to you, was this -- identify
13 this for me. What does it say at the top?

14 A. "Training."

15 Q. "Training Attendance Sheet"?

16 A. Yes, ma'am.

17 Q. Can you read the date that's here?

18 A. 8/15/2012.

19 Q. Is this not the date that you received your first
20 day of training for Ms. Tina?

21 A. Yes, ma'am.

22 Q. Okay. Is your name listed on this sign-in sheet?

23 A. Yes, ma'am.

24 Q. Is that your handwriting?

25 A. Yes, ma'am.

- 1 Q. What time did you say -- what's -- the first section
2 here is your printed name, correct?
- 3 A. Yes, ma'am.
- 4 Q. And you sign it?
- 5 A. Yes, ma'am.
- 6 Q. And then you put the time in?
- 7 A. Yes, ma'am.
- 8 Q. And the time out?
- 9 A. Yes, ma'am.
- 10 Q. And you signed it?
- 11 A. Yes, ma'am.
- 12 Q. Okay. And what time did you say that you got there
13 that day?
- 14 A. Nine o'clock.
- 15 Q. And what time did you say you left that day?
- 16 A. About three.
- 17 Q. Does it say about three, or does it say three?
- 18 A. Three.
- 19 Q. Now, this next sheet too, could you identify that
20 one for me.
- 21 A. It's the same sheet as the first one.
- 22 Q. Okay. What's the date on that one?
- 23 A. 8/17/2012.
- 24 Q. Did you sign in on this one too?
- 25 A. Yes, ma'am.

- 1 Q. What time did you say you got there?
- 2 A. Nine o'clock.
- 3 Q. And what time did you say you left?
- 4 A. About three.
- 5 Q. Does it say about three, or what time does it say?
- 6 A. 3:50.
- 7 Q. Okay. I believe you heard Mr. Patin testify that
- 8 there were some problems that day?
- 9 A. Yes, ma'am.
- 10 Q. Was there a problem with the DVD player?
- 11 A. Yes, ma'am.
- 12 Q. Did you -- you stated you did break for lunch?
- 13 A. We had an hour for lunch.
- 14 Q. Okay. Did you have any other breaks?
- 15 A. No, ma'am.
- 16 Q. So when Mr. Patin testified that he cut out or that
- 17 they cut out the breaks to compensate for the time, that
- 18 would be correct?
- 19 A. Yes.
- 20 Q. Okay. And, on the second day, you said you left at
- 21 3:50 --
- 22 A. Yeah.
- 23 Q. -- right? Were there problems that day too?
- 24 A. Yes, ma'am.
- 25 Q. With what?

1 A. They still couldn't get the DVD player to work, and
2 after Mr. Ron left the LA Works Center, they called
3 Ms. Tina to the back to talk to her. So, by then, while
4 they were talking to her, we didn't do nothing in the
5 class. We waited.

6 Q. Mr. Ron was there that day?

7 A. They called him in.

8 Q. LA Works called Ron in?

9 A. No. Weiser called him in.

10 Q. Okay.

11 A. He went to the back. And then, after he left, they
12 called Ms. Tina to the back and they talked to her for a
13 while.

14 Q. Okay. And you and the students were in the
15 classroom?

16 A. Yes, ma'am.

17 MS. MCLEARY: Okay. This is State's 3.

18 (Exhibit S-3 marked.)

19 MR. GURVICH: Admitted without objection, I
20 presume? Okay. Mr. Macomber, you can redirect, that is,
21 again, ask questions of Mr. Becnel. But if you would,
22 confine them to the cross-examination.

