

**STATE OF MINNESOTA**  
**PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES BOARD**

**MEETING:** February 23, 2016

**LOCATION:** Bureau of Criminal Apprehension, 1430 Maryland Avenue East, St. Paul, MN 55106

**MEMBERS PRESENT:** Steve Wohlman, Rick Hodsdon, Jim Hessel, Drew Evans, Pat Moen

**ATTORNEY GENERAL REPRESENTATIVE:** Pete Magnuson

**EXECUTIVE DIRECTOR:** Greg Cook

**ADMINISTRATIVE ASSISTANT:** Shauna Jahnz

Evans called the February 23, 2016 board meeting to order at 10:00 am. Evans mentioned that he had been appointed to the position of Superintendent of the Bureau of Criminal Apprehension (BCA) in October of 2015. Evans stated he had appointed Jeff Hansen as the Deputy Superintendent of Investigations.

Evans mentioned that as statutorily required he had appointed Jeff Hansen to be the BCA representative on the Board and that this will be his last meeting. He thanked the public board members and the agency for the work they do and stated that he appreciates their efforts. Evans disclosed that the reason he brought out this issue is because it will help Jeff in his new role. Evans made a motion that the board considered appointing Rick Hodsdon as the new chairperson for the committee. He stated that they could set a time frame if others would like, or they could just make that motion. Hessel seconded and the motion was unanimously approved. Evans stated the appointment can begin the next board meeting or right now. With no objection, Hodsdon assumed his duty as new board chairperson. Hodsdon thanked the outgoing board chairman, Evans for the preferment and immediately began work in his new role. He asked Cook, Director of Private Detective and Protective Agent Services Board if he had some introductions to do. Cook started by welcoming his new intern Al Donzo, student from the Metropolitan State University in St. Paul, Minnesota. He concluded saying that Al Donzo will assist the board with their duties until May 2016.

**1. REVIEW OF JANUARY 2016 MEETING MINUTES & FEBRUARY 2016 AGING REPORTS**

Hodsdon opened the floor for discussion on the review of January 29, 2016 Meeting Minutes and Aging Reports. Wohlman made a motion to approve the January 2016 meeting minutes. Hessel seconded, and the motion was unanimously approved.

**2. CURRENT CONTINGENCIES**

**PDC 1005 – Triangle Services, Inc. [Contingency ends March 2016]**

They had Affidavit of Training (AOT) Issues for their January renewal. Shauna has been working with Triangle services on correcting their issues. Completed information received 2/08/16. Letter of Explanation and Disciplinary history under tab (4) in binder. Requesting to lift contingency.

Hodsdon opened the floor on discussion on PDC 1005. He passed it onto Cook for quick remark about PDC 1005. Cook stated he went back and forth on some training issues concerning previous company employees hired and their pre-assignment trainings and the license holder got everything completed on February 8th. Cook noted that they did provide a letter of explanation. Cook stated that he was requesting to lift contingency. Hodsdon questioned if everything else was in order. Cook affirmed. Hessel made a motion to lift the contingency. Moen Seconded. Hodsdon opened it up for any further discussion regarding PDC 1005. Wohlman questioned if Hessel was going to include any penalty with his motion. Hessel inquired if the board had talked about penalties at this point. Cook mentioned that at the last meeting, the board did discuss, as part of Wohlman's resolution and Administrative Rule 7506.0130, going into a contingency due to failure to meet the renewal requirements results in an automatic \$50.00 penalty. Hessel stated that he would include that into his previous motion. Moen seconded. The motion carried.

### **PAC 308 – Star Security, Inc. [Contingency ends March 2016]**

Hodsdon opened the floor on discussion on PAC 308. Cook stated he went back and forth with the Affidavit of Training as there were some problems with it. Cook noted that the packet was late. Cook mentioned that Jahnz worked with them to get everything completed. Other than that there were no issues. Evans made a motion to lift the contingency with a \$50.00 fine for being late and not having their training in order. Steve Wohlman seconded and the motion was unanimously approved.

