STATE OF MINNESOTA
PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES BOARD
1430 Maryland Avenue East, St. Paul, Minnesota
Meeting Minutes-Rough Draft
April 28th, 2015

Members Present:	**Drew Evans, Richard Hodsdon, Jim Hessel and Steve Wohlman**
Attorney General Representative:	**Peter Magnuson**
Members Absent:	**Pat Moen**
Agency Staff:	**Greg Cook, Executive Director**

Evans called the meeting to order at 10:02am.

1. **REVIEW OF MARCH MEETING MINUTES & AGING REPORTS**
Evans asked the board members if they have had time to review March meeting minutes. They answered they had. Wohlman moved to approve March meeting minutes, Hessel seconded. The motion passed unanimously.

2. **CURRENT CONTINGENCIES**
PDC #1074 Nola Investigates: Criminal Investigations, LLC (NOLA) [Contingency Expires April 2015]
Cook stated he has obtained all requirements from NOLA, they have obtained a Minnesota office. Hodsdon moved to lift the contingency, Wohlman seconded. The motion passed unanimously.

PDC #1078 Gibbs and Associates [see below]
No Board action required.

PAC #1081 North Tek Security Services [Contingency Expires May 2015]
Evans stated the contingency will continue, no Board action required.

PAC #1080 Allied National Services [Contingency Expires May 2015]
Evans stated the contingency will continue, no Board action required.

PDC #1083 Fundholders Reports, LLC [Contingency Expires May 2015]
Evans stated the contingency will continue, no Board action required.

3. **RENEWAL CONSENT AGENDA**

LICENSE HOLDERS
PAC #330 –Walden Security
PDC #721 – INPRO, LLC
PDC #780 – Investigative Technologies, Inc.
PDI #775 – Michael A. DePompolo
PDC #675 – McCarthy & Associates Investigative Services Inc.
PDC #746 – Talon Investigations LTD
PDC #46 – General Security Services Corp. dba Midwest Patrol
PDC #1025 Sturm Consulting and Investigations
PDI #923 – Todd Teachout
PAC #1085 - S.E.B Services of New York, Inc.
PDC #533 – Schroeder Fire, Inc.
PDI #877 – Pamela Paulsen-Sven
PDI #414 – O'Keefe Investigations

Evans states a motion of approval at once for all the reissuances above. Hessel moved to approve the reissuances, Wohlman seconded. The motion passed unanimously.

4. APRIL RENEWALS WITH ISSUES:

PDC #1084 – Blue Eagle Investigations, Inc.
Cook stated PDC #1084 is having issues with affidavit of training and other miscellaneous items; he will need to work with them. Hessel moved to grant contingency, Wohlman seconded. Motion passed unanimously.

PDI #674 – Wilbur E. Johnson
Cook stated PDI #674 is having issues with insurance certificates and affidavit of training; he will need to work with them. Hessel moved to grant contingency, Wohlman seconded. Motion passed unanimously.

5. TABLED
Protection Services - May deadline **[see below]**
Marshall Group - May deadline **[see below]**
Evans stated Protection Services and Marshall Group are tabled, but are present. Issues will be discussed at a later time.

6. LAPSED LICENSES:
PDC #1078 Gibbs and Associates
Cook stated he has attempted to contact the license holder several times by email; phone is disconnected, and sent a letter. Their contingency has expired and they have now moved into lapsed status, no Board action required.

7. SURRENDERED LICENSES:
PAC #235 Starlight Security, Inc – Retired.
Evans stated no Board actions required it's a surrendered license.

8. TRAINING COURSE & INSTRUCTOR APPROVALS:

TYPE	PROVIDER	INSTRUCTORS	COURSE NAME	HRS
Initial Armed	Elite Protective Training	Kevin Eckhoff	Intermediate Weapons	6
Continued Protective Agent	Elite Protective Training	Kevin Eckhoff	Crises Response	6
Continuing Private Detective	MAPI	Brian Fox, Mike Roberts	MAPI Spring Conference	2.5

Hessel moved to approved the three training courses and instructors, Wohlman seconded the motion. The motion passed unanimously.

