

10-10-19

**Tennessee Private Investigation and Polygraph Commission Meeting**

**MINUTES of the Tennessee Private Investigation and Polygraph Commission Meeting, held July 18, 2019, in Nashville Tennessee.**

Walt Valentine

Walt Valentine, Chair

Paul David Brown Jr

Paul David Brown Jr, Vice Chair

Stuart W Bayne

Stuart W Bayne

Absent

Larry T Flair, Sr.

Absent

Robin Brewer Johnston

Alan G Rousseau

Alan G Rousseau

Douglas Shanks

Douglas Shanks

PIPC BOARD MEETING AND EDUCATION COMMITTEE MEETING

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**BOARD MEETING**

**July 18, 2019**



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PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION  
EDUCATION COMMITTEE MEETING AND BOARD MEETING  
July 18, 2019  
DAVY CROCKETT TOWER  
500 JAMES ROBERTSON PARKWAY, ROOM 1B  
NASHVILLE, TN 37243

TRANSCRIPT OF EDUCATION COMMITTEE MEETING  
AND BOARD MEETING

Commencing at 9:05 a.m.

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A P P E A R A N C E S

EDUCATION COMMITTEE MEMBERS

Stuart Bayne  
Walt Valentine  
Alan Rousseau  
David Brown

BOARD MEMBERS

Walt Valentine - Chairperson  
Stuart Bayne  
David Brown - Vice Chair  
Larry Flair - Not Present

Robin Brewer-Johnston

Rick Jones

Alan Rousseau

Doug Shanks

ALSO PRESENT

Cody Vest - Executive Director  
Ashley Thomas - Staff Attorney  
Jesse Gentry - Assistant General Counsel  
Mark Amick - Administrative Assistant  
Toby Compton - Assistant Commissioner

MS. VEST: I believe it's time for the  
education committee. Let me get mine here together.  
All right. Any time you're ready, Mr.  
Chair. We'll call to order the education committee,  
Mr. Valentine.

MR. VALENTINE: Okay.  
MS. VEST: I believe that would be David  
Brown?

MR. BROWN: Here.  
MS. VEST: Alan Rousseau?

MR. ROUSSEAU: Here.  
MS. VEST: Larry Flair?  
(No response.)

MS. VEST: Walt Valentine.  
MR. VALENTINE: Here.

MS. VEST: Stuart Bayne?  
MR. BAYNE: Here.

MS. VEST: Thank you. Okay. Let me --  
before we get started with the education as you can  
see you've got quite a few. The reason is with our  
database core we're able to put these on the system  
now and give them a number. Then we put them out for  
any private investigator to go on this education list  
for the continuing education and see what they could  
take if it would be approved. Now, there's two parts

to that. One part is the provider, like the Learning  
Shop or the Association, we can go ahead and approve  
the provider. And then underneath that is the  
individuals who submit just courses for themselves.  
They would be given a course number. It would start  
-- for instance, this is 19 -- 190001, for instance,  
it would be one of these. As we put them in the  
system, it automatically gives them the numbers.  
Well, hopefully that will help individuals be able to  
go out and see what they can take for their  
continuing education.

I have heard from the Learning Shop.  
First of all, for my private -- no, for my security  
guards -- so hopefully we're going to get them in  
with this section as well for the PIs. But if you  
would look at this, a lot of this can be approved by  
me. Once we get them on the course list -- that's  
why I want to present all of them to you, get them  
approved, get them on the course list and as the  
continuing education comes in I don't have to present  
it to you. It's on the list.

MR. VALENTINE: Are you going to put the  
number on it?

MS. VEST: Yes. Like if you did the  
first one, when we go back to the system -- go back

1 to the computer or go back to the office, when we key  
2 it in, it automatically starts giving them numbers.

3 MR. VALENTINE: Okay.

4 MS. VEST: We don't -- we won't be doing  
5 the numbers ourselves.

6 MR. VALENTINE: Okay.

7 MS. VEST: So a lot of this is probably  
8 stuff you've already seen or -- or where they have  
9 gone. But if you would, we'll just start from the  
10 beginning. I think you should have one,

11 Administration Office of the U.S. Courts for Sarah  
12 Kingsbury, K-I-N-G-S-B-U-R-Y.

13 MR. VALENTINE: And Chelsea King and  
14 Amber Treat.

15 MS. VEST: All right. Yes. Included is  
16 the agenda. We tell them how we want it.

17 MR. VALENTINE: Yeah.

18 MS. VEST: Some of them don't exactly do  
19 it that way, but we do talk to them and try to get  
20 them to give us what the course is going to be and  
21 everything. Did everybody have an opportunity to  
22 look over this one, Administration Office of the U.S.  
23 Courts Defender Services Office Training Division?

24 MR. VALENTINE: Yes.

25 MR. BAYNE: Yes.

1 MR. BROWN: Shouldn't it be 12? They're  
2 asking for 14 and a half hours. Isn't it 12 hours or  
3 something?

4 MS. VEST: Yeah, we're going to give them  
5 the maximum. There is no carryovers. They can ask  
6 for 14, they can ask for 22. That's good. If they  
7 want to teach a course for 22 hours, that's great.  
8 But the PI is not going to get but the 12 hours  
9 credit. So did we look at this one and say this one  
10 is okay?

