

Office of Professional Regulation  
**BOARD OF PRIVATE INVESTIGATIVE & SECURITY SERVICES**

**UNAPPROVED MINUTES**  
**Meeting of FEBRUARY 20, 2004**

1. The meeting was called to order at 9:02 a.m.

Members present: Daniel A. Coane, Chairman; Leo P. Blais, Vice-Chairman; Robert E. Edwards, Secretary; Christine Schlegel Brown; and Emma Pudvah, Ad Hoc Member.

OPR Staff present: Christopher D. Winters, Board Counsel; Robert H. Backus, Prosecuting Attorney; Brenda Tetrault, Staff Investigator; Rita Knapp, Assistant to the Director; and Carla Preston, Unit Administrator.

Others present: Robert Sweeney; June Sweeney; Jeffrey Stewart; Kent A. Maxfield; Paul Duprat; Jeffrey N. Bitcon; Kevin Cheney; and Benjamin Deppman, Esq.

2. The Chair called for approval of the Minutes of the January 16<sup>th</sup> meeting. Ms Schlegel Brown made a motion, seconded by Mr. Edwards, to approve the Minutes of the January 16, 2004 meeting as presented. Motion passed unanimously.

The Board also reviewed the Minutes of the January 30, 2004 Emergency Meeting concerning PD-01-0703 (Unit 1 Security, LLC). Mr. Blais made a motion, seconded by Ms Pudvah, to approve the Minutes of the January 30, 2004 meeting as presented. Motion passed unanimously.

3. **Hearings/Stipulations**

- a. At 9:30 a.m., the Board held a hearing in the matter of Deter Security, Inc., Docket Numbers PD-03-0503 and PD-10-1003. Attorney Robert Backus was present for the State. Christopher Winters presided for the Board. Kent A. Maxfield, Qualifying Agent was present (Respondent). Attorney Backus explained that these two cases were similar in nature and thus combined for this hearing. He noted that the facts of the case are not disputed, only the proposed sanctions to be imposed by the State. Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to go into deliberative session at 9:44 a.m. and out at 9:47 a.m. Based on the specification of charges and testimony heard, Mr. Edwards made a motion, seconded by Ms Pudvah, to impose the following sanctions: Issue a Reprimand and require a \$500 fine for each count for a total of \$1000 fine. Motion passed. Daniel Coane, Board Investigator for PD-03-0503 and Leo Blais, Board Investigator for PD-10-1003, did not participate in the vote.

- b. At 10:00 a.m., the Board held a hearing to consider the applications and Stipulation and Consent Order in the matter of Green Mountain Concert Services Inc., Docket Number APP-PD-08-1103 and Kevin W. Cheney (Qualifying Agent), Docket Number APP-PD-07-1103. Attorney Robert Backus was present for the State. Christopher Winters presided for the Board. Kevin W. Cheney and his Attorney, Benjamin Deppman were present.

Attorney Backus explained that the Stipulation and Consent Order was designed to allow the license, but impose sanctions at issuance. Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to go into deliberative session at 10:06 a.m. and out at 10:19 a.m. Based on documents presented and testimony heard, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to reject the Stipulation and Consent Order because the applicant does not meet the requirements for

licensure with regard to experience as stated in 26 V.S.A. § 3174 (c). The matter was discussed further.

3. **Hearings/Stipulations** - continued

The Respondent, Mr. Cheney indicated that he possesses other licenses and experience which would indicate that he has the 2000 hours within the three years preceding application to Vermont. He could not provide the Board with an exact number of hours of experience. He indicated that he also has military experience which may qualify as experience acceptable to the Board.

Attorney Backus stated that Mr. Cheney must show proof that he has sufficient experience acceptable to the Board or find a Qualifying Agent who meets the criteria. Based on the discussion that ensued, Ms Schlegel Brown made a motion to amend the original motion and table this matter until the March 19, 2004 meeting. Ms Pudvah seconded the motion and the motion passed. Daniel Coane, Board Investigator did not participate in the vote.

4. **Reports**

The Board reviewed the FY2004 Budget ending December 31, 2003. The Board noted that the remaining balance as of December 31<sup>st</sup> would be insufficient to cover Board activities until June 30<sup>th</sup>. Ms Preston agreed to contact Howard Rice, Business Manager, for additional information concerning the deficit.