9. OFFICER CHANGES – Consent Agenda:

License Holder Business Name:	**Global Options**
License Type/Number:	**PDC 1047**
Name of Officer	**William Ojile changed to Jeffery Thone**
Type of Officer Change:	**MN Manager**
Physical Address:	**5955 TG Blvd., Suite 600, Orlando, FL 32822**
Local Address:	**10526 Kingsway LN, Woodbury, MN 55129**

Hodsdon moved to accept the officer change for Global Options, Hessel seconded the motion. The motion passed unanimously.

10. NEW LICENSE APPLICANTS - TABLED

Applicant Business Name:	**Protection Security, Inc.**
Applicant Name:	**Bradley A. Lonergan**
Type of License Applying For:	**PAC**
Chief Executive Officer:	**Bradley A. Lonergan**
Chief Financial Officer:	**Bradley A. Lonergan**
Qualified Representative:	**Bradley A. Lonergan**
Minnesota Manager:	**Bradley A. Lonergan**
Physical Address:	**22420 Cedar Drive Bethel, MN 55005**
Local Address:	**22420 Cedar Drive Bethel, MN 55005**

Cook introduced Bradley Lonergan and his lawyer Mark Burgland to the Board. Evans stated to Cook he recalls there being an issue with Lonergan's insurance certificate to process the application. Cook stated that was correct and that Lonergan's insurance agent, Tim Postin, was present. Postin would not provide an insurance certificate until Lonergan received his license. Burgland stated he has a request to bind for the premium amount, the premium amount is not insignificant which is the reason why they have waited to sign the bind until Lonergan received the license and the application process is complete. Wohlman then requested to see the Bind.

Hodsdon inquired about gaps in audit experience, and work history. Hodsdon then referred to the two different documents submitted. Hodsdon stated he appreciated Lonergan taking the time to provide more information on his work history.

Hodsdon moved to remove Lonergan's application as tabled, Hessel seconded the motion. The motion passed unanimously. Burgland stated prior to the meeting he discussed with Postin about the bind, which is ready to go. As soon as the license is granted Lonergan will have insurance coverage.

Wohlman stated the bind looked okay; he doesn't have a problem with it. Hodsdon then moved to approve a license be granted to Lonergan, Evans seconded the motion. The motion passed unanimously. Evans stated he appreciated Lonergan's diligence and getting the additional requests for the Board so that they have a better understanding of his background experience.

Applicant Business Name:	**Marshall Investigative Group**
Type of License Applying For:	**Private Detective Corporate**
Chief Executive Officer:	**Douglas A. Marshall**
Chief Financial Officer:	**Douglas A. Marshall**
Qualified Representative:	**Douglas A. Marshall**
Minnesota Manager:	**Timothy Karlstad**
Physical Address:	**416 W. Talcott Rd. Suite A, Park Ridge, IL 60086**
Local Address:	**7953 200th Street, Lakeville, MN 55044**

Cook introduced Timothy Karlstad to the Board. Evans requested for Karlstad to tell the Board about his work history, experience, and the anticipated scope of the business. Karlstad states since graduating college he's had an internship at a law firm, did investigative work in insurance claims, worked for a few more investigative firms, and over the last nine years he's worked at Regis Corporation in the risk management department investigating customer and employee incidents or injuries. Marshall Investigative Group would primarily be investigating insurance fraud claims, offering surveillance and back ground checks, social media monitoring, and several other things.

Hodsdon appreciated the due diligence of Karlstad in getting the requirements requested by the Board. Wohlman stated he agreed and he appreciated Karlstad getting the letter requested expediently.

Hodsdon moved to approve the license, Wohlman seconded the motion. The motion passed unanimously.

11. <u>NEW LICENSE APPLICANTS – Consent Agenda</u>

Applicant Business Name:	**Anglish, Inc. dba: Northern Reporting Services**
Type of License Applying For:	**Corporate Private Detective (PDC)**
Chief Executive Officer:	**Jon E. Kinard**
Chief Financial Officer:	**Sharon A. Kinard**
Qualified Representative:	**Jon E. Kinard**
Minnesota Manager:	**N/A**
Physical Address:	**201 SE 6th St #1, Mpls, MN 55414**
Local Address:	**Same**

Cook stated Northern Reporting Service is a longtime license holder; they are selling the business to Jon Kinard. There are no issues with the application and he is well qualified.