### **PAC 326 – Unity Security, Inc. [Contingency ends March 2016]**

Rick Hodsdon opened the floor on discussion on PAC 326. Cook disclosed that he still has not heard back from Unity Security, Inc. after several attempts. Cook stated that the agency would need to send out a certified letter to see where they are at with their renewal issues. Cook stated that are contingent until March. Rick Hodsdon stated that no further action would be taken. It remains in Contingency.

### **PDC 1056 – Donan Engineering, Co., Inc. [Contingency ends March 2016]**

Hodsdon opened the floor on discussion on PDC 1056. Cook stated that their packet was due January 1<sup>st</sup> but was received the 25<sup>th</sup>, and the board meeting was on the 29<sup>th</sup>. Cook noted that the agency did not have enough time to process the renewal for the board meeting. Cook mentioned the renewal had several issues including, no local address, insufficient funds, Affidavit of Training issues, no Proof of Financial Responsibility, and general errors on the application. Cook stated that he contacted Minnesota Manager, Anthony Liddell, who was unfamiliar with the board statues. Anthony Liddell stated that our agency should contact the company in order to obtain the remaining pieces of information. Cook wanted to mention that it is the responsibility of the Minnesota Manager to 1) know our statutes and rules, 2) maintain proper documentation as required for the renewal, and 3) provide that information in a timely fashion. Hodsdon asked Cook to clarify what he meant by “insufficient funds”. Cook explained that the company’s Qualified Representative doesn’t work in the state, so they thought since he wasn’t in-state, he wouldn’t count as part of the fee schedule, which would bump them up another \$170.00. Hodsdon stated that it wasn’t like it was a bad check. Cook stated that it wasn’t bad check but the check amount was short and Donan Engineering, Co., Inc left one person out in their count. Cook wanted to clarify that if a Qualified Representative does not work within the state, they would still be counted as an employee. Hodsdon affirmed. Hodsdon stated that No further action would be taken. It remains in Contingency.

### **PDI 929 – Warren J. Robinson [Contingency ends March 2016]**

Hodsdon opened the floor on discussion on PDI 929. Cook disclosed that Jahnz received an email that morning from Warren J. Robinson. Robinson is working to get it done. Once completed, the board will be updated at the next board meeting. Hodsdon noted that it was due in March and that they could address the renewal at their next meeting. Cook affirmed.

## **3. RENEWAL CONSENT AGENDA**

<b>LICENSE HOLDERS</b>
PDC 880 – InfoPro Investigations, Inc.
PDC 894 – Proulx Professional Research, Inc.
PDC 1106 - McDowell and Associates
PAC 224 – Security Specialists, Inc.
PDI 698 – Tim Braatz/Atlas Investigations
PDI 1058 – Donald Sazma/Metro SIU

Hodsdon opened the floor on discussion on renewal Consent Agenda. He mentioned that he knows they have provided all materials and have no issues. Wohlman motioned to renew the consent agenda. Hessel seconded. The motion carried.

Hodsdon pointed out that there was a notation on PAC 224. Cook explained that this was a seasonal event security company who had 258 employees listed on their renewal. When it came to the fee schedule, the license holder calculated his employees out to be 16.32. Cook noted that he wanted to point out to the board that rule 7506.0140, uses a formula for license holders to calculate employees. Wohlman mentioned he was familiar with the rule. Hodsdon inquired if there was any action that needed to be taken. Cook explained that said the information was educational in case anyone was wonder how they go from 258 employees down to 16.32 in order to pay their fees.