23 MR. MACOMBER: Can I see the form again,
24 please?

25 MS. MCLEARY: Yes.

1 MR. GURVICH: I want to wrap this up.

2 MS. MCLEARY: I'm not quite -- I have a couple
3 more things.

4 MR. GURVICH: Well, okay. I'll allow recross,
5 but allow him to redirect.

6 MS. MCLEARY: No. I'm not done yet.

7 MR. GURVICH: Okay. You want to go back to
8 cross?

9 MS. MCLEARY: Yes.

10 MR. GURVICH: Okay. We are back to cross.

11 BY MS. MCLEARY:

12 Q. And are you currently still employed with Weiser?

13 A. Yes, ma'am.

14 MS. MCLEARY: And -- actually, no further
15 questions of the witness.

16 MR. GURVICH: Okay. You can ask questions of
17 Mr. Becnel, but please, we're trying to wrap this up and
18 confine to what testimony he just gave on cross.

19 MR. MACOMBER: Thank you, sir.

20 REDIRECT EXAMINATION OF MR. BECNEL BY MR. MACOMBER:

21 Q. Mr. Becnel, on the dates that you signed in here at
22 nine o'clock, and I understand there was problems with
23 equipment and training, did Tina Martin instruct you on
24 any kind of policies and procedures to be a licensed
25 security guard for the State of Louisiana?

1 A. Yes, sir.

2 Q. What was she talking to you about?

3 A. Like?

4 Q. Was she training you about how to be a guard, or was
5 it more of what you do wrong, we fire you here, we fire
6 you there?

7 A. It was about what to do. And then she told us about
8 what to do wrong and if she -- that it is her job to find
9 something wrong if we get fired so we won't get
10 unemployment.

11 Q. Okay. And I do see that you did sign in and sign
12 out, but I also see here, there's a few other students
13 that didn't sign in, nor did they sign out. Do you know
14 if they stayed there as long as you?

15 A. No, sir. After I was done my test and asked
16 Ms. Tina about my scores and never got them, I just left
17 and went home, because I was tired from working that
18 graveyard.

19 MR. MACOMBER: Okay. That's all I have.

20 MS. MCLEARY: One quick question.

21 MR. GURVICH: Very quickly.

22 RE-CROSS-EXAMINATION OF MR. BECNEL BY MS. MCLEARY:

23 Q. You had said what Tina had taught you that day. Are
24 you familiar with the curriculum?

25 A. Yes, ma'am.

1 Q. You are familiar enough to know exactly what
2 Ms. Tina is supposed to teach you that day?

3 A. Most of it.

4 Q. Most of it? Did you report to Weiser that you have
5 thought that Ms. Tina's training was inadequate?

6 A. I never talked to nobody about it, because, when I
7 asked them why I had to retake the test, they just told
8 me I had to. So I did it, and I was too tired to fight
9 with anybody after working eight hours that night and
10 then going for a class. I was too tired to fight.

11 Q. At any time after that day, though, you --

12 A. No.

13 Q. You didn't express any concerns about being
14 inadequately trained or?

15 A. No.

16 Q. You made mention of a couple of things, or
17 Mr. Macomber asked you about a couple of things that Tina
18 discussed that day. Did she -- you said she did discuss
19 the responsibilities of being a guard?

20 A. Yes, ma'am.

21 Q. What your job would entail?

22 A. Yes, ma'am.

23 Q. She -- what was expected of you --

24 A. Yes, ma'am.

25 Q. Both legally and by Weiser?

1 A. Yes, ma'am.

2 Q. Legal aspects, all of that was covered? What was
3 inadequate about the training, then?

4 A. I don't find how the way she talked about it and
5 just talked about what her job title was and this and
6 that. You know, how the way she talked to us.

7 Q. But was that really part of the training, or that
8 was her explaining to you who she was?

9 A. About the training, to me. I mean, like some stuff
10 she was training us on, and then when it came down to do
11 the work, like she made us do an incident report and we
12 were supposed to get people's names, and then she told us
13 all to shut up. But you asked us to get everybody's name
14 that was a witness to do the paperwork, but then you're
15 telling us to shut up about it. I mean, I don't find you
16 can train someone and then tell them to shut up when
17 we're trying to do the job, part of the training.

18 Q. Okay. And did you report that to anybody?

19 A. The bosses were there when she was doing all that.

20 MS. MCLEARY: Okay. Nothing further.

21 MR. GURVICH: I think that's it. Now, so we've
22 got this matter continued. What do y'all want to do?
23 These folks are under subpoena?

