

# STATE OF MINNESOTA

## PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES BOARD

### MINUTES

October 29, 2013

**Location:** 1430 Maryland Avenue East, St. Paul, Minnesota

**Members Present:** Drew Evans, Jim Hessel, Pat Moen, Steve Wohlman

**Members Not Present:** Richard Hodsdon,

**Attorney General Representative:** Jacob Fischmann

**Agency Staff:** Greg Cook, Executive Director

The meeting was called to order at 10:03 a.m. by Evans. The meeting began by a review of the September 24th, 2013 Meeting Minutes. Wohlman motioned to approve, Moen seconded the motion. The motion passed unanimously.

#### Previous Contingencies Completed:

The following contingent renewals have been completed .Cook requested that the Board lift the contingencies for the license holders:

Licensee's with Contingencies Lifted	Licensee's with Contingencies Lifted
Garda CL Great Lakes, Inc. (PAC #319)	John E. Sperry (PDI #274)
Patrick Persons (PDI #969)	O'Brien Services, Inc. (PDC #864)
Azzone Security - Investigation Agency (ASIA), Inc. (PDC #332)	Futrell Fire Consult & Design, Inc. (PDC #964)

Hessel moved to approve the contingencies; Moen seconded the motion, the motion passed unanimously.

#### Current Contingencies

Cook explained the circumstances of each of the following license holders. The Board determined to allow these contingencies to continue.

- **Per Mar Security and Research Corporation, (PAC #270)** - Renewal expires 12-01-13  
Agency needs more time to review.
- **Sedgwick Factual Photo, Inc. (PDC #1049)** - Renewal expires 12-01-13  
The agency still has not received a background check verification from the FBI. This is possibly due to federal government shutdown.

## Consent Agenda

Cook requested a motion of approval for the following reissuances due in October 2013, as they have provided all materials and had no issues:

Licensee's Presented with Reissuance	Licensee's Presented with Reissuance
Undercover Investigations, Inc. PDC #725	Michael Duchenes PDI #891
Bruce Olson PDI #1051	Harold B. Halden & Associates, LLC PDC # 1006
Northern Integrity Investigations PDC #943	Brinks Inc, PAC #154
Inter-Con Security Systems, Inc. PAC #289	

Wohlman moved to approve the consent agenda; Hessel seconded. The motion passed unanimously.

### Renewals With Issues:

Cook informed the Board that there were a number of issues with the current months renewals and asked the Board to determine if the following license holders should be renewed, granted a contingency, or have penalties imposed:

#### **Bruce Sederstrom (PDI #1007):**

Cook explained that the packet was not received. Cook added that the license holder stated he would expedite the renewal. Hessel Motioned for contingency, Wohlman seconded. The motion passed unanimously.

#### **K. Bares & Associates, Inc. (PDC #1001):**

Cook explained that this license holder had not yet responded to the Board. Cook stated the number found on the website and in the database was disconnected. Secretary of State filings search had negative results. Cook stated that he needed more time to investigate whether the company was still active. Wohlman moved to Motion for contingency to investigate the company, Hessel seconded. The motion passed unanimously.

#### **Metro Legal Services, Inc. (PDC #712):**

Cook stated that the license holder did not receive the renewal packet, but that they agreed to expedite it. Cook explained that he had already sent another packet at this time. Moen moved to offer contingency to the license holder, Wohlman seconded. The motion passed unanimously.

#### **Peter T. Dades ( PDI #392):**

Evans stated that the license holder was not registered with the Office of the Secretary of State. Cook notes that the renewal packet was completed otherwise. Cook then explained that license holders are asked by the Board to be registered, but there has been no official notification. Moen asked for clarification that there are statutes that require this registration. Cook answered that there was not a statute, but that a mandate might be put in place to this effect. Evans asked to table this matter to the November 2013 Meeting. Hessel Motioned to grant Dade's a license renewal, Wohlman seconded. The motion passed unanimously.

#### **Advanced Private Investigations, Inc. (PDC #629):**

Cook explained that it was found that the license holder did not have a Minnesota Office listed in the database. License holder has been notified. Awaiting response. Wohlman moved for contingency so that the license holder might find a Minnesota Manager, Moen seconded the motion. The motion passed unanimously.

#### **Capital Investigations & Security Services, Inc. (PDC #710):**

Cook explained that the license holder had written the renewal check for the wrong amount for the number of employees and would be sending a new check for the correct amount. Hessel Motioned that the license holder be granted renewal, Moen seconded the motion. The motion passed unanimously.