Wohlman moved to approve the license, Hessel seconded the motion. The motion passed unanimously.

12. ADDITIONAL LICENSE APPLICANTS:

Applicant Business Name:	**Talon Investigation LTD**
Applicant Name:	**Scott Hielsberg**
Physical Address:	**1552 White Bear Ave, St. Paul, MN 55101**
Type of License Applying For:	**PAC**

Evans inquired to Cook about Talon applying for an additional license. Cook stated Talon is applying for an additional license; they are trying to meet the requirements for the dual licensing issue the Board is trying to correct. The Board wants to make sure Talon is in compliance with private detective and protective agent license requirements.

Evan requested for the issue to be tabled until the next complaint committee meeting

13. ADDITIONAL LICENSE APPLICANTS: – Consent Agenda

Applicant Business Name:	**GSSC PAC #46**
Applicant Name:	**Whitney Miller**
Physical Address:	**9110 Meadowview Road, Minneapolis MN 55425**
Type of License Applying For:	**PAC**

14. REQUEST TO SPEAK TO THE BOARD:

Roy Richardson, Security Solutions explained the delay in replacing his Minnesota Manager and questioned the Board as to the fees involved. The Board stated that they are guided by the statutes and can't make any exceptions.

15. OTHER ISSUES AND DISCUSSION:

Evans stated that there had been an issue regarding prisoner transports and if they are licensed. Evans stated that he has done some research and has sought some counsel on the particular issue. He stated that with reading the statutes there are arguments that there are pieces of it that do fall under the purview of the Board.

Evans asked the Board if this particular discussion could be tabled for another month, until the next meeting. He stated that he knows that the Board is dealing with it, but that he would like to make some determinations, and that he would like the Executive Director to do more research on the matter. He then opened up the issue for further discussion, but stated that in doing research about prisoner transports he found that there are some states that explicitly license them under this particular type of Board, there are some that provide an exemption for prisoner transports, and then there is some Federal laws that would regulate these individuals. Evans stated that he would like some very specific direction for the Executive Director for a discussion next month, on whether we need to be more specific in our statutes or whether we can do some additional research in the meantime to make sure that they fall within the purview of the committee if that so pleases the rest of the Board.

Hodsdon stated that he does not need to table it. He stated that he has done the research and he is thoroughly convinced that there is certainly not a Federal preemption. Hodsdon stated that he will share with the Board members, as well as with the public, that it is very clear that prisoner transports, if they are being done for money, and providing security of the prisoners, which he states they are, and if they are done in Minnesota, that the individual needs to be licensed as a protective agent.

Hodsdon stated that the Federal Regulation itself cites a law, and he goes on to cite a section of his memorandum that outlines the Code of Federal Regulations as it specifically says; "Does compliance with these regulations mean

that private prisoner transport companies have met all of their legal obligations?" Hodsdon goes on to read the answer to the question which states; "No. These regulations implement the Act and do not pre-empt any applicable Federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners". Hodsdon acknowledged that not everyone may have had an opportunity to read the document he is referring to. Hodsdon stated that he is unsure about what could be accomplished by tabling the conversation for an additional month, especially because the Executive Director, and the Board itself has been threatened with litigation if they do not take certain action. He stated that he is not trying to provoke confrontation with any license holder.

Evans stated that he agrees with the Federal pre-emption issue, but that prisoner transports is not something that the Board has traditionally regulated, and that it his understanding that this industry has been around for a long time. Evans stated that he does think that the statutes are vague, and that he thinks it says something about protecting or guarding the public or property. He stated that his concern is that by making a decision today on whether or not they fall under the purview of this Board's jurisdiction the Board may be missing additional research to see with other boards around the country if there have been similar rulings made that they fall within without explicit guidelines stating that they do fall within the purview of the Board.

Hodsdon stated that it is his understanding that the Board does currently regulate license holders that do security for prisoner transports.

Wohlman asks how many of the license holders at the meeting currently do prisoner transports. At that time 5 attendees raised their hands.

Evans stated that his question is regarding how many people that are not in the room, and that are not licensed are also currently doing prisoner transports. He stated that he does not know if we have a firm understanding of how many people are engaging in this practice in the state of Minnesota that do not have a license.