#### **4. RENEWALS WITH ISSUES:**

##### **PDC 1105 and PAC 210 – G4S Secure Solutions (USA), Inc.**

Rick Hodsdon opened the floor on discussion on renewal with issues starting with PDC 1105 and PAC 210 – G4S Secure Solutions (USA), Inc. Cook stated that this is a situation with dual licensure. He stated that packet was sent late it was due on the 1<sup>st</sup> but it was received on the 8th. Cook mentioned that they have no disciplinary history. Cook noted that going forward with dual licenses; it helps in terms of efficiency and streamlining to get both renewals to be due on the same date. Cook stated they would be covering both renewals during this renewal period and that going forward; their licenses would stay on the same renewal date for their renewal periods. Hodsdon questioned that other than being late if the rest of their renewal was in order. Cook affirmed. Hodsdon noted they would need a motion. He stated that one renewal is due this month and the other next month. Cook affirmed. Hessel mentioned that in the future, both will be due on the same date. Cook affirmed. Wohlman questioned which packet was late. Cook stated that they handed them both in at the same time. Wohlman questioned which packet needed to be renewed first. Cook responded it was PDC 1105 that was due first. Hodsdon noted that if they were to issue a penalty, they were only looking at one renewal because the second one was not late. Evans questioned if there was an explanation as to why the packet was late. He stated he wants to make sure that they have no confusion on their due date. Cook stated that the agency didn't have any documentation from them as to why the renewal was late, but that he could ask them. Hodsdon questioned if that could have been possibly the cause of the packet being late. Wohlman stated he would assume that was the reason. Hodsdon stated that dual licensing is new to the agency and that the industry would need to get used to it. Wohlman motioned to approve the renewal of PDC 1105 and PAC 210. Moen seconded. The Board affirmed. The motion carried.

##### **PDC 1107 – HireRight, Inc.**

Hodsdon opened the floor on discussion on renewal with issues PDC 1107. Cook noted that this was HireRight's first renewal. Cook cited the following renewal issues: their packet was received late on the 9<sup>th</sup>, but it was due the 1<sup>st</sup>, they had an issue with surety bond, they had an Officer Change take place but the agency can't find where they were notified of this, and an issue with the fee. Cook noted that the Qualified Representative Mr. Frank Monteleone was found not to have taken his preassignment training and so they are now asking for a waiver for this as Mr. Monteleone has been employed with them for over 10 years. Cook stated that he advised them that he would have to ask the Board. Wohlman questioned if this was HireRight's first renewal. Cook affirmed and stated that they were first licensed February 2014. Cook stated that this company has undergone several changes in terms of being bought out, but he stated he has them in the agency database to be licensed as of 2/25/14. Cook noted that he did miss his preassignment, but he should have asked for that waiver ahead of time. Wohlman affirmed. Moen asked if there would be any benefit in requiring preassignment training at this point. Cook stated that they do pre-employment investigations, but he didn't know what bearing that would have on this. Cook noted that he always thinks there is a benefit to taking preassignment. Cook stated he did take continuing education courses both in January through an

online provider. Moen questioned what the issue was with their Surety Bond. Cook explained that they were having trouble getting it renewed on their end. Moen questioned if this was the snow storm. Cook affirmed. Hodsdon questioned if the company did complete the officer change forms. Jahnz stated that they did receive the packet, but still needed to look it over. Cook affirmed.

Hodsdon mentioned that there were some loose ends and questioned if there was any reason they couldn't go into contingency this month. Cook stated that he would prefer that. Evans made a motion to move HireRight, Inc to contingency status. Wohlman seconded. Hodsdon stated that the license would go into contingency to allow the staff to assist with the remaining issues. Evans questioned if there needed to be more of a discussion regarding the payment issue. Cook noted that they were clear on that issue. Hodsdon mentioned that it sounded like there was also a request of waiver for the preassignment training. Hodsdon questioned if they wanted to address that today, or when the contingency comes back. Hessel suggested that it should be discussed when the contingency comes backs. Rick Hodsdon stated that it would be addressed next month. Hodsdon mentioned that it would be a good idea for them to send a formal letter of request. The board affirmed.