**Empire Investigation & Protective Services, Inc. (PDC #1009):**

Cook explained that the license holder did not complete the application in its entirety. Cook noted that the license holder asked to come in and work with the agency to complete the renewal packet. Wohlman motioned to grant the license holder a contingency, Moen seconded. The motion passed unanimously.

**LP Innovations, Inc. (PDC #1050):**

License holder is an out of state entity. No Minnesota office was found in the database. Executive Director had sent correspondence requesting clarification. Cook stated he needed to follow up with the license holder. Wohlman motioned to grant the license holder a contingency, Moen seconded. The motion passed unanimously.

**IPC International Corporation (PDC #639):**

Cook explained that the license holder had underpaid paid the wrong amount for the number of employees. Cook further explained that the license holder had filed for bankruptcy, and is being purchased by Universal Protective Services. Evans asked if the bankruptcy influenced the renewal. Cook explained that he had discussed this with the license holder and they wanted to continue with all regulations until the determination of the business was final. Moen Motioned for contingency, Hessel seconded the motion. The motion passed unanimously.

**Kolbach & Associates Investigations, Inc. (PDC #879):**

Cook explained that the license holder had not registered with the Office of the Secretary of State. Hessel motioned to renew the license holder's license, Wohlman seconded the motion. The motion passed unanimous

**Proulx Professional Research, Inc. (PDC #894):**

Cook explained that the license holder is an out of state corporation, and that no Minnesota office is listed on the application or the agency's records. The license holder also was not registered with the office of the Secretary of State, and the workers compensation was not fully completed. Wohlman Motioned for a contingency, Hessel seconded the motion. The motion passed unanimously.

**Lapsed and Surrendered Licenses:**

- Charles A. Payne & Associates, Ltd. (PDC #261)
- Robert A. Heales (PDI #783)

The Board explained that it was not required for them to vote on this process.

**Revoked Licenses:****SecureForce, LLC (PAC #278):**

Cook explained that this license holder was currently in lapsed status due to non-response for their renewal and lack of communication. Cook stated he had received a letter from the Department of Employment & Economic Development informing the agency that per MN Statute 268.0625 the agency was prohibited from renewing the license. Due to lack of compliance Wohlman motioned to revoke the license, Moen seconded. The motion passed unanimously.

**Training Course & Instructors for Certification**

The Minnesota Association of Private Investigators and Protective Agents is seeking approval for certified education units for the following presenters at the fall conference:

- Death Investigations - Dean Beers, CLI, CCDI – (4 hours)

- Homicide Investigation and Prosecution, Pete Orput, Washington County, MN District Attorney – (2 hours)
- Terrorism - The Security Challenge, Brian Westphal (2 hours)
- MN Sales and Use Tax Issues & Updates, MN Dept. of Revenue Sales & Use Tax Division
- (2 hours)
- Homeland Security Issues & Updates, Bob Nesbitt, Department of Homeland Security
- (2 hours)

Finding no objections, Wohlman motioned to approve, as listed, the training courses. The motion was seconded by Moen. The Motion passed unanimously.

## **Change in License Type:**

### **Entertainment Protection Group, LLC License #1028:**

Erik Bergling approached the Board seeking approval to change his license type from Corporate Private Detective to Corporate Protective Agent. Bergling explained that the reason for the change is that his firm exclusively does security and executive protection work. Evans asked whether the bond has been reviewed. Cook stated that it was currently under review by the attorney general representative. Cook then asked what the fee for renewal would change to. Evans stated that the \$1800.00 fee should be upheld and the Board agreed. Wohlman moved to change the license from a Corporate Private Detective to Corporate Protective Agent. Hessel seconded the Motion. The motion passed unanimously.

## **New License Applicants:**

### **Paragon Systems, Inc.**

13655 Dulles Technology Drive, Suite 100

Herndon, VA 20171

Les Kaciban, Qualified Representative, and Minnesota Manager

Applying for a Corporate Protective Agent License

Evans welcomed Mr. Kaciban to the Board and asked him to provide a brief background of the company, his qualifications, and the scope of the business. Kaciban explained the nature of the work Paragon engages in as armed security for the Federal Government. Kaciban provided the Board with an overview of his experience including 17 years with the FBI in various positions including Deputy Assistant Director of International Operations and Director of International Law Enforcement Academy. Kaciban stated he has been working in the private security industry since 2003 and is currently the President of Paragon Systems.

