

1 **LOUISIANA STATE BOARD OF PRIVATE SECURITY EXAMINERS**
2 **SPECIAL BOARD MEETING**

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

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16 May 15, 2013

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21 Reported By
22 ANNETTE ROSS, CCR, RPR

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APPEARANCES

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BOARD MEMBERS:

- 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
- James H. "Chip" Romero, Member at Large
- Christine Vinson, Member at Large

COUNSEL:

- Frank D. Blackburn, Esq.

BOARD STAFF:

- Mr. Wayne R. Rogillio
- Ms. Jane Ryland
- Mr. Dickie Thornton

Reported by: ANNETTE ROSS, CCR NO. 93001,
 Certified Court Reporter, in
 and for the State of Louisiana

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F.E.S.S., INC. -- Discussion of Settlement of Pending
Lawsuit.

QUESTIONS/COMMENTS FROM THE PUBLIC9

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TRANSCRIPT OF PROCEEDINGS

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MR. GURVICH: Welcome everyone to the special meeting of the Louisiana State Board of Private Security Examiners. Will everyone who is assembled here rise. Chief, would you lead us in the Pledge followed by a brief moment of silence.

MR. ROGILLIO: Yes, sir.
(Pledge of Allegiance, followed by a brief moment of silence.)

MR. GURVICH: Thank you. May we have a quorum call, please.
(Roll call.)

MR. GURVICH: Okay. There being a quorum present, let's proceed. Chief, I know that we have to go into executive session.

We have a bunch of folks who have a lot of questions, and you all, I think, on the agenda call for a questions or from public or comments. Would it be in order, I think -- we have a bunch of folks here -- to see if they want to speak their piece or anything of that nature?

MR. ROGILLIO: That's entirely up to the board. If you want to reverse that order of the agenda, that's fine.

MR. GURVICH: Well, first of all, we need a

1 motion to waive the reading of the minutes of the
2 previous meeting.

3 MR. ROMERO: So moved.

4 MS. VINSON: So moved.

5 MR. GURVICH: Any debate/discussion? All in
6 favor? The motion passes unanimously.

7 Questions From the Public. I know there
8 are a bunch of folks here. If y'all would like to come
9 forward, address the board. We're going to go into
10 executive session to discuss a lawsuit shortly, in which
11 case we will have to ask everybody to please leave the
12 hearing room. So if you have a comment or a question,
13 come on up and let us hear your concerns or comments.
14 Chris? Marian? Anybody? That was quick.

15 MR. DUPLECHAIN: Can you go into executive
16 session on a special hearing?

17 MR. GURVICH: Yes. We have researched it. Oh,
18 by the way, I would like at this point to introduce Glenn
19 Adams, who is our counsel. He is with Pankel (sic) --

20 MR. ADAMS: Porteous, Hainkel and Johnson.

21 MR. GURVICH: -- Porteous, Hainkel and Johnson.
22 The name has changed in the few times during the years
23 that I have known the firm. And he was handling the
24 F.E.S.S. case.

25 And so, Frank, what are your -- the order

1 by which we go into executive session, I believe I'm
2 supposed to announce the reason therefore, and then we --
3 is that a two-thirds motion?

4 MR. BLACKBURN: Yes.

5 MR. GURVICH: Am I missing anything?

6 MR. BLACKBURN: No. You have to announce the
7 case you want to discuss in executive session.

8 MR. GURVICH: Okay. Well, if there is no
9 business that anyone would like us to address, other than
10 the case, then I would like at this point to open the
11 floor for the purpose of a motion to go into executive
12 session. Said motion will require a two-thirds vote for
13 the purpose of discussing and authorizing the settlement
14 in the matter known as?

15 MR. ADAMS: F.E.S.S. versus the Louisiana State
16 Board of Private Security Examiners.

17 MR. GURVICH: Right. "F.E.S.S." standing for?

18 MR. ADAMS: It's F.E.S.S., Inc., is the subject.

19 MR. GURVICH: F.E.S.S., Inc., is the name of the
20 case. Do we have a case number? I will put it on the
21 record just for the sake of -- well, we'll have to -- it
22 has to do with our administrative case and the legal
23 case. So -- I don't know -- do we number our cases?