#### **PDC 549 – Peart & Associates, Inc.**

Rick Hodsdon opened the floor on discussion on renewal with issues PDC 549. Greg Cook noted that the packet was received a day late, there was confusion as this license holder is also applying for a dual license. Cook noted that there was no disciplinary history. Cook stated that there was also some confusion on what he had to pay for the renewal and for the additional license. He stated he explained that they are two separate items and they would need two different checks. Cook stated he was understandably confused and that the agency was working with him on the issues. Hodsdon stated that it sounded like it would be appropriate to put it into contingency status. Cook stated that it could be renewed contingent upon receiving his check. Hodsdon questioned if that was the only item left with the renewal. Cook affirmed. Hodsdon questioned the preference of the Board. He questioned if they should grant the renewal subject to receiving the check. Hessel and Wohlman affirmed. Hessel made a motion to grant renewal upon receiving the check. Wohlman seconded. The motion carried.

#### **PAC 239 – Special Response Corporation**

Hodsdon opened the floor on discussion on the renewal issue with PAC 239. Hodsdon questioned if Cook had time to process the renewal as it was turned in late. Cook affirmed. Wohlman questioned if they explained why it was late. Moen questioned how big of an operation the company was. Cook responded that they had two employees. Cook stated that going forward the agency could specifically ask license holders why their packets are late. Evans made a motion to grant the renewal of PAC 239 with a \$50.00 administrative penalty for being late. Wohlman seconded. The motion carries.

#### **PAC 334 – Miller Protection Services, Inc.**

Hodsdon opened the floor on discussion on the renewal issue with PAC 334. Hodsdon noted that there has been no response to the agency regarding the license holder's renewal and that it would be appropriate to go into contingency status. Hessel affirmed and stated it was looking that way. Hodsdon stated that it would go into lapsed if nothing happens. Cook questioned if it would go contingent for 60 days and then go into lapsed status. Hodsdon stated the Board has historically done that even if people go MIA. Hessel questioned if there would need to be a motion on that. Hodsdon and Wohlman stated that for a contingency they would, but for lapsed they would not need to. Hodsdon questioned if there was a motion for a contingency. Hessel made a motion to grant a contingency. Moen seconded. The motion carried.

#### **PAC 1081 - North Tek Security, LLC**

Cook wanted to bring to the attention with an issue regarding PAC 1081, North Tek Security, LLC. Cook noted that this license holder provides security for the mines up North. Cook noted that he believed the agency made an error. Cook mentioned that they were granted a contingency back in March of 2015. He stated that they had not received the license holder's criminal history consent form. Cook stated that he had thought that since he was a licensed police officer, he did not have to do it. He mentioned that they were granted a contingency at that time, but were not placed on the agenda back before the Board after that. Cook stated that in auditing the agency database, it was found that this item had not been completed. Cook noted that the agency had now received and ran the license holder's criminal history background check, and it is clear. Hodsdon stated that to be crisp and clean, there would need to be a formal motion to lift the contingency. Cook affirmed. Hessel questioned if there was a fine involved, who it would go to? Cook responded it was on the agency so they shouldn't hold the license holder accountable. Moen questioned what would happen with the renewal date. Cook stated that would remain the same. Hodsdon mentioned that they were still operating so it wasn't like they had suffered any economic prejudice. Cook stated that they were barely operating because all of the mines were closing down. Hodsdon questioned if there was a motion. Wohlman made a motion to remove PAC 1081 from contingency. Hessel seconded. The motion carried.