Hodsdon stated that he does not believe that it makes any difference how many unlicensed individuals are currently doing prisoner transports. He went on to explain that what other states are doing does not make a difference to him because there are states that do not license private investigators and that it is based on an interpretation of the state law. Hodsdon stated that it seems very obvious to him that the statutory language makes it very clear that they are providing security of personal, and that is something that the Board in the past has been very comfortable saying fall in their purview. Hodsdon stated that he is not prepared to second a motion to table the discussion.

Wohlman asks how this is any different than companies that do security at a nuclear facility. They have federal regulations that they have to work under but they still have a license from the state. Evans states that in that case it is obvious that they are protecting the property of the power plant. Evans explained that with an individual in custody it is unclear who is being protected. Are we protecting the public from this individual? Evans states that he thinks we could make that argument. Or are we protecting this individual? Wohlman stated that they are protecting the person that they are transporting, even if he is in handcuffs.

Hodsdon stated that if they are doing so-called prisoner transport and they don't fall under the "violent felon" of the Federal law, an example could be individuals that fall under the 72 hour hold for a mental health commitment. They aren't even criminals, and one of the people that they are being protected against would be themselves. The fact that they are under contract by the county or the sheriff's office doesn't make any difference. Hodsdon cited an Attorney General opinion on that same issue that came out of Olmstead County. It falls under Minnesota statute 626.84 Subd 2, where the question was regarding arming individuals that were contracted by the Sherriff. Hodsdon explains that in this case the Attorney General's Office stated that being contracted by the county or the Sherriff does not change the statutory requirements. Hodsdon stated that the fact that they are being paid by the county or a hospital doesn't matter. It is the fact that they are being paid that is the critical matter.

Hodsdon requested his memorandum be part of the meeting minutes.

MEMORANDUM FROM BOARD MEMBER HODSDON:

To: Board Members and Staff

Re: sherifftransport.com

Several persons forwarded to me an email sent to them by Mr. Seman a/k/a Blackwell concerning the above corporation and web site. In the missive this person claimed the activity of prisoner transport was not one that required a license from the State of Minnesota by virtue of operating under the authority of federal law. You may recall this person applied for a license several months ago from the Board and was unanimously denied the same on many grounds. Rather than appeal that decision it appears he has proceeded with this business venture claiming there is no license needed to transport prisoners. I have researched this claimed exemption of federal law. For reasons set out below I believe this statement to be legally incorrect. I am also aware this person claims to be earning substantial income from this activity and therefore since compensation is being paid I believe to be legal in the state the activity requires either a license or a direct employer and employee relationship the entity for which the service is being provided.

The service advertised for transport on the web site shows a person in handcuffs last time I looked at the web site. That means it is a security transport service that needs to be licensed as a protective agent if this is being done for compensation. See Minn. Stat. 326.338, subd. 4(1). Under Minn. Stat. 326.3381, subd. 1 it is a gross misdemeanor to perform the business of being a protective agent as defined by statute or advertise to perform that service. I suppose the other option is the people who perform this service are employees of the entity they work for meaning that if a sheriff wanted to use the person to transport for example someone under civil commitment they would have to place them on the payroll as they would any other part-time employee. I am not aware of that being the case anywhere. The third option is the person being transported is being held by a private person without legal authority but I will leave the discussion at that rather suggest someone might be committing felony crimes like false imprisonment or kidnapping.

As to the claim he operates under the cited federal law 42 USC 13726b the text of that statute provides:

§13726b. Federal regulation of prisoner transport companies

(a) In general

Not later than 180 days after December 21, 2000, the Attorney General, in consultation with the American Correctional Association and the private prisoner transport industry shall promulgate regulations relating to the transportation of violent prisoners in or affecting interstate commerce.

(b) Standards and requirements

The regulations shall include the following:

> *(1) Minimum standards for background checks and preemployment drug testing for potential employees, including requiring criminal background checks, to disqualify persons with a felony conviction or domestic violence conviction as defined by section 921 of title 18 for eligibility for employment. Preemployment drug testing will be in accordance with applicable State laws.*
>
> *(2) Minimum standards for the length and type of training that employees must undergo before they can transport prisoners not to exceed 100 hours of preservice training focusing on the transportation of*

prisoners. Training shall be in the areas of use of restraints, searches, use of force, including use of appropriate weapons and firearms, CPR, map reading, and defensive driving.