5. **Legislation/Rulemaking**

The Board discussed Chris Winters' February 17, 2004 Memorandum concerning Qualifying Agents and Agency Licensure Issues. These issues surfaced in a recent case in which the Qualifying Agent's license was lapsed but the Agency license had been renewed. He suggested the Board consider clarifying the licensure process via rule if possible. He said he believes that the intent of the statute exists to do so. Statutory changes will be required for changes in the fees, definitions, etc. Attorney Winters confirmed there is a distinction between licensure and registration. He said licensure is intended for a person who meets certain criteria (experience and examination) and will be responsible for an agency and its employees. A registrant is an employee of an agency who is not currently required to meet any experience requirements or pass an examination, and who must be under the supervision of a licensee (Qualifying Agent). A registrant could not practice on his or her own.

Rita Knapp, Assistant to the Director, attended the meeting to provide some history as to the licensure process and how it was originally set up. She explained that the law required that an Agency be licensed. However, the Agency itself could not qualify for anything (i.e., could not take an examination, present evidence of experience, supervise employees, etc.), therefore the Qualifying Agent became the "holder" of the agency license and was responsible for the supervision of employees and day to day operations. She said the Qualifying Agent (individual) was not actually licensed, but qualified the agency to practice. She explained that the Office of Professional Regulation needed a method of tracking the persons responsible (Qualifying Agents) for these agencies and employees. To accomplish this task, OPR administratively assigned a type code to each Qualifying Agent which was linked to that agency. She said that over time the qualifying agent's type code was used as a license number. She said the original purpose of the type code for tracking qualifying agents and not intended as a requirement for licensure or renewal.

Ms Knapp said she believes that the best solution to clarify and simplify the licensure process is to issue individual licenses to those persons who qualify (i.e., private investigators and/or security guards who meet the experience requirement, pass the examination, etc.). She said any one of those licensed persons could be the qualifying agent for an agency or work on their own. She said she did not see why a sole proprietor would need to hold an agency license, only as a professional (private investigator license or security guard license or combination).

5. **Legislation/Rulemaking** - continued

Ms Knapp said that an agency that has employees (registrants) would need to have a licensed person to act as the Qualifying Agent. The owners (stock holders) of an agency would not need to be licensees. Ms Knapp explained that this method is similar to that of pharmacies and other professions. The owner of a pharmacy does not need to be a pharmacist, but the pharmacy itself must be licensed and must have a licensed pharmacist to act as the pharmacist manager who is responsible for pharmacy employees and the operations of the pharmacy.

Ms Knapp said it would be very easy to administratively establish this method of licensure as well as establish a process for changing the qualifying agent for an agency. She noted that the Board should keep in mind that this method may reduce the number of agency licensees which would result in a reduction in revenue. That reduction in revenue would need to be calculated and made up elsewhere.

The Board appreciated Ms Knapp's overview and her recommendations for the future. Chairman Coane said that the statutory definition of Qualifying Agent needed to be amended to require that the Qualifying Agent be a resident of the State. Other suggestions included requiring that the QA be present a certain amount of time to ensure supervision of the employees for which he or she is responsible.

The Board will review Attorney Winters' Memorandum further and be prepared to discuss it at the next meeting in addition to the other proposed changes to the rules. Attorney Winters will look at the law to be sure it authorizes certain changes via rule. Draft proposals will be prepared for the next meeting for consideration.

6. **Complaints**

**APP-PD-09-1003** - The Board reviewed the Report of Concluded Investigation. Based on the information presented, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to accept the Investigative Team's recommendation and conclude this matter without charges. Motion passed. Mr. Blais, Board Investigator, did not participate in the vote.

7. **Applications reviewed and considered**

The Board reviewed the following applications and took action as indicated.

- a. **Bigelow, Tobey** - The Board reviewed Mr. Bigelow's application for registration as an Unarmed Security Guard with Hunter North Associates. Based on the information provided, Mr. Edwards made a motion, seconded by Mr. Blais, to approve Mr. Bigelow for registration. Motion passed unanimously.
- b. **J. N. Bitcon Enterprises (Agency License and Jeffrey Bitcon as Qualifying Agent)** - The Board reviewed Mr. Bitcon's applications for an Agency license and for himself as Qualifying Agent. Mr. Bitcon was present and discussed his application with the Board. Mr. Bitcon explained that the corporate owner, C. Vance Inc., of his Trade Name, J.N. Bitcon Enterprises, was formed in 1995 and that he recently changed the purpose to indicate contract investigations.