Wohlman stated that the applicant is well qualified. Wohlman then moved to grant the license to Paragon Systems, Inc. with Les Kaciban as Qualified Representative and Minnesota Manager. Hessel seconded the motion. The motion passed unanimously.

### **Shetler SI, Inc.**

702 E. Osborn Rd., Suite 160

Phoenix, AZ 85014

Mark Livingston, Qualified Representative Michael Shetler, Minnesota Manager

Applying for a Corporate Protective Agent License

Evans welcomed Mr. Livingston and Mr. Shetler to the Board meeting and asked them to provide a brief background of the company, their qualifications, and the scope of their business. They described their work experience both in public law enforcement as well as in the private industry. They described the scope of their

business as unarmed security. Wohlman questioned whether they will engage in armed security, and what their plans for training were. Livingston stated that the company does not bear arms, and that they would be using Board certified in-state training providers before switching to their own. Hessel motioned to approve a Protective Agent license to Shetler Si, Inc. with Mark Livingston and Qualified Representative, and Michael Shetler as Minnesota Manager. Wohlman seconded the motion. The motion passed unanimously.

**PhotoFax, Inc.**

44W100 US Hwy 20  
Hampshire, IL 60140  
Karen DeBoar, Qualified Representative  
Gerald Marko, Minnesota Manager

Applying for a Corporate Private Detective License

Evans welcomed Mr. Marko and Ms. DeBoar to the Board meeting and asked them to provide a brief background of the company, their qualifications, and the scope of their business. Marko explained his background in law enforcement, as well as currently holding a Minnesota Private Detective License. DeBoer explained her work in insurance defense related investigations and that she is currently licensed as a private detective in Illinois. Wohlman questioned whether there would be a conflict of interest with Marko's own license. Marko explained that the two companies have different specialties, and that he would be primarily doing insurance defense work for Photofax. Wohlman then questioned the nature of the investigations of Photofax. Marko stated that it is mostly workers compensation types of cases. Moen motioned to grant a Corporate Private Detective License to Photo Fax, Inc. under Karen DeBoer as Qualified Representative, and Gerald Marko as Minnesota Manager. Hessel seconded the motion. The passed unanimously.

**Penalties – Kost:**

Cook explained that Kost had made the second required payment. Cook noted that Kost had originally wanted to address the board, but could not make it.

**Request to Speak to the Board**

**Jay Corn:**

Corn Inquired whether the Board believed that his prior experience as a journalist would be considered sufficient to meet the hour requirement needed for a private detective license. Corn then explained his background in schooling, work as an editor and journalist, and his military career.

Cook asked what the scope of his investigative work would be. Corn explained that it could be a broad range of surveillance, interviewing, and other investigative work. Wohlman questioned whether Corn had ever testified before a court. Corn explained that he had not, but that he felt he had comparable experiences in his time as a journalist. Moen then asked if there was any precedent for whether journalism was a sufficient with meeting the requirements. Cook stated he was not aware of any, but it would take extensive research looking through the files to find that answer. Evans then stated that he had concerns on the matter primarily with the lack of apprenticeship, and that there is not a one-to-one comparison between journalism and private investigations, as the statue requires. Cook then informed Mr. Corn that if the application was rejected, he would only be entitled to a refund of half the license fee. In the Board's discussion that followed they determined that they could not make a decision regarding experience relevant to licensing until they had an opportunity to review the entire packet.

**Brian Shin:**

This individual had stated he wanted to discuss his application with the Board, but was not present.

**Dan Joyce:**

Mr. Joyce started off by stating that the new pilot car certification conflicts with the current MN statutes regarding the licensing of pilot/escort services (LPA's) in Minnesota. Joyce stated that he does not believe that pilot cars should be considered protective agents, and should not have to be licensed as such. Joyce continued to explain that he did not believe that the current MN Statutes regarding protective agents required of pilot car drivers are applicable to the realities of piloting over dimensional loads.

Cook clarified that new certification program implemented by the state is not regulated by the Board of Private Detectives and Protective Agents and that they are two separate sets of regulations; the certification program and the protective agent license. The agency regulates the latter. Cook informed Joyce that the Board had agreed to propose an exemption of pilot car/escort drivers from MN Statutes 326.32-326.339. Cook had drafted a proposal and sent it to the Commissioner's office for review. The Commissioner's office declined to pursue the exemption at this time. Wohlman stated that he agreed with the concerns of Joyce, but that this situation would need to be made clear to the state legislators.