(3) Restrictions on the number of hours that employees can be on duty during a given time period. Such restriction shall not be more stringent than current applicable rules and regulations concerning hours of service promulgated under the Federal Motor Vehicle Safety Act.[1]

(4) Minimum standards for the number of personnel that must supervise violent prisoners. Such standards shall provide the transport entity with appropriate discretion, and, absent more restrictive requirements contracted for by the procuring government entity, shall not exceed a requirement of 1 agent for every 6 violent prisoners.

(5) Minimum standards for employee uniforms and identification that require wearing of a uniform with a badge or insignia identifying the employee as a transportation officer.

(6) Standards establishing categories of violent prisoners required to wear brightly colored clothing clearly identifying them as prisoners, when appropriate.

(7) Minimum requirements for the restraints that must be used when transporting violent prisoners, to include leg shackles and double-locked handcuffs, when appropriate.

(8) A requirement that when transporting violent prisoners, private prisoner transport companies notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction.

(9) A requirement that in the event of an escape by a violent prisoner, private prisoner transport company officials shall immediately notify appropriate law enforcement officials in the jurisdiction where the escape occurs, and the governmental entity that contracted with the private prisoner transport company for the transport of the escaped violent prisoner.

(10) Minimum standards for the safety of violent prisoners in accordance with applicable Federal and State law.

(c) Federal standards

Except for the requirements of subsection (b) (6) of this section, the regulations promulgated under sections 13726 to 13726c of this title shall not provide stricter standards with respect to private prisoner transport companies than are applicable, without exception, to the United States Marshals Service, Federal Bureau of Prisons, and the Immigration and Naturalization Service when transporting violent prisoners under comparable circumstances.

As you can see this relates only to "prisoners" and those involved interstate. A mental health patient being transported within the state is outside the scope of that statute. The definitions related to that federal statute are found in 42 USC 13726a that states:

13726a. Definitions

In sections 13726 to 13726c of this title:

(1) Crime of violence

The term "crime of violence" has the same meaning as in section 924(c) (3) of title 18.

(2) Private prisoner transport company

The term "private prisoner transport company" means any entity, other than the United States, a State, or an inferior political subdivision of a State, which engages in the business of the transporting for compensation, individuals committed to the custody of any State or of an inferior political subdivision of a State, or any attempt thereof.

(3) Violent prisoner

The term "violent prisoner" means any individual in the custody of a State or an inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof.

Those provisions are based upon the findings in 42 USC 13726 that states:

§13726. Findings

Congress finds the following:

(1) Increasingly, States are turning to private prisoner transport companies as an alternative to their own personnel or the United States Marshals Service when transporting violent prisoners.

(2) The transport process can last for days if not weeks, as violent prisoners are dropped off and picked up at a network of hubs across the country.

(3) Escapes by violent prisoners during transport by private prisoner transport companies have occurred.

(4) Oversight by the Attorney General is required to address these problems.

(5) While most governmental entities may prefer to use, and will continue to use, fully trained and sworn law enforcement officers when transporting violent prisoners, fiscal or logistical concerns may make the use of highly specialized private prisoner transport companies an option. Nothing in sections 13726 to 13726c of this title should be construed to mean that governmental entities should contract with private prisoner transport companies to move violent prisoners; however when a government entity opts to use a private prisoner transport company to move violent prisoners, then the company should be subject to regulation in order to enhance public safety.

Thus the statute he cites merely directs the federal government to create regulations for the private transport in interstate commerce of violent criminals or those charged with a violent crime. Indeed, an entity found in violation of those regulations can be held liable for a civil penalty as noted in 42 USC 13726c that states:

§13726c. Enforcement

Any person who is found in violation of the regulations established by sections 13726 to 13726c of this title shall-

(1) be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation and, in addition, to the United States for the costs of prosecution; and

(2) make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, which expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of regulations promulgated pursuant to section 13726b (a) of this title.

This federal law led to the adoption of regulations in the Code of Federal Regulations. I am attaching a statement posted as part of those federal regulations. It reads:

Does Compliance With These Regulations Mean That Private Prisoner Transport Companies Have Met All of Their Legal Obligations?