The Board concluded that based on the reference from W. Bruce Pratt submitted on Mr. Bitcon's behalf, did not verify that he met the experience requirement. Mr. Bitcon indicated that he has the experience needed and that he could obtain other references. Based on the discussion that ensued, Mr. Edwards made a motion, seconded by Ms Pudvah, to table action on these applications pending additional information with regard to Mr. Bitcon's experience. Motion passed unanimously.

7. **Applications reviewed and considered** - continued

- c. **Costello, Robert C.** - Mr. Costello had been preliminarily denied at the last meeting for failure to provide information requested by the Board. The Board reviewed Mr. Costello's application for registration as an Unarmed Security Guard with Securitas USA and the additional information he provided concerning his exoneration from a situation (mistaken identity) that took place in Massachusetts. Based on the information he submitted, Mr. Edwards made a motion, seconded by Mr. Blais, to approve Mr. Costello for registration. Motion passed unanimously.
- d. **Eaves, Justin** - The Board reviewed Mr. Eaves' application for registration as an Unarmed Private Investigator with Downeast Investigations. Based on the information available, Mr. Edwards made a motion, seconded by Ms Pudvah, to approve Mr. Eaves for registration. Motion passed unanimously.
- e. **Hill, Joanne** - The Board reviewed Ms Hill's application for registration as an Unarmed Security Guard with Censor Security Inc. which was tabled from the January 16<sup>th</sup> meeting. Mr. Edwards made a motion, seconded by Mr. Blais, to preliminarily deny Ms Hill's application based on failure to provide the information requested by the Board (Title 26, Chapter 59 ' 3181 (b) (15) and ' 3181 (b) (18). Motion passed unanimously.
- f. **Johnson, Jr., Charles** - The Board reviewed Mr. Johnson's application for registration as an Unarmed Security Guard with Stockton Security Services. Based on the information provided, Mr. Blais made a motion, seconded by Ms Pudvah, to approve Mr. Johnson for registration. Motion passed unanimously.
- g. **LaValley, Jeffrey** - The Board reviewed Mr. LaValley's application for registration as an Unarmed Security Guard with Censor Security Inc. which was tabled from the January 16<sup>th</sup> meeting. Mr. Edwards made a motion, seconded by Mr. Blais, to preliminarily deny Mr. LaValley's application based on failure to provide the information requested by the Board (Title 26, Chapter 59 ' 3181 (b) (15) and ' 3181 (b) (18). Motion passed unanimously.
- h. **LeRoux, Gary Allen** - The Board reviewed Mr. LeRoux's Application as a Firearms Instructor and his course. Based on the information provided, Mr. Edwards made a motion, seconded by Mr. Blais, to approve Mr. LeRoux for licensure as a Firearms Instructor and to approve the course he plans to teach to others. Motion passed unanimously.
- i. **McDonough, Patrick** - The Board reviewed Mr. McDonough's application for registration as an Unarmed Security Guard with Guardsmark, LLC. Based on the information provided, Mr. Edwards made a motion, seconded by Ms Pudvah, to approve Mr. McDonough for registration. Motion passed unanimously.
- j. **McFeeley, Patricia** - The Board reviewed Ms McFeeley's application for registration as an Unarmed Security Guard with IPC International Corp. The Board concluded that additional information was needed concerning the disability to which Ms McFeeley mentioned in her application. Mr. Blais made a motion, seconded by Mr. Edwards, to table action on this application pending receipt of that information and to extend her Temporary to the March 19, 2004 meeting. Ms McFeeley is encouraged to attend the March 19<sup>th</sup> meeting to discuss her application with the Board. Motion passed unanimously.
- k. **Raymond, Jason** - The Board reviewed Mr. Raymond's application for registration as an Unarmed Security Guard and as a Private Investigator with Hunter North Associates. Based on the information provided, Mr. Edwards made a motion, seconded by Ms Pudvah, to approve Mr. Raymond for registration in each specialty for which he applied. Motion passed unanimously.
7. **Applications reviewed and considered** - continued
1. **Stewart, Jeffrey A.** - The Board reviewed Mr. Stewart's application for registration as an Unarmed Security

Guard with Deter Security, Inc. Mr. Stewart was present and requested discussion of his application and prior offenses in executive session. Mr. Edwards made a motion, seconded by Ms Pudvah, to go into executive session at 11:23 and out at 11:55 a.m. The Board noted prior disciplinary action taken against Mr. Stewart's registrations which revoked all active registrations (Docket Number PD02-0998) effective December 6, 1999.