**5. LAPSED LICENSES:**

**PAC-E 310 – Escort Service, Inc. [Lapsed Status ends March 2016]**

Hodsdon opened the floor on discussion on renewal with issue PAC-E 310-Escort Service, Inc. He stated if it is lapsed, it doesn't require any action from the board and may be it informational unless Cook wanted to add anything. Cook noted that the agency sends out renewal packets both email and hardcopy mail via USPS two months before their renewal due date. Cook stated that License holder had been sent renewal packet via USPS and email on October 15<sup>th</sup>, 2016. Their Renewal was due on January 2016. Cook stated that the agency attempted contact several times using several different methods and did not hear from the license holder. The owner is Scott Kuehn who primarily does wide loads and funeral escort services. Cook stated that the agency had thought at that time that the license holder was dropping out as other pilot cars had been doing due to the recent change in law. Cook stated that recently, the license holder contacted him. He still wants to remain licensed. Cook stated he did fill out the renewal packet and that the agency did have it, but still needed to review it. Cook stated that this has happened with this license holder previously regarding not receiving the agency's communications. Wohlman stated that he did not buy that. Cook stated he was just reporting the facts. Wohlman questioned how someone could do business without a business address. Cook stated there were also issues with his email address and phone. Cook mentioned that he does do funeral escorts, which does mean he needs a license. Hodsdon stated that in the meantime, there was nothing the Board needed to do. Cook stated they needed to go through the packet and with any issue found, bring it to next month's meeting. Wohlman questioned if he did watchmen services as well. Cook stated he was not aware of that. He stated all he knew of was funeral escorts and oversized loads. Wohlman stated he thought he did in the past. Hodsdon stated that when they get something, they will take action.

**6. EXPIRED: None.**

**7. SURRENDERED LICENSES:**

**PAC 271 – AKAL Security, Inc.**

**PDI 392 – Peter T. Dades**

Hodsdon stated that no action needed to be taken on the Board's part, but that he did appreciate that these license holders did notify the agency so that they don't wonder what happened to them. Hodsdon stated that he thanked the security firm and Peter for that.

**8. TRAINING COURSE & INSTRUCTOR APPROVALS: *Training packets available to Board for review.***

TYPE	PROVIDER	INSTRUCTORS	COURSE NAME	HRS
CPD	Kansas Association of Licensed Investigators	Multiple	Professional Investigators Mid-American Regional 2016	16
CPD	Leading Edge Legal Ed	Sabine Hilten	Ethics for Legal Professionals: Theory and Practice	2
CPD	Leading Edge Legal Ed	Sabine Hilten	Rules of Service: Sabbath Laws	2

PROVIDER	INSTRUCTORS	COURSES
GSSC	Joseph Kessel	IA 032 / CA 056

Hodsdon stated there were for items up for approval. Cook stated that there were three classes and one instructor. Hodsdon affirmed. Hodsdon questioned if there was a motion to approve. Hessel made a motion to approve the training courses and instructor. Moen seconded. The motion carried.

**9. OFFICER CHANGES.** File available for review.

These next officer changes are for CEO/CFO's.

<b>License Holder Business Name:</b>	Mydatt Services, Inc.
<b>License Type/Number:</b>	PAC 259
<b>Change from:</b>	T. Scott Emerson
<b>Change to:</b>	Hiram A. Cox
<b>Type of Officer Change (MM, QR, CFO, CEO):</b>	CFO

Hodsdon stated that no action needed to be taken and that PAC 259 was changing their CFO.

**10. NEW LICENSE APPLICANTS – Tabled.** None.

**11. NEW LICENSE APPLICANTS – Present:** Files are available for review.

<b>Applicant Business Name:</b>	Rapoport Investigations, LLC
<b>Type of License Applying For:</b>	Corporate Private Detective
<b>CEO, CFO and MM</b>	Mia Rapoport

Hodsdon invited Mia Rapoport to the Board. Hodsdon questioned if Cook had the Tennessean. Cook affirmed. Hodsdon questioned what Rapoport's operational business model is and what she had for the required hours, and what she's been doing over the years. Rapoport stated that for 30 years she worked with her father, a criminal defense attorney, who was with her that day. She explained she has assisted her father in civil investigations and trial preparations. Hessel questioned if Rapoport would interview individuals before they went in to see her father. Rapoport affirmed. She stated that she did pre-interviews with clients prior to seeing her father and she was doing the background investigation as part of the in-take process. Hodsdon stated that when she was working for the firm, she did not need to be licensed, but Rapoport is looking to branch the business out. Rapoport affirmed. Hodsdon stated that he appreciated her coming forward seeking a license to do the work. Rapoport stated she would like to continue to do investigations outside the umbrella of the law firm. She noted that to fall within the statutes, she would need to have a license. Hodsdon stated he would not disagree with that.