24 MS. MCLEARY: Yes, sir.

25 MR. GURVICH: What do you want to do, open?

1 Close? What? You need to begin?

2 MS. MCLEARY: Can I hold off and make that
3 decision at a later date considering who else we may
4 subpoena?

5 MR. GURVICH: We'll just say, part of the
6 motion, we'll consider --

7 MS. MCLEARY: We can resubpoena them if needed.

8 MR. GURVICH: We can resubpoena anybody or you
9 can hold subpoenas up. And we will entertain, we can
10 recall all the witnesses.

11 Are we finished with Mr. Becnel permanently, or do
12 you need him?

13 MR. MACOMBER: No. I'm fine.

14 MR. GURVICH: We can jointly agree to release
15 him from his subpoena?

16 MS. MCLEARY: Yes, sir. Yes, sir.

17 MR. GURVICH: Okay. Thank you for being here
18 today, sir. I know it's been a long day sitting over
19 there in the back, but I appreciate you being here.
20 Okay. Does that dispense with all the matters for us
21 today?

22 And I want to thank Weiser, who has done a wonderful
23 job on the investigation. This is a procedural issue
24 that, I think, goes to the heart of the man's right to
25 living. In other words, I think there is a gap in the

1 witnesses here. And it certainly, I think, is an
2 excellent investigation, appears to be.

3 And Mr. Rogillio and his staff, I think, basically,
4 I can't disagree with the way they acted based on the
5 information they had, but it was all hearsay. And
6 considering the gravity of what was before us today, I
7 think the board generally sensed that it was better to
8 continue the matter. Okay?

9 So we'll leave it at this. Everybody get your
10 witnesses in order and bring them back to the next
11 roundup. Okay? Thank you all for being here today.

12 MR. MACOMBER: Thank you very much, everybody.

13 MS. MCLEARY: Thank you, sir.

14 MR. GURVICH: Okay. Does that conclude
15 adjudications?

16 MS. MCLEARY: Yes, sir.

17 **LEGAL UPDATE/LEGISLATION**

18 MR. GURVICH: Okay. We've got Legal. Is there
19 any Legal Update?

20 MS. MCLEARY: No, sir. There is nothing to
21 report. The next legislative session is a limited budget
22 only session.

23 MR. GURVICH: Right.

24 MS. MCLEARY: I understand there is no --

25 MR. GURVICH: When are they going to meet?

1 February?

2 MS. MCLEARY: It starts, I believe, March 3rd or
3 4th is the beginning of the session, so if you would
4 choose before that time, we could maybe try to get
5 an author --

6 MR. GURVICH: Put in only five bills?

7 MS. MCLEARY: Yes, sir.

8 MR. GURVICH: Okay. Well, anybody who does want
9 to submit some legislation, we're going to need it to the
10 next board meeting.

11 MS. MCLEARY: Yes, sir. Mr. Ed Jackson, I
12 believe, has come up again. And I believe we are
13 reviewing the restraining orders and are considering --
14 or it's been asked for me to consider and review both his
15 recent activities as well as what was previously filed
16 prohibiting him from the security business. I believe
17 it's been brought to the board's attention or to staff's
18 attention that there may be some activities occurring
19 with Mr. Jackson as far as him practicing.

20 MR. GURVICH: And I assume you'll react
21 appropriately.

22 MS. MCLEARY: I'll most likely review filing,
23 make a filing summary.

24 **OLD BUSINESS, OFFICE STATUS REPORTS**

25 MR. GURVICH: Now, Old Business, Status Reports,

1 Office Status Reports, has everybody had a chance to
2 review office and financial? Any comments or questions
3 from board members?

4 **OLD BUSINESS, MISCELLANEOUS, TRAINING**

5 MR. GURVICH: Training, we were actually going
6 to have a committee meeting on training. Is Mr. Brooks
7 present today? And we have not forgotten about you, sir.
8 I still think that this merits further attention. How do
9 y'all want to handle it?