Mr. Edwards made a motion, seconded by Ms Pudvah, to go into deliberative session at 11:56 a.m. and out at 12:00 p.m. Based on the information available, Mr. Edwards made a motion, seconded by Ms Pudvah, to preliminarily deny Mr. Stewart's application for registration on the basis of a conviction of a crime of moral turpitude and a crime related to the practice (26 V.S.A. § 3181 (b) (1); 3 V.S.A. § 129a (a)(9)). The Board explained that Charges were filed and that a draft Stipulation and Consent Order was prepared but not acted upon. The Board explained that since Mr. Stewart did not answer the Specification of Charges, the State's factual allegations were treated as if proved. On December 2, 1999, the Board approved a Default Order which became effective on December 6, 1999. The Board recommended that Mr. Stewart seek the advice of counsel. Motions passed unanimously.

- m. **Sweeney, Robert** - The Board reviewed Mr. Sweeney's application for registration as an Unarmed Security Guard with Deter Security, Inc. Mr. Sweeney and his wife were present and discussed his application with the Board. Mr. Sweeney waived his right to discuss his application in deliberative session. Mr. Sweeney provided the information requested by the Board and elaborated further on his offenses. Based on the information provided, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to approve Mr. Sweeney for registration. Motion passed 4 - 1. Chairman Coane opposed.
- n. **Tenien, II, Michael** - The Board reviewed Mr. Tenien's application for registration as an Unarmed Security Guard with Censor Security. Chairman Coane recused himself based on a case on which he worked that involved the applicant. Based on the information submitted, Mr. Edwards made a motion, seconded by Ms Pudvah, to approve Mr. Tenien for registration. Motion passed.
- o. **Wilder, Erik** - The Board reviewed Mr. Wilder's application for registration as an Unarmed Security Guard with Guardsmark, LLC. Based on the information submitted, Mr. Edwards made a motion, seconded by Mr. Blais, to approve Mr. Wilder for registration. Motion passed unanimously.
- p. **Wright, Anthony** - The Board reviewed Mr. Wright's application for registration as an Unarmed Security Guard with Censor Security, Inc. which was tabled from the January 16<sup>th</sup> meeting. The Board noted that Mr. Wright had not been sent a letter requesting copies of police affidavits regarding his offenses. Mr. Edwards made a motion, seconded by Ms Pudvah, to table action on Mr. Wright's application and to extend his Temporary until the March 19, 2004 meeting. Motion passed unanimously.

The Board discussed how to deal with applications when it has received notice from their employers that the applicant is no longer being considered for employment. The matter was discussed with Board Counsel. Attorney Winters advised the Board to treat them as incomplete and to notify the applicant that under the circumstances no action was taken on their application. Applicants must submit a new application should they apply to another agency. The Board indicated that applications do not need to go before it, if the Office has been notified by an employer that the applicant for registration is no longer being considered for employment.

- 7. **Applications reviewed and considered** - continued

Based on the discussion that ensued, Mr. Edwards made a motion, seconded by Ms Pudvah, to consider the following applications incomplete and take no official action based on the fact that their employers have

notified the Board that the applicant is no longer being considered for employment. All applicants will be notified. Motion passed unanimously.

- q. **Dishaw, Allen R.** - The Board reviewed Mr. Dishaw's application as an Unarmed Security Guard with Deter Security, Inc. On February 20, 2004, Kent Maxfield, Qualifying Agent for Deter Security Inc., notified the Board that Mr. Dishaw was no longer being considered for employment.
- r. **Morrow, Michael** - The Board reviewed Mr. Morrow's application for registration as an Unarmed Security Guard with Guardsmark, LLC. The Board also reviewed the February 16, 2004 letter from Guardsmark, LLC stating that Mr. Morrow was no longer being considered for employment.
- s. **Reynolds, Allen** - The Board reviewed Mr. Reynolds' application for registration as an Unarmed Security Guard with Censor Security, Inc. On January 16, 2004, Jim Eckhardt, Qualifying Agent for Censor Security Inc., notified the Board that Mr. Reynolds was no longer being considered for employment.
- t. **Wheel, Kerry** - The Board reviewed Mr. Wheel's application as an Unarmed Security Guard with Deter Security, Inc. On February 20, 2004, Kent Maxfield, Qualifying Agent for Deter Security Inc., notified the Board that Mr. Wheel was no longer being considered for employment.