24 MS. RYLAND: The legal number.

25 MR. ROGILLIO: No, sir. The Case Number is, as

1 I state, 618-152.

2 MR. GURVICH: That's on the legal side?

3 MR. ROGILLIO: Yes, sir.

4 MR. GURVICH: Okay. And the administrative
5 side, the board side, is that case numbered as well?

6 MS. RYLAND: No.

7 MR. GURVICH: Okay. So we will just go with the
8 state case number. All right. The floor is open. Do I
9 hear a motion to go into executive session for the
10 purpose of dealing with F.E.S.S. versus State Board?

11 MS. VINSON: So moved.

12 MR. GURVICH: Okay. We have a motion by
13 Ms. Vinson.

14 MR. ROMERO: Second.

15 MR. GURVICH: Second by Mr. Romero. Debate?
16 Discussion? The motion requires a two-thirds majority.
17 All in favor say aye.

18 ALL BOARD MEMBERS: Aye.

19 MR. GURVICH: Any opposed? The motion passes
20 unanimously. I would now ask the staff in the most
21 polite way possible to please ask everyone to depart the
22 hearing room. Certainly, you are more than welcome to
23 have some doughnuts or some coffee in the back. And then
24 we will begin with our executive session.

25 (Executive session 9:47 a.m. to 11:03 a.m.)

1 MR. GURVICH: All right. So we're back on the
2 record. I'd like to make a motion -- tell me if I miss
3 anything -- That the board hereby authorize our counsel
4 to enter into negotiations and, if possible, confect a
5 settlement with the attorneys for F.E.S.S. in an amount
6 not less than the amount determined and agreed upon by
7 the board in executive session;

8 And, further, that the stipulations, or the
9 order -- well, the settlement include the original order
10 requirements that an audit and a probationary period be
11 assessed for six months now to be -- to begin running
12 from the date that the judgment is signed dismissing the
13 case, and all of this to be understood that we are not
14 offering a partial settlement in any wise and this is,
15 the case is only to be settled fully and finally on
16 the -- for not less than the terms and conditions that we
17 proposed.

18 Do I hear a second to the motion?

19 ALL BOARD MEMBERS, EXCLUDING MR. COTTON:

20 Second.

21 MR. GURVICH: Motion by Mr. Gurvich, seconded by
22 everybody on board, except Donald Cotton, but unless --

23 MR. DUPLCHAIN: Let's do a roll call vote.

24 MR. GURVICH: We're not going to do a roll call
25 on a second, no.

1 MR. DUPLECHAIN: No, no. No, no.

2 MR. GURVICH: Debate? Discussion? All in favor
3 of the motion say aye.

4 ALL BOARD MEMBERS:

5 Aye.

6 MR. GURVICH: Do you want to do a roll call on
7 the motion? Go ahead.

8 (Ms. Ryland polls board members.)

9 MR. BAER: Aye.

10 MR. COTTON: Yes.

11 MR. DUPLECHAIN: Yes.

12 MR. GURVICH: Yes.

13 MR. KENNEDY: Yes.

14 MR. ROMERO: Yes.

15 MS. VINSON: Yes.

16 MR. GURVICH: The motion passes unanimously.

17 Now, is there anything further we need to do as regards
18 this case?

19 **QUESTIONS FROM THE PUBLIC**

20 MR. GURVICH: And the agenda, Questions From the
21 Public, which we already handled. Well, the public is
22 here. Any questions from the public? I'll ask again.

23 Ms. Pierre. If you would, let this lady --
24 give this lady your name, and we will get you on the
25 record.

1 MS. PIERRE: Hi. Marian Pierre.

2 My question is just -- I know that you all
3 had executive session, and I think we are here today to
4 find out what your decisions were. We may not know. You
5 may not be able to give us the amount, and we are not
6 interested in that. But we would like to know what the
7 decision of the board was for somebody who violates the
8 board rules and regulations as this company has.

9 And, you know, because I have been in
10 business 20 years, and I have seen you guys take license
11 for less than this company has done, so my question then
12 becomes, if you are our policing agency, if you are the
13 people that protects the security industry, then how can
14 we let people do this and not do anything but say they
15 will have to -- they will have to pay a fine?