Wohlman stated that he reviewed Rapoport's entire file and thinks that it is very impressive. Rapoport thanked Wohlman. Wohlman mentioned it was put together very nicely. Rapoport said she has 25 years' experience of volunteering with Allina Hospice. Rapoport stated that part of her objective is to do elder abuse investigations. Cook questioned what Rapoport's services would be. Rapoport stated that as a volunteer she worked with families, so she would like to assist the families or agencies in investigating a potential claim of abuse. Cook questioned what investigative services Rapoport would do specific to elder abuse investigations. Rapoport stated she will not be doing surveillance, but will work with nursing homes and agencies. Cook questioned if it would just be general gathering of information. Rapoport affirmed and stated she would be providing that to the families. Hodsdon noted that a lot of it is financial, so there's a lot of fiscal information gathering, which is appropriate for a person with a license to do. Cook questioned what Rapoport's official title with her father's business is. Rapoport stated that she is the Vice President of the company and has many hours of investigations over the years. She stated she also handled the books, the finances, hired employees and done background checks on them, and pretty much runs the company. Cook listed services such as interviewing, locating witnesses, doing background investigations, gathering records and asked if this is what she was doing. Rapoport affirmed.

Hessel made a motion to grant Rapoport Investigation with a Corporate Private Detective License. Hessel questioned the board in regards to preassignment training for the applicant. Hodsdon stated that in his opinion, even with the amount of experience of the applicant, there is still enough difference between the law side of things and private detective side. Hodsdon stated he believed that preassignment training would be appropriate. Moen agreed. Wohlman agreed. Hessel stated that with his motion, he would also include preassignment training. Hodsdon noted that the preassignment is required by law anyways and that Hessel could move to grant Rapoport a license. Hessel agreed. Moen seconded. The motion carried. Rapoport thanked the board.

#### 12. New Applicants: Consent Agenda:

<b>Applicant Business Name:</b>	Contego Investigative Services, Inc.
<b>Type of License Applying For:</b>	Corporate Private Detective
<b>CEO, QR, MM</b>	Jason Linn
<b>CFO</b>	Elvis Rivera

Hodsdon stated that the applicant, Contego Investigation Services, Inc., was applying for a corporate private detective license, and that the company was out of Florida. Hodsdon mentioned that in the Executive Director's notes, it shows the applicant is well qualified with no issues, and is currently licensed in 18 other states. Hodsdon questioned if anyone was present to speak on behalf of the application. Cook noted that with any of the consent agenda items, if the Board ever wishes to have them present before the Board, the agency can arrange for that for the following month. Hessel stated it looked as though Cook had checked everything out quite well. Hodsdon inquired if there was a motion. Wohlman motioned to grant a license to Contego Investigative, Incorporated. Hessel seconded. The motion carried.

#### 13. Additional Applications: For those current license holders that wish to meet the requirements of dual licensing. NONE

#### 14. REQUEST TO SPEAK TO THE BOARD: None.

#### 15. OTHER ISSUES AND DISCUSSION:

## 1. The Wohlman Penalty Resolution

Hodsdon introduced the Wohlman Penalty Resolution to the Board. Hodsdon mentioned that this item had been tabled the past two months with the hope of getting all Board members present to discuss it. Hodsdon stated that the legal question is whether the Board would need to go through a rule change as opposed to simply using sentencing guidelines or decision-making guidelines. Hodsdon stated that for the record, he believes it is a most important point Wohlman had made is if a company did not do background checks, get training done, etcetera, whether for one individual or for twenty, we would treat it as one situation. Hodsdon mentioned it was Wohlman who had made a good point a couple meetings ago that this almost makes this a financial incentive for those who want to skirt the edge, to do exactly that. Hodsdon stated that he believes the concept of a penalty, whether it's \$25.00 or \$50.00 or \$100.00 for each violation doesn't have to be concurrent, they could be cumulative. Hodsdon mentioned in his opinion, it is an appropriate action for the Board to take. He noted it will be more work for the staff because they will need to get the Board that information. Hodsdon also mentioned that he didn't believe a formal resolution needed to be made and that if it is made too formal, it gives someone ammunition to object that the Board did not follow the rulemaking process. Hodsdon suggested that rather than a formal motion, the Board could articulate a consensus, if that's the view of the Board, and advise the Board staff that in the future, this is how the Board would propose to handle certain types of penalties. Hodsdon noted that that was his own opinion. He stated that he did have an opportunity to speak with the Board counsel and express his concerns about rulemaking versus consensus.