8. **Update Regarding Old Business**

- a. The Board reviewed the January 15, 2004 letter from Tony Curtachio, Manager, with Omnia Background Search in response to the Board's January 4<sup>th</sup> letter requesting information with regard to their current status of professional practice. At its December 19<sup>th</sup> meeting, the Board discussed this company's activities in Vermont to provide background searches for Vermont based employers. Mr. Curtachio said their company is OBS, LLC d/b/a Omnia Background Search, a Florida Limited Liability Corporation, separate from their parent company, The Omnia Group, Inc.

Based on the information provided by Mr. Curtachio, the Board concluded that licensure as a private investigative agency is required. Attorney Winters will inform Mr. Curtachio of the Board's findings and ask them to elaborate further as to what services they perform in Vermont and for whom.

- b. At its December 19<sup>th</sup> meeting, the Board reviewed a letter from Bryan Hogle stating that he has criminal charges pending against him. The Board wrote to MJM, Inc., Mr. Hogle's employer, asking why the criminal charges were not reported to the Board as required by law.

The Board acknowledged receipt of the January 20, 2004 letter from Robert J. Howell, Esq., with Shanahan Law Group in response to that inquiry. Attorney Howell indicated that MJM Investigations, Inc. inadvertently failed to notify the Board of the pending charges against Mr. Hogle and is now well aware of both § 3181 and Board Rule 3.3 which requires such reporting. He indicated that MJM Investigations will promptly notify the Board of any future developments concerning this matter.

- c. The Board has not yet received a response to its January 7, 2004 letter to Stanley M. Grandfield, President of Triad Temporary Services, Inc. concerning the services they provide.

9. **Correspondence**

- a. The Board reviewed the February 2, 2004 letter from Robert L. Kilbride, Associate General Counsel, with The Wackenhut Corporation stating three questions concerning licensure requirements for providing services to a federal government contractor. Their letter indicated that a

subsidiary, Wackenhut Homeland Security, Inc., had been established to provide security services to the federal government and its contractors that perform security-cleared work.

The Board discussed the matter at length and reviewed Attorney Winters' draft response to these questions. The Board concluded that Wackenhut Homeland Security, Inc. is not exempt, and that licensure is required. The Board approved Counsel's letter to Mr. Kilbride which discusses the referenced case law (*Leslie Miller, Inc. v. Arkansas* (1956) 352 US 187) and licensure requirements.

- b. The Board acknowledged the February 9, 2004 letter from Elisa A. Zanoni with Guardsmark, LLC notifying the Board that an employee, Victor Catala, had been taken into custody by U.S. Marshalls. Ms Zanoni agreed to notify the Board of any future developments including the results of the pending court case. The Board asked Ms Preston to create a file to monitor these situations.

10. **Other Business**

Ms Schlegel Brown indicated that she is moving out-of-state and that her last meeting will be the March 19<sup>th</sup> meeting. The Board asked Ms Preston to contact the Governor's Office concerning replacements.

11. **Public Comment**

Paul Duprat attended the meeting to discuss certain matters with the Board. Mr. Duprat said he is an unlicensed Armed Private Investigator and has been so since 1993. He said he is the Qualifying Agent for the Defective Detective (agency). He said he is being "civilly disobedient" and refuses to pay licensure (renewal) fees because he filed a complaint with the Board in 1993 that was not acted upon. He said he has sent numerous communications to the Secretary of State's Office (which included a former staff investigator) and has not received a response. He said he has worked on several cases for various police departments. He said he wants to open up the lines of communication with the Board. Mr. Duprat said that he would not submit an application and challenged the Board to open up an investigation against him.

The Board indicated that if he is working as an Armed Private Investigator in Vermont he must be licensed to do so. Since he refuses to file an application and become licensed, an investigation of unauthorized practice will be opened against Mr. Duprat.

11. The date of the next meeting is scheduled for **Friday, March 19, 2004.**

12. The meeting was adjourned at 3:40 p.m.

Respectfully submitted,

Carla Preston  
Unit Administrator  
Office of Professional Regulation