

Vermont Secretary of State
Office of Professional Regulation

BOARD OF PRIVATE INVESTIGATIVE & SECURITY SERVICES

UNAPPROVED MINUTES

MEETING of FRIDAY, MAY 16, 2003

1. The meeting was called to order at 9:10 a.m.

Members present: Daniel A. Coane, Chairman; Christine Schlegel Brown; and ad hoc member Robert Edwards. Absent: Leo P. Blais, Secretary; and Todd Lemieux, Vice-Chair. The Board noted that Richard Walton had submitted his resignation which became effective as of the April 2003 meeting. The Board also noted that several months ago (December or January), Mr. Lemieux had indicated verbally that he was resigning and has not attended a meeting since then. The Governor's Office will be contacted concerning this matter so that replacement members may be appointed.

OPR Staff Present: Christopher Winters, Board Counsel; and Carla Preston, Unit Administrator.

Others present: Mark Stockton; and Robert Guillette.

2. The Chair called for approval of the Minutes of the March 21st meeting. Mr. Edwards said he was incorrectly referred to as "Roberts" a few places in the Minutes. Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to approve the Minutes of the April 18, 2003 meeting as corrected. Motion passed unanimously.

3. **Hearings/Stipulations**

The hearing in the matter of the Board's preliminary denial of Thomas Russell's application was tabled until the next meeting to allow for proper notice.

4. **Reports:**

5. **Legislation/Rulemaking**

The Board tabled the rulemaking discussion with regard to training requirements for security guards and private investigators.

6. **Complaints**

- A. The Board reviewed Brinks' monthly report, a condition of its Stipulation and Consent Order in the matter of PD06-0200. Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to accept Brinks' report submitted for the Month of April as being in compliance with the Order. The Board noted that Mr. Crawford had not responded to its request for submittal of compliance reports by the date of the meeting. Motion passed unanimously.

7. **Licensing**

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

7. **Licensing** - continued

- a. **Armell, Timothy R.** - (Unarmed Security Guard with Deter Security Inc.). No additional information had been submitted to the Board for review. Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to preliminarily deny Mr. Armell's application on the basis that he failed to provide all information requested by the Board (26 V.S.A. § 3181 (b) (15) and § (3181 (b) (18)). Motion passed unanimously.
- b. **Boice, Jr., Robert C.** - (Unarmed Private Investigator with TCAR Recovery and Remarketing Service). Ms Schlegel Brown made a motion, seconded by Mr. Edwards, to preliminarily deny Mr. Boice's application on the basis that he failed to provide all information requested by the Board (26 V.S.A. § 3181 (b) (15) and § (3181 (b) (18)). Motion passed unanimously.
- c. **Guillette, Robert R.** - (Unarmed Security Guard with Lemieux Security Services, Inc.). Mr. Guillette was present and offered testimony with regard to his application. Mr. Guillette waived the option to discuss his application and VCIC record in executive session. He said he visited Public Records and district courts to obtain available information and presented it to the Board. Based on the information provided, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to require the following information: Police Affidavit and Docket Sheet for Docket numbers (6080-12-97); (1385-4-80); and incidents in 1980, 1976, 1975, 1974, and 1973 that had no docket numbers shown. The Board indicated that if any of the records were unavailable, he needs to obtain a statement from Public Records or the court stating that fact.

The Board explained that character references are required for applicants with several violations. Members indicated that it would be beneficial for him to have a character reference personally appear at the next meeting on his behalf. The matter was tabled until the next meeting. Motion passed unanimously.
- d. **Lavigne, Guy V.** - (Unarmed Security Guard with Guardsmark, Inc.). Ms Schlegel Brown made a motion, seconded by Mr. Edwards, to preliminarily deny Mr. Lavigne's application on the basis that he failed to provide all information requested by the Board (26 V.S.A. § 3181 (b) (15) and § (3181 (b) (18)). Motion passed unanimously.
- e. **Mace, William R.** - (Unarmed Security Guard with Guardsmark, Inc.). Based on the information provided, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to approve Mr. Mace for licensure. Motion passed unanimously.
- f. **Sanders, Jr., Robert J.** - (Unarmed Security Guard with US Investigations Services). Based on the information provided, Mr. Edwards made a motion, seconded by Ms Schlegel Brown, to table Mr. Sanders application subject to receipt of additional information pertaining to the dates of his work experience. Motion passed unanimously.
- g. **Manni, Michael A.** - (Applications for Agency re Capinvad LLC d/b/a Capital Investigating & Adjusting, and for Corporate Officer.). Based on the information presented, Ms Schlegel Brown made a motion, seconded by Mr. Edwards, to approve Capital Investigating & Adjusting for an Agency license, and to approve Mr. Manni as the Qualifying Agent. Motion passed unanimously.