10 MR. ROGILLIO: Well, he is here. He is here
11 today. The last meeting, he was not able to make it, and
12 so we put it back on the agenda. I think he wants to
13 address the full board to explain his circumstance here.
14 So that's why we put it on the agenda.

15 MR. GURVICH: Okay. Let me ask you this: Do we
16 have any other New Business?

17 MR. ROGILLIO: No, sir.

18 MR. GURVICH: So, Miscellaneous, so we really
19 just have to hear from Mr. Brooks, Determine the Next
20 Board Meeting, and Questions From the Public.

21 All right. Mr. Brooks, thank you for being here
22 today. If you would, come forward, find a mic, and speak
23 your piece.

24 MR. BROOKS: I'd like to address the board.
25 Good evening, everybody. My name is Troy Brooks. I am

1 | the training instructor for Diamond Training Center, and
2 | I am also the president of the State Law Awareness
3 | Association and certifications coordinator.

4 | My reason here for today is to implement a
5 | curriculum for instructors. I talked to Mr. Wayne.
6 | There were only one other entity entered into the boards
7 | to enter their curriculum, and that was the NRA.

8 | So on April '12, I incorporated, me and my wife
9 | incorporated -- on the 12th of April, 2012, incorporated
10 | State Law Awareness Association to abreast every citizen
11 | of the state of any laws, documents, policies and
12 | procedures that are documented by the state governmental
13 | agencies to aware the citizens. We all are citizens of
14 | the state, so everybody should get a chance to be
15 | properly educated.

16 | That's pretty much what I'm here today to do is to
17 | show you a curriculum. The curriculum was asked to be
18 | sent to the board. I made copies of the curriculum. I
19 | don't know if all the board members have the curriculum
20 | there. Do y'all have the curriculum, guys?

21 | MR. GURVICH: Yes. We have it in our packet.
22 | Is that this document, sir?

23 | MR. BROOKS: Yes, sir. The first thing I would
24 | like to do is -- let me get some stuff together right
25 | quick -- is do an introduction on myself. I am

1 | home-grown. I am from Louisiana. I am from Marrero,
2 | Louisiana. I started this business when I graduated from
3 | Indiana State. So I left and went abroad and got my
4 | education from Indiana State University.

5 | I am a first generation college graduate. That was
6 | a feat that I had to overcome. Opening up a security
7 | company around the age of 25 years old, that was another
8 | feat that I had to overcome. So all you guys sitting on
9 | the board and the panel started from somewhere.

10 | There was a curriculum that was put together. If
11 | you worked on a police department or you worked for a
12 | security agency or you were a security guard, you were
13 | supposed to be submitted a curriculum and it was tested
14 | and, hereby, and that's what y'all just were discussing
15 | on some of those issues today.

16 | So saying somebody is home-grown, if you had an
17 | issue with a instructor licensed to be an instructor,
18 | information will be submitted from the State Law
19 | Awareness. I have it documented.

20 | And, also, too, there are continuing education hours
21 | that are required by an instructor, by the NRA, and,
22 | also, there will be requirements expected for the
23 | instructors to hereby to be a State Law Awareness
24 | instructor.

25 | That information would be some submitted to the

1 board. If any instructor that has a discrepancy of
2 training hereby the board deemed their license, they
3 would no longer be an NRA or a State Law Awareness
4 Association instructor. They have to abide by the
5 policies and procedures.

6 (Mr. Cotton leaves room.)

7 MR. BROOKS: Guys, when I started this business,
8 I was in my 20s. My birthday, soon, I will be 44. I
9 started this business. I was 24. I never had any
10 financial backing from any agencies. I have always did
11 the right thing and the best thing I could possibly do.

12 Right now I found a discrepancy on some federal
13 dealings with firearms. I have never not challenged
14 something that needs to be challenged that is written in
15 the books. So if it's written in the book, guys, I
16 understand that you guys will always implement it and do
17 it by the book.