16 There should be some harsher measures
17 that's taken. And as I said, I have seen -- maybe not
18 you guys, but I have seen you guys sanction people, issue
19 a cease and desist for much less than what has happened
20 with this company.

21 And I would just like to know, in your
22 wisdom making these decisions, how does that affect us
23 going forward? because if one person gets away with it,
24 then a lot of others will also.

25 MR. GURVICH: Well, let me suggest this first

1 off, without mentioning actual numbers.

2 MS. PIERRE: Okay.

3 MR. GURVICH: The board is not backing off on
4 its findings that any single violation was committed; in
5 other words, we believed at the conclusion of the
6 fact-finding hearing that 159 violations were committed,
7 and we -- what you can't know, but just so I can tell
8 you, we are not suggesting that we were wrong in any wise
9 in terms of the findings.

10 We are only proposing this case be settled
11 on the condition that all 159 violations are still on the
12 record. We are not retreating from that one iota. The
13 only thing we are doing is changing numbers as regards to
14 the stipulated fines. Now, the other provisions as to
15 the audit and as to the probation, they are also not
16 being altered.

17 Now, having said that, counsel will propose
18 these to F.E.S.S., which is free to accept the
19 conditions, all of the conditions. They are not free to
20 accept some of the conditions. F.E.S.S. can accept it,
21 or we can try the case, and we are prepared to do that.

22 So this is still a very hefty fine, and we
23 are not backing off any single thing that we determined
24 to be valid at the previous meeting. We are still
25 proposing nothing more than that the sum of the

1 stipulated -- the stipulated fines be reduced. The rest
2 would remain as it was determined at the time.

3 MS. PIERRE: Meaning -- and I just want to make
4 sure I'm clear on what you're saying. Meaning the
5 probationary period --

6 MR. GURVICH: Stands.

7 MS. PIERRE: And meaning that they will be
8 monitored during the probationary period --

9 MR. GURVICH: By an audit. Stands.

10 MS. PIERRE: -- to make sure that they are not
11 continuing to violate the same --

12 MR. GURVICH: Stands.

13 MS. PIERRE: -- thing?

14 MR. GURVICH: Still subject to an inspection
15 anyway, and they will have an audit. All that stands.
16 We didn't back off that at all.

17 MS. PIERRE: Okay. So I guess what I'm saying
18 is that I know you will do an audit and stuff like that.
19 For the people I don't register at all, how do you audit
20 those? Do you send an investigator down when I am having
21 something to see if I'm in compliance, or what do you do?

22 MR. GURVICH: Chief, Dickie, how do y'all do
23 that? How do you respond where there is nothing?

24 MR. ROGILLIO: That's the normal process.

25 MR. GURVICH: We check payroll records.

1 MS. PIERRE: Yeah, but, once again --

2 MR. GURVICH: I mean, if you are paying people
3 cash, could you beat the system? Well, you might.

4 MS. PIERRE: Well, I'm not suggesting they are
5 doing that, but there are various and sundry ways of
6 doing things. And I'm just wondering -- and I know that,
7 you know, we have an investigator. And I'm just
8 wondering if you all plan to employ some of those things
9 that we have, the tools that you have to make sure that
10 they are in compliance.

11 MR. GURVICH: Absolutely. Nobody is backing off
12 any of -- and the probationary conditions all apply. So
13 we may have this case settle, we may not. But we didn't
14 back off a single finding of fact that we determined at
15 the initial hearing.

16 Anything further? Anybody else? Sir, and
17 if you would, give this lady your name.

18 MR. BOURGEOIS: Jason Bourgeois. Jason
19 Bourgeois, Signal 88 Security.

20 COURT REPORTER: What security?

21 MR. BOURGEOIS: Signal 88.

22 COURT REPORTER: Thank you.

23 MR. BOURGEOIS: Yes, ma'am.

24 I'd just like to ask a question as a newly
25 licensed company. Just based on seeing, I realize you

1 | did not back off if any of your findings, but it sounds
2 | in the wording like maybe some of findings were
3 | decreased.