Moen noted that this has long been an issue for her. Wohlman stated it had been for him as well. Moen stated she believes the Board has the ability to set fees based on culpabilities, frequency, and severity. She mentioned that the points Wohlman outlined clearly speak to culpability, but also use this as a basis for looking at other issues. Moen stated she believed this was very good and thanked Wohlman for coming forward with this.

Wohlman stated that his major point on this was that a larger company has an advantage. Why should they run the background checks on their people, when it actually is cheaper to get fined. Wohlman stated it should be made into an equal playing field.

Moen stated that she thinks the important thing is to look at each occurrence. Wohlman agreed. Moen stated this is something new in the way that the Board reviews these. Moen noted this would give the Board latitude to recognize what the Board has actually done that in the past. Wohlman stated that he knew he could find the case. Wohlman stated that the Board had placed a large fine on a company at one time based on the fact that the company had so many things wrong, and he believes the penalty turned out to be over \$3,000.00, or close to that. Wohlman noted that the Board did not have to go to an Office of Administrative Hearings on this because the company was fined \$499.00 for each separate issue. It worked fine.

Hodsdon stated that there is precedent in so many areas, you can aggregate them, but you can also hand them out in separate prosecutions too. That's at the discretion of the judge or prosecutor. Hodsdon asked for Evans and Hessel's opinions on the matter.

Evans stated that he would side with Hodsdon on the issue. He stated he believes there were several good points and that he shares the same concern about rulemaking and statute in regards to adopting the resolution. Evans stated that by a consensus and evaluating the issues in the same manner in which is outlined by a case by case basis, looking at each one and examining each occurrence. Evans stated he believe this came from a few months back when the Board was examining the one who had some pretty egregious violations, and a lot of them. Evans stated he does believe it is fair to consider each individual occurrence to avoid these sorts of things, so that they can protect consumers by making sure companies are not doing that evaluation as they are going to save money as to not conduct background checks on their employees. Evans stated he would not be in favor of adopting the resolution simply because of the interplay with rulemaking and statute.



Wohlman stated he did not have a problem with that, as long as he was able to bring the issue forward. Hodsdon stated that if the Board was going to weigh in on a consensus, they would need to hear from Hessel. Hessel stated he believes every case is unique to itself. He stated one case might be a big company that has several violations versus a little company that has these violations also. He inquired which one is more egregious. Hessel stated he believes it is a case by case basis.

Hodsdon stated that he believes the Board has given a unanimous consensus to our staff, that going forward, and so that the industry understands, these multiple violations are no longer going to be freebees; the Board will look at each and every one of the issues and there may be additional consequences. Hodsdon noted he did not believe that a motion needed to be made as they have had the discussion and it is now part of the minutes.

Cook noted that the Board does have the authority to penalize up to \$2,500.00. He mentioned that any penalty that goes over a \$499.00 fine does go into an Office of Administrative Hearing situation. Cook stated that he had written up a potential statute revision which could be fixed with removal of a couple of words. Cook noted that right now it says that the Board shall, by rule, put together a graduated schedule of administrative penalties. Cook stated that if "by rule" was taken out, he believes that it would give the Board the ability to fine per occurrence.