18 I will go over the curriculum. The curriculum helps
19 the private citizens to understand what is expected of
20 them with the statutes. We have a young man that shot a
21 young man, and we are still are dealing with voting
22 rights, women rights, segregation, desegregation, gay
23 marriages. When there is something new, there's
24 questions. So, guys, I understand, if nobody never
25 submitted this information before, it is new.

1 MR. GURVICH: Mr. Brooks, let me ask you
2 preliminarily.

3 MR. BROOKS: Yes, sir.

4 MR. GURVICH: I see it's pretty much
5 self-explanatory information.

6 MR. BROOKS: Yes, sir.

7 MR. GURVICH: It does seem to cross a very wide
8 number of different fields, of which we are only one --

9 MR. BROOKS: Yes, sir.

10 MR. GURVICH: -- that is, the training of
11 security guard firearms instructors as it regards us.

12 MR. BROOKS: Yes, sir.

13 MR. GURVICH: And my question is: What is it
14 that you wish us to do? because I'm looking at a
15 concealed carry course, a federal ICE course, some things
16 that -- and a P.O.S.T. Council course that don't directly
17 relate to anything that we have authority over. I mean,
18 help me there.

19 MR. BROOKS: Okay. Good question. The
20 information that the instructor will learn, he will be
21 able to aid anybody that's in the state, that lives in
22 the state or as an instructor for your business -- I will
23 give you an example. If Vinson wanted to have an
24 instructor in firearms, that instructor will go to this
25 curriculum. That curriculum can help them better train

1 the officers in the state law.

2 He is going to have state law and revised statute
3 laws on deadly force five days out of that week. Also,
4 he would know the curriculum of any other entity outside
5 of the security examiner board, make him a broad aware --

6 MR. GURVICH: I got you. Let me ask for some
7 input from Chief Rogillio.

8 I mean, that's the concern I have. This cuts a
9 broad swathe across a lot of different state agencies and
10 federal agencies. How would you respond? In other
11 words, I assume Mr. Brooks wants us to approve this as a
12 training guideline in curriculum for state board firearms
13 instructors?

14 MR. BROOKS: Yes, sir.

15 MR. GURVICH: So how would you respond to that?

16 MR. ROGILLIO: Well, when I first met with
17 Mr. Brooks regarding this issue, it was my understanding,
18 and correct me if I'm wrong, at that point, he wanted to
19 introduce this association to be accepted for training
20 instructors. Is that not right?

21 MR. BROOKS: That's correct, sir.

22 MR. ROGILLIO: And what that's going to mean is,
23 we now use P.O.S.T. -- are y'all familiar with P.O.S.T.?
24 -- we use NRA, and Department of Energy. I have never
25 seen the Department of Energy, but we use P.O.S.T. and

1 NRA predominantly in this industry for instructors to be
2 trained.

3 MS. VINSON: For firearms instructors, right?

4 MR. ROGILLIO: Firearms. And I think what
5 Mr. Brooks was wanting is this to be accepted as well as
6 NRA and P.O.S.T. That's going to take legislative
7 action.

8 MR. GURVICH: Well, legislative or the rules?

9 MR. ROGILLIO: No. It's legislative. It's in
10 the law.

11 MR. GURVICH: A change in the legislature.

12 MR. ROGILLIO: Yes, sir.

13 MR. GURVICH: The statutes.

14 MR. ROGILLIO: You have to be NRA or P.O.S.T.
15 certified before you can become an instructor for us,
16 yes, sir.

17 MR. GURVICH: So we don't have the authority to
18 change the statutes. We can make rules and regulations
19 pursuant to guidelines in the statutes, but we cannot go
20 in and change state law. You have to go to the state,
21 before the state legislature, their committees, Criminal
22 Justice or something like that, and bring this document
23 to them and get the law changed.

24 MR. BROOKS: Okay.

25 MR. GURVICH: We don't have authority to change

1 the law. We have the authority to change administrative
2 rules and regulations. But you need to go to a higher
3 authority than us for this.