No. These regulations implement the Act and do not pre-empt any applicable Federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. For example, all Federal laws and regulations governing interstate commerce (e.g., Federal laws regulating the possession of weapons and Federal Aviation Administration or Transportation Security Administration rules and regulations governing travel on commercial aircraft) will continue to apply to private prisoner transport companies. Because these regulations implement the Act, they affect only limited aspects of a private prisoner transport company's operations. Therefore, these regulations are not intended to be model guidelines or a complete set of standards for the private prisoner transport industry. Private prisoner transport companies should be aware that compliance with these regulations will mean only that they will not be subject to the sanctions established in the Act. The regulations are not meant to prevent or discourage private prisoner transport companies from adopting additional or more stringent standards relating to the transportation of prisoners. Similarly, these regulations do not limit the authority of Federal, State, or local governments to impose additional safety requirements or impose a higher standard of care upon private companies that transport violent prisoners. The purpose of these regulations is to enhance public security and the safety of both prisoners and guards during transportation. The regulations are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Thus, for example, compliance with these regulations is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by these regulations will remain subject to the standard of care that is imposed by statute and common law upon their activities (or other activities of a similarly hazardous nature).

Thus you will note these regulations found at 28 CFR 97 and effective since January 27, 2003, do not provide any legal authority under federal law that would preempt state licensing requirements.

Hodsdon moved that the Board make a finding that if someone is paid to provide prisoner transports that they do fall within the scope of being a protective agent. Wohlman stated that he believes that as well. Hessel agreed.

Hodsdon, Wohlman and Hessel voted in favor.

Evans voted not in favor.

The motion passed with a 3:1 vote.

MINNESOTA OFFICE REQUIREMENT DISCUSSION

Cook began by reminding the Board members about conversations that have taken place in the past regarding what a Minnesota Office is defined as, and what the requirements are for a Minnesota Office. Cook went on to explain that the statute on the Minnesota Office is vague. Cook stated that he needs to know how to regulate this requirement. He described the options that he believes exist for a Minnesota Office. It could be defined as an actual structure that is a physical office in the state of Minnesota, a registered agent in Minnesota, or some type of virtual office. Cook stated again that he is just looking for guidance.

Wohlman asked what the Attorney General Representative says on the issue. The Attorney General Representative stated that this is a decision that the Board would need to address. He stated that it falls under the Board's rules and that the Board would need to apply their technical expertise and experience to the issue.

Cook read the statute aloud; "Minnesota office means an office maintained in Minnesota by a license holder for the conduct or solicitation of business when the principal place of business of the license holder is located outside the state of Minnesota". Cook again stated that he is looking for guidance.

Hodsdon stated that the potential statutory interpretation, when looking at statute 326.3381 Subd 5 which states "If an applicant's home office is located outside of Minnesota, and the applicant establishes a Minnesota office, the applicant shall provide a manager for the Minnesota office who meets the licensing requirements". Hodsdon

explained that depending on how you read the “ifs” and the “ands” one could argue that if they do not establish a Minnesota office than I don’t need a Minnesota Manager. Cook stated that argument has been brought up in the past. Hodsdon stated that this interpretation is not an unreasonable statutory construction. He goes on to state that on the other hand, historically the purpose of having a Minnesota office, from a consumer protection stand point has been to have someone for service of process and for accountability.

Cook stated that he feels that the registered agent would be a good option as far as service of process goes, and as a way to represent license holders in state through receiving documentation etc. He went on to discuss that he is aware of license holders that practice out of Wisconsin as well and that he can imagine the burden that it would be to have to have a physical office in those other states. Cook stated that he asked the Department of Revenue whether or not it made a difference with taxes if there was an office or not and he was told that it does not make a difference. If they are doing business here they need to pay the taxes.

Hodsdon stated that Cook has mentioned numerous times that Minnesota is one of the more expensive states to operate under, it could provide a bit of relief for license holders if they do not statutorily have to have an office.

Cook stated that as the Executive Director, a registered agent would suffice for what he needs. He is not comfortable with just a P.O. Box, it has to be a registered agent who is available to receive documentation.

Evans asked the Board if they are agreeing that the interpretation of the statute is that it means a physical office in the state of Minnesota or a registered agent.