Joyce asked whether he needed both the certification and the protective agent license. Cook explained that he asked the attorney general representative to research that, and that currently per statutes the licensing of pilot car services has to continue until the statutes are revised and/or pilot car services are exempt from the statutes. Cook then explained to the Board that through simple internet research 69 pilot car services in Minnesota were located and only 3 of those currently had a protective agent license.

Evans stated that the board agreed with many of these issues, but that the board does not have the authority to make any changes at this point.

**Other Issues and Discussion:**

**Legislative Initiatives**

Cook informed the Board that in his review of MN Statutes 326.32-326.339 he found 51 points that needed further analysis for possible revision. He has provided these points to the Statute Revision Advisory Group for review and has requested their own notes on the statutes. Once he has received those and is able to compile and summarize the information he will provide it to the Board for review. Cook stated that it is a long and detailed process and the goal is to have any statute revisions prepared for the 2015 legislative session.

**Renewal Fee Revision**

Cook explained that it had been determined that the Board does have the authority to revise the fees for private investigators and protective agents. Cook asked that the Board vote to revise renewal fees as provided in the handout he gave to the Board:

\*Proposed change to number of employees levels 1 and 2:

<b>Reissuance</b>			
<b>Private Detective</b>	<b>Fee</b>	<b>Protective Agent</b>	<b>Fee</b>
*0 -1 Employees	\$ 540	*0 -1 Employees	\$ 480
*2 to 10 Employees	\$ 710	*2 to 10 Employees	\$ 650
11 to 25 Employees	\$ 880	11 to 25 Employees	\$ 820
26 to 50 Employees	\$1,050	26 to 50 Employees	\$ 990
51 or more employees	\$1,220	51 or more employees	\$1,160

Cook noted that this eliminates the confusion of if a sole proprietor is considered an employee or not. Hessel asked when this would take place. Cook stated that he is proposing that it would take effect on January 1st, 2014. Cook went on to address the matter of MN Rule 7506.0140 FEES regarding a formula that explains what defines a full time employee. Cook explained that many of the renewing license holders had claimed zero employees, though it was apparent they in fact did have employees. Cook stated that there is no way to verify among the license holders who actually is a full-time or part-time employee and stated that the formula should be removed. Cook stated that he believes someone is an 'employee' no matter how many hours they work and should be counted as "1" in figuring out their respective renewal fees.

Evans proposed that the rules be changed to better define what an employee is. Wohlman asked whether the rule can be changed. Cook stated he would need the attorney general representative's assistance with that. Fischmann explained that the Attorney General's office is no longer engaged in rule making. Evans suggested that it would be easier to make a statute to override the rule. There was Board discussion on the legalities of that with no definitive answer.

Cook asked whether there is a motion to revise the renewal fees. Wohlman motioned to revise the renewal fees, Moen seconded the motion. The motion carried.

#### **eLicensing:**

Cook explained that he had been working with state officials in order to find a way to fund the eLicensing implementation and streamline the agencies procedures. The current solution was to have a special revenue account to manage the surcharges. Cook reminded the Board that the license holders already pay large fees for licensing, and if a surcharge were to be added the Board would need to consider decreasing the current fees. Cook stated that currently the surcharges would be charged to the license holders for renewals and applicants. The legislation that authorizes that ends in 2015. After that, if legislature does not allow it to continue, the surcharge gets charged to the agency. Cook stated the current budget can't accommodate that. Evans echoed the necessity of this process, but that the Board might wait to see what comes out of the upcoming session.

#### **Unlicensed Activity:**

Cook explained that he is currently working on a report that describes the scope of the unlicensed activity situation. Cook noted that a key component of the report is to conduct research and gather documentation that describes the impact on public safety as well as consumer protection.

#### **Audit Program:**

Cook stated that he is concerned with some of his findings during the renewal application reviews and will begin random audits of the license holders in between their renewal periods to assure compliance.

#### **Regional Meetings:**

Cook stated that he will hold regional meetings with license holders so that he may explain the new initiatives of the agency and address their concerns. He plans on having one meeting in the northern part of the state, one in the southern part and possibly one in the metro area. No dates have been set.

#### **BCA Tours for license holders:**

Cook stated that he will be setting up tours of the BCA for license holders. No dates have been set.

With no other items left to be discussed at this time, Wohlman motioned to adjourn the meeting; the motion was seconded by Hessel. The meeting adjourned at 11:45 a.m.

**Next meeting is scheduled for November 26, 2013 at 10 a.m.**