4 MR. BROOKS: I will, sir.

5 MR. GURVICH: I certainly appreciate the time
6 and effort you devoted to doing this.

7 MR. BROOKS: Okay.

8 MR. GURVICH: And maybe down the road, as things
9 develop, something may come of it. I just don't think we
10 can grant you the authority to say that this is going to
11 qualify one, you know, completing this curriculum is
12 going to qualify one to be a state board instructor. Am
13 I correct in saying that?

14 MR. ROGILLIO: He can be an instructor. He's
15 talking about training other instructors.

16 MR. GURVICH: You can certainly be an
17 instructor. You to have to go through existing state
18 law, state board requirements to be an instructor. Now,
19 if you do that, you can certainly be a -- I think, to get
20 this approved in the manner and the way you want it, you
21 have to go before the state legislature. If you want to
22 be a state board firearms instructor --

23 MS. RYLAND: He already is.

24 MR. ROGILLIO: He already is.

25 MR. GURVICH: Okay. So you're done there. And

1 in terms of the -- then there's the concealed carry. Is
2 he automatically a concealed carry instructor?

3 MR. ROGILLIO: That's a separate facility.
4 State police. He's concealed also.

5 MR. GURVICH: I think that's where we are. I
6 mean, we can't grant what you wish, because we don't have
7 that power.

8 MR. BROOKS: That's fine, sir.

9 MR. GURVICH: You need to go find a legislator
10 and to proceed with this and get in the right committee
11 and then bring it before the legislation --

12 MR. KENNEDY: Legislature.

13 MR. GURVICH: What am I trying to say? Whatever
14 branch --

15 MR. BROOKS: I would like to make a comment. I
16 am just introducing myself. It was my birthday on
17 Sunday. I have went through the hearings. I've watched
18 all the hearings today.

19 Guys, y'all can lighten up a little bit. This is --
20 I'm proactive. I'm proactive in this field. I've
21 trained for some of you guys' company, and I know where I
22 started at. And I look at now. And I shared this with
23 Ms. Jane. There are some people that are not here
24 anymore that were living that are deceased. Guys, we are
25 not going to be here forever.

1 If we had a state of emergency in this state, guess
2 what, if we had to subpoena somebody or get somebody from
3 the NRA, do you know how long it's going to take them to
4 get here, and we will be postponing meetings forever and
5 ever and ever.

6 MR. GURVICH: Those are legitimate concerns. We
7 just don't have the power to act on them.

8 MR. BROOKS: That's correct. So I will make the
9 necessary steps on behalf of the integrity of the
10 security examiner board to try to further this matter.
11 If you guys are interested, the State Law Awareness
12 Association, guys, if it's documented, this board, guess
13 what: These days and times, people can read. They are
14 going to read that information.

15 What I did, we will have an Impact Program. What's
16 going to happen -- I had a young man that shot a
17 gentleman at a nightclub. And they, the media, blowed
18 this thing out of proportion. "Oh, he shot this young
19 man because he was black." No. He shot him because of
20 the law.

21 And everybody who comes through my training
22 facility, they know that I sit down with them personally
23 and show them the laws and I show them physical evidence
24 of what could be done. I just think, on behalf, I
25 probably will come, will try to come once a year and have

1 | some proactive stuff for training where we guys can maybe
2 | get out in the parking lot on training sessions, put some
3 | scenarios together, get some input from some of you guys
4 | of our profession.

5 | We have judges on staff, a Judge Lee Faulkner down
6 | in Gretna. We have several state troopers, guys that I
7 | went to school with. Everybody that I am pretty much
8 | affiliated with is in some type of law enforcement, and
9 | their integrity is there. The integrity is there for the
10 | security officers, because, guess what, we wouldn't be
11 | here right now if we didn't have integrity for the
12 | security officers.

13 | The more training that we have, we have discussed
14 | numerous issues on what officers can carry on their duty
15 | belts. We should bring in specialists to present their
16 | information and their findings on their --

17 | MR. GURVICH: We agree with everything you say,
18 | but I think, for time limitations, we've got to move on.