4 | I'm just wondering, what is the threshold
5 | for the amount of findings that allow such a discount on
6 | those findings? And what's the threshold for any kind of
7 | violations that would result in a revocation of a
8 | license?

9 | A hundred fifty-nine violations sounds like
10 | a lot to me. As a new company, I don't have that many
11 | violations I'm capable of committing. So I would imagine
12 | that 100 percent of all my findings, let's say I have 20
13 | violations I can commit, a company my size. That's 100
14 | percent of everything I am doing is wrong. I would
15 | probably get revoked for that.

16 | So what's the threshold? Is there a
17 | percentage of business, or at what point does a
18 | revocation occur?

19 | MR. GURVICH: Well, the threshold is an
20 | interesting question. But you did touch on one very
21 | important point: A larger company will be considered to
22 | be less egregious in the way it's doing business in
23 | violating the board. If a large company has more fines,
24 | well, it's kind of understood. If a smaller company has
25 | 100 percent fines, that's bad. If a large company has

1 100 percent fines, that's terrible too.

2 It's a bit of a moving target. We have to
3 look and see the type of the violation, the frequency of
4 the violation, the size of the company. Chief, Dickie,
5 am I missing anything?

6 I mean, it's a moving target, and it will
7 depend on the offender. If you have five licensed guards
8 and you have 20 violations, that would probably be
9 determined to be more serious than if you had 500
10 licensed guards and you had 20 violations. We have to
11 call it as we see it at the time it gets here.

12 There is no hard and fast rule, although
13 the suggestion has been made that we institute a stepped
14 schedule of fines. And Mr. Kennedy and his committee, I
15 am sure, will want to address that issue at some near
16 removed, so that we can take that under consideration in
17 depth.

18 But it's a bit of a moving target. It's
19 hard for it not to be, when you consider all the
20 variations in all the companies. We do look at -- if
21 it's a firearms violation or underage violation, that's
22 more serious than if somebody turned in their termination
23 on the 11th day instead of the 10th. Now, we do look at
24 that.

25 So I hope I have answered your question.

1 In the end, it does vary and it depends on a lot of
2 factors and I can't address all of them all the time
3 because they are not here and we just call it as we see
4 it.

5 MR. BOURGEOIS: Mr. Chairman, just one other
6 thing: You mentioned that there is not a hard, fast
7 rule, but the way I read the rules and laws that are
8 written, I read them as a hard, fast rule, and that's the
9 way I abide by them.

10 MR. GURVICH: Well, no. Okay. It's terms of
11 the violations that's a hard and fast rule. But, of
12 course, you have to take evidence, and either you
13 determine that a violation was committed or not. What I
14 was addressing is the quantity of the fine and what other
15 action, like probation or audits, we might assess.

16 In terms of the facts, maybe they come in
17 and stipulate, which makes it easier. "Yeah, it
18 happened." "Okay."

19 Maybe it's contested, and you have to have
20 a hearing. You have to take evidence, and you do the
21 best you can with the evidence presented, so. But, the
22 facts, I was addressing the quantum of the fine, not
23 whether it occurred.

24 Anyone else? Do I hear a motion to
25 adjourn?

1 MR. ROMERO: So moved.

2 MR. GURVICH: Motion by Mr. Duplechain and
3 Mr. Romero jointly. All in favor say aye.

4 ALL BOARD MEMBERS: Aye.

5 MR. GURVICH: Any opposed? This meeting is
6 adjourned. Thank you, everyone.

7 **(End of proceedings.)**

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I, Annette Ross, Certified Shorthand Reporter in and for the State of Louisiana, as the Officer before whom this testimony was taken, do hereby certify:

That the proceedings as herein before set forth in the foregoing 17 pages was reported by me in stenographic machine shorthand, transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

That I am not of counsel, nor related to any person participating in this cause, and am in no way interested in the outcome of this event;

That the transcript has been prepared in compliance with the transcript format guidelines required by statute and by rules of the board;

That I have acted in compliance with the prohibition on contractual relationships as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board.

This certification is valid only for a transcript accompanied by my original signature and original blue stamp on this page.

ANNETTE ROSS,
CCR NO. 93001

20th day of May, 2013