Evans moved that the Board interpret the Minnesota office requirement outlined in MN statute 326.32 subd 10b as an office either physically located in the state of Minnesota or registered agent in the state of Minnesota acting on behalf of the license holder.

Wohlman seconded the motion.

The motion passes unanimously.

NSF CHECK DISCUSSION

Cook stated that a second check that he received from a license holder came up as non-sufficient funds and this license holder has not paid for his renewal from September. Cook inquired about what type of action the Board would like to take.

Hodsdon explained that if an individual is licensed through a state agency, and does not pay to renew that license, it becomes lapsed.

Hodsdon read 326.3386 Subd. 5 aloud, “license holders seeking license reissuance shall pay to the board a license reissuance fee as determined by the Board”. He explained that if you have written bad checks, you have not paid the fee. He explained that he believes that this would mean his license is lapsed. Hodsdon goes on to state that it is his belief that suspending a license suggests disciplinary action.

Evans directed the Board to section 326.3387, stating that the Board may revoke or suspend a license if the license holder violates a provision of sections 326.32 through 326.339. Evans stated that according to this the Board would also be able to suspend the license if they chose, until the fee was paid. Evans inquired whether or not the license had been reissued at this point. Cook stated that the license is reissued, and explains that we are not able to tell if the check is bad until long after we make a decision to reissue a license. Evans explained that he does not know if a license can be lapsed if it has already been reissued.

Hodsdon stated that his issue is that he believes that the term “suspended” suggests some type of due process. It is at this time that Evans stated that if the Board did decide to suspend the license there would have to be a contested case hearing according to 326.3387 Subd. 2.

Hodsdon suggested a concern that if the Board were to suspend the license, they do not have any type of written complaint or other material that one would need under statute 214.10. He stated that he does not see this situation any different than someone not turning their paperwork back in from the renewal, and we do not suspend those individuals, but we lapse them.

Evan’s asks Cook if he knows the exact motion that the Board had on this particular license holder. Evans states that the Board should table the decision on this matter until they know the exact motion that was taken by the Board regarding this issue with the license holder in the past.

Hodsdon moved that the Board tables the discussion regarding the NSF checks from Topwater Investigations until next month, and ask that the Executive Director determine the status of the license holder to determine what steps need to be taken next.

Wohlman seconded the motion. The motion passes unanimously.

Roy Richardson: Request to Speak to the Board.

Roy Richardson requested to speak to the Board. Richardson was asked to read and sign the Tennessean Warning. Richardson was asked if he understands that he does not have to answer any questions if he does not want to.

Richardson began by apologizing for being late. He then went on to state that the reason that he has requested to speak to the Board is in regard to the $900 fee that is required for an officer change. Richardson explained that in December of 2013 he originally applied for an application. At that point in time license holders were allowed to practice both investigations and security under one license. He explained that in June he found out that he would need to choose one license or the other and could not do both. He chose to do the Protective Agent license. In choosing to do so he lost one of his employees, who was the qualified representative. Richardson explained that he originally hired this individual specifically to take care of the investigative side of business. Since there would no longer be an investigative side of the business that individual quit and Richardson was forced to take his place and perform an officer change. Richardson felt that he would have never been put in that situation had it not been for the Board changing requirements, and the poor timing. Had he known about the change before he applied, he would have not hired that individual as the qualified representative, and he would have taken the position himself. Now due to the change by the Board he believes that he is unfairly being made to pay $900 to change officers.

Evans explained that there is nothing that the Board can do about the situation, because if they change the fee for Richardson than he was afraid it will become an issue for other license holders. Cook explained that he misunderstood the process regarding dual licensing. Evans went on to state that he understands Richardson’s frustrations, and thanked him for his time.

NOTE: AT THIS TIME THE BOARD ADJOURNED THE MEETING PURSUANT TO MINNESOTA STATUTE 13D.01 SUBD. 2 IN ORDER TO DISCUSS DISCIPLINARY MATTERS.

AFTER THE CLOSED DOOR SESSION THE BOARD OPENED THE MEETING TO THE PUBLIC AGAIN AND THEN ADJOURN THE BOARD MEETING.

Next meeting is scheduled for May 26, 2015 at 10:00am.