19 | MR. BROOKS: Sure.

20 | MR. GURVICH: Certainly, we thank you for
21 | appearing here today.

22 | MR. BROOKS: Yes, sir.

23 | MR. GURVICH: And I look forward to seeing how
24 | things develop at the legislative level.

25 | MR. BROOKS: Yes, sir.

1 MR. GURVICH: But just for the purposes of --
2 we've got to keep things moving here.

3 **DETERMINATION OF DATE AND TIME OF NEXT MEETING**

4 MR. GURVICH: I think we are at the point where,
5 chief, if I'm correct, we need to set a date and time for
6 the next board meeting. And that could have to do with
7 the March 4th, you know -- is that a special session?

8 MS. MCLEARY: No, sir. It's a budget session.

9 MR. GURVICH: It's a little earlier than usual.

10 MS. MCLEARY: It's a fiscal only. It is a
11 little bit early, but it's not a special one.

12 MR. GURVICH: Is there any sentiment to the
13 meeting in February? When is Mardi Gras?

14 MR. ROJAS: Mardi Gras, February 12th.

15 MR. GURVICH: Meeting after Mardi Gras? Before?
16 How about, anybody, late February?

17 MS. RYLAND: Oh, wait. We've got a date.

18 MR. GURVICH: I thought you would.

19 MR. ROGILLIO: Tentatively looking at the 14th,
20 which is a Thursday, of February or the 21st of February.

21 MR. GURVICH: I will be out of town on -- the
22 21st? Thursday, the 21st, 9:30 a.m. in the board
23 office. So moved. Do I hear a second?

24 MR. KENNEDY: Second.

25 MR. DUPLECHAIN: Motion by Mr. Gurvich, second

1 by Mr. Kennedy and Ms. Vinson. All in favor of the
2 motion as stated say aye.

3 ALL BOARD MEMBERS: Aye.

4 MR. GURVICH: Motion passes unanimously. Now,
5 so we did cover New Business. Any New Business?

6 MS. MCLEARY: No, sir.

7 **QUESTIONS/COMMENTS FROM THE PUBLIC**

8 MR. GURVICH: Questions from the Public.

9 MR. ROGILLIO: What about the committee
10 meeting?

11 MR. GURVICH: With regards to?

12 MR. ROGILLIO: Well, I don't have anything to
13 submit, but I'm just asking in case there's some
14 something that comes up for legislation.

15 MR. GURVICH: Well, you will have, on the 21st,
16 you will have two weeks before the session opens. So you
17 will be -- now, if you certainly want to prepare
18 something and present it to the board --

19 MR. ROGILLIO: I don't have anything. I just, I
20 want to make sure that we have enough time.

21 MR. GURVICH: Let me say this. It's probably as
22 good a time as any if the stars are aligned properly if
23 we want to try and get something passed.

24 **QUESTIONS FROM THE PUBLIC**

25 MR. GURVICH: Questions from the Public. In

1 addition to Mr. Brooks, is there anyone else who will
2 care to come forward and address the board with any
3 issues or concerns that you may have? Well, there being
4 no takers, do I hear a motion to adjourn?

5 MR. DUPLCHAIN: Second.

6 MR. KENNEDY: So moved.

7 MR. GURVICH: Who was that? Mr. Kennedy.

8 Seconded by Mr. Duplechain and various other board
9 members. Everyone, thank you.

10 MR. ROGILLIO: I wish everybody a Merry
11 Christmas and a Happy New Year.

12 (End of proceedings.)

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C E R T I F I C A T E

1
2
3 I, Annette Ross, Certified Shorthand Reporter in and
4 for the State of Louisiana, do hereby certify:

5 That the proceedings as herein before set forth in
6 the foregoing 155 pages was reported by me on
7 stenographic machine shorthand, transcribed by me, and is
8 a true and correct transcript to the best of my ability
9 and understanding;

10 That I am not of counsel, nor related to any person
11 participating in this cause, and am in no way interested
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