Hodsdon stated that should be something to put onto the Board's wish list. Hodsdon stated that the Board is considered a non-health licensing board, and historically it took moving heaven and earth in order to get the Board its own unique statute. Hodsdon stated that it seems like they like to keep health and non-health boards very similar to each other. Again, Hodsdon stated it doesn't mean they cannot put it on the Board's wish list. Hodsdon stated that the record will reflect the Board's consensus on that.

## 2. Pre-Employment Background Licensing

Hodsdon stated that he had had conversations about this with the Executive Director. He explained that it arose from a situation in which an entity was doing services of a pre-employment background checks and did not have a private detective license. Cook stated that the entity in question had the belief that because there was a district judge in 2005 that ruled doing pre-employment background investigations was not considered doing an investigation and therefore did not need a license. Hodsdon noted that this surprised a number of individuals in the industry who are doing pre-employment background investigations. The matter was suggested to be put before the Board that if, for a fee, a third party was hired to do a pre-employment background investigations which would include investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, contractors and subcontractors, which is the language from Minnesota Statute 326.338 subdivision 1 clause, they would need a license. Hodsdon stated that there were other clauses as well, for example, clause 2 which is investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation or character of any person or organization, emphasizing the word "person", under those scenarios, to him, would need a license. Wohlman agreed. Hodsdon stated that that was his perspective and he would open the floor to the rest of the Board members.

Evans stated he agreed. Moen stated that it makes sense. Hessel stated it's an investigation. Hodsdon affirmed. Hessel stated that that sums it up right there. Hodsdon stated he believed it did.

Cook stated that this was an entity in which the agency sent an Unlicensed Activity Notification to. Cook mentioned he has been in contact with them and noted they sent the Order of Memorandum from the judge's decision in 2005. Cook stated that assuming that the decision is made by the board that they do indeed need a license; he will then be informing them of that. It will then depend on what they want to do next. Wohlman affirmed.

Cook stated it has come up several times throughout the history of the Board and documented in meeting minutes in which the Board has decided that entities providing pre-employment background check services did need a license. Hessel stated that that was what he thought. Cook stated he could see where this company had the Order of

Memorandum and thought that they were good to go. Cook stated that the company went ahead and got a license anyway after the Order of Memorandum was issued, but that it expired in 2007.

Hodsdon noted that for a number of the license holders, all they do is pre-employment background investigations. Hodsdon questioned if the Board felt a motion was in order to re-affirm their prior position. Wohlman questioned if they would be re-affirming statute. Hodsdon affirmed. Wohlman stated he didn't believe they needed to re-affirm statute as it speaks for itself. Hodsdon stated that would reflect the Board's decision. Wohlman affirmed.

### **A Infidelity Investigations**

Magnuson stated that he needed to briefly talk to the Board about A Infidelity Investigations. He noted he had been in contact with opposing counsel, and they had agreed that March 15<sup>th</sup> would be a date to either answer or bring a motion to dismiss. Magnuson stated he did not know if he needed a motion to authorize himself to have conversations with the Board Chair, and the Board Chair can make decisions without continually needing to come back for full-board approval. He stated that certainly on the settlement or any discussions like that, would be something that would need full board action. Magnuson stated that other actions such as whether they are going to answer or bring a motion to dismiss or tactical administrative considerations. Hodsdon stated tactical administrative considerations. Magnuson affirmed.

Hodsdon questioned what the Board's preference was as he was willing to do that. Wohlman stated that he would concur with that, that instead of contacting all of the members individually, he would go to the chair, which would make a decision. Magnuson noted that he wouldn't be able to contact each member individually for the Board as there would have to be some kind of emergency meeting. Evans made a motion that the Board Chair be authorized to act in that capacity, to make administrative and tactical conversations with the Board's general counsel in the matter of A Infidelity Investigations. Hessel seconded. The motion carried.

**Next meeting is scheduled for March 29<sup>th</sup>, 2016 at 10:00am.**

**Wohlman made a motion to adjourn the meeting. Hessel seconded. The motion carried and the meeting adjourned at 10:55am.**