6. Correspondence:

- a. The Board reviewed and discussed the April 25, 2003 letter from US Investigations Services, Inc. describing its change in corporate structure which will result in that of a Limited Liability Company under the name US Investigations Services, LLC. The matter was discussed at length. Since this involves more than a corporate name change, the Board concluded that in this situation, a new application is necessary (A Delaware corporation - US Investigations Services LLC qualifying under USIS Investigations Services, LLC.). If the new entity retains the same Corporate Officers, FBI background checks would not be required. The company's registrants will not be required to re-apply. However, if the company desires its registrants to possess licenses showing the new name, a \$20 fee will be required for each.
- b. The Board reviewed the May 7, 2003 E-Mail from Robert Army and David Coburn concerning the requirement to hold two licenses, Agency and Qualifying Agent. Mr. Army is currently licensed as a Qualifying Agent for A & C Investigations Inc. In response to their questions, an individual may use his or her own name for a private investigative business, but that name must be licensed as an Agency (§ 3173). The Qualifying Agent for that Agency must also hold a license. A qualifying agent of a company would not have to retake the examination to become the qualifying agent of another company. The agency may have registrants who work for it who would be under the supervision of the Qualifying Agent. Messrs. Army and Coburn will be notified.

7. Other Business Introduced by the Board

- a. Pursuant to discussions that took place during the meeting, the Board asked Attorney Winters to research previous records and minutes that would explain how the Board reached its decision with regard to charging a renewal fee for a Qualifying Agent in instances where the qualifying agent is a sole proprietor. Based on an April 9, 1999 Memorandum and the Minutes of the April 16, 1999 meeting, the Board's position to charge the fees was confirmed. The April 16, 1999 Minutes state, "It is the Board's decision to leave the requirement as it stands, reasoning that the qualifying agent received a separate license, apart from the agency, and is an employee of the agency as defined by 26 V.S.A. § 3178a (4)(D) and (E)."
- b. At its last meeting, the Board discussed allowing firearms instructors providing the training to Vermont's applicants for licensure as instructors, to state that the applicant's training program was proprietary and unavailable, and sign a notarized statement indicating that the training program either meets or exceeds Vermont's Firearms Qualification Program Minimum Standards.

Mr. Stockton said he recently attended a Firearms Instructor's training program from Smith and Wesson in Boston, Massachusetts to become eligible for licensure as an instructor in Vermont. He said his instructors in Massachusetts were not licensed by the Vermont Board. He said he was informed that they would not become licensed or be willing to sign forms stating that their firearms training program met or exceeded Vermont's.

Based on the discussion that ensued, the Board concluded the application requirement for instructors to provide a copy of the training program they took to become firearms instructors may not be feasible due to the possibility that the training institute may not release that program for proprietary reasons. The Board noted that the statute does not require a copy of the instructor's course.

7. **Other Business Introduced by the Board** - continued

The Board may choose not to require copies of all training programs that instructor applicants took to meet licensure requirements. Copies of the instructor applicants' training programs will still be required if the Board is not familiar with the course or instructors. He said the Board could give blanket approval to those organizations with which it is familiar, but recommended that it leave its authority to evaluate those programs with which it is not familiar. The Board will revisit its Minimum Standards for Firearms Training. The matter will be discussed further at the next meeting.

Attorney Winters agreed that as the statute reads, the Board cannot accept firearms training from another state when licensing armed investigators or security guards in this state. If the Board were to accept firearms training taken in another state through a non-licensed (in Vermont) instructor, the concern then is that the Board has no way of knowing if the instructors are keeping current in their state or of the quality of their programs. He said licensure is required of the instructor if the persons he or she instructs intend to use that instruction to become licensed investigators or security guards.

The Board indicated that it allowed licensees with a firearms designation to renew in 2003 without having obtained their certification or re-certification under a licensed firearms instructor, licensed by the Vermont Board. As of June 1, 2003, anyone wishing to become certified as armed, must have received training from a Vermont licensed firearms instructor.

8. **Public Comment:**

Mr. Stockton indicated that as of July 1st he would be changing his filing status from a Trade Name to that of a Corporation. He said it was his understanding that he would not be required to re-file these documents and will verify that information with his attorney.

The Board explained that because he is changing the structure of the entity, he would be required to file an Agency application, and that an FBI background check is required of corporate officers other than himself.

The discussion raised the question as to the actual cost of performing an FBI background check which will be researched. The Board's ability to waive fees in this type of situation was also raised. Attorney Winters explained that the Board has the authority to waive fees upon showing good cause, but cautioned the Board in doing so without further research. He said much of the costs are associated with processing the applications.

9. The date of the next meeting is scheduled for **Friday, June 20, 2003.**

10. The meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Carla Preston, Unit Administrator
Office of Professional Regulation