11 MR. VALENTINE: Yes.

12 MR. BROWN: Yes, ma'am.

13 MS. VEST: Okay. Yeah, this is for Amber  
14 Treat, so we're going to say okay for this one, the  
15 same thing.

16 MR. VALENTINE: Amber and Sarah and  
17 Chelsea.

18 MS. VEST: Yes. All of these are okay.  
19 All right. So what's going to happen is we're going  
20 to go out on the computer and put it on there for  
21 Administration Office of the Courts.

22 MR. BROWN: Okay.

23 MR. VALENTINE: Okay.

24 MS. VEST: Now, my question to you is:  
25 If anybody took this, should I stick it up here under

1 provider so anybody else that wants to take this  
2 could look at it, take it, and be approved without  
3 coming before you? Or do I put it under the bottom  
4 for just these three people?

5 MR. VALENTINE: I would say put it up at  
6 the top so we're -- so that's flagged and we know  
7 that they have been approved before.

8 MS. VEST: Okay.

9 MR. BROWN: Yeah.

10 THE COURT: Is that in agreement?

11 MR. BROWN: Yeah.

12 MS. VEST: Sounds good to me. All right.

13 The next one we have is capital D-E, space, capital  
14 V-A-N & Associates. They're out of Columbia, South  
15 Carolina. They're asking -- it's a school for  
16 private investigators continuing education, July the  
17 18th through the 19th, which that -- is that today?

18 MR. VALENTINE: Pretty close.

19 MR. AMICK: 18th, yeah.

20 MS. VEST: And that is a problem we run  
21 into. And, gentlemen, I'll go ahead and tell you  
22 there's two reasons we're doing this. One is we have  
23 the capability in our computer system to do it. And,  
24 number two, we will be discussing the budget, and we  
25 may have to go to once every six months meetings. If

1 that's the case, I'm going to have to have some  
2 authority some way to approve these courses so it  
3 won't interfere with our PIs getting their continuing  
4 education or renewal. And if the information is on  
5 the system, I can just take a look at it and get it  
6 approved and move on. But we'll talk about that  
7 later.

8 MR. BAYNE: I reviewed all of these. And  
9 for De Van & Associates there's actually a total of  
10 12 hours.

11 MS. VEST: Right. There's different  
12 ones, yes. But this is the whole set here. What did  
13 you think about this course, Mr. Bayne?

14 MR. BAYNE: I'm good with it. I'm good  
15 with it.

16 MS. VEST: Okay. So we're going to say  
17 okay to this one?

18 MR. BAYNE: Yes.

19 MR. VALENTINE: Yes.

20 MS. VEST: All right. I believe the next  
21 one is H-A-N-W-H-A, second word is T-E-C-H-W-I-N,  
22 third word is America. I have trouble saying them  
23 much less spelling them. All right. Did you have an  
24 opportunity to look at this? Of course, this is  
25 for -- we use the same form -- hold on just a second.

1 It looks like there's a problem. This one here says  
 2 for alarms.  
 3 MR. BAYNE: Yeah, that's what I was going  
 4 to ask.  
 5 MS. VEST: It got in the wrong stack.  
 6 But we use the same form for all of them.  
 7 MR. BAYNE: Okay. So this is not  
 8 applicable?  
 9 MS. VEST: Not unless you think it's good  
 10 for a PI.  
 11 MR. VALENTINE: No, we don't.  
 12 MS. VEST: It's all about the videos and  
 13 assets control, stuff like that. That's not a PI.  
 14 So forgive me, we'll stick that in a different stack.  
 15 MR. BROWN: We were ready for that one.  
 16 MR. VALENTINE: Yeah.  
 17 MR. BROWN: We had done our  
 18 investigating.  
 19 MS. VEST: Right. The next one is the  
 20 Tennessee Division International Association for  
 21 Identification. This is the TBI, Tennessee Bureau of  
 22 Investigation.  
 23 MR. BROWN: I don't have any problem with  
 24 that.  
 25 MS. VEST: It was a conference. It's 24

1 hours. Of course, that was the whole course. But it  
 2 would just be 12.  
 3 MR. BAYNE: Yeah, it was not 24 because  
 4 they include breaks and lunch and --  
 5 MS. VEST: It's okay for the --  
 6 MR. BAYNE: It's okay for the 12 as far  
 7 as I'm concerned.  
 8 MS. VEST: Anybody else? Everybody agree  
 9 with this one?  
 10 MR. VALENTINE: I agree.  
 11 MS. VEST: Oh, let me ask you a question  
 12 just out of the blue here. If I have a course from  
 13 the TBI, would it automatically be approved?  
 14 MR. VALENTINE: Should be.  
 15 MR. BAYNE: Should be.  
 16 MS. VEST: Or FBI course or something  
 17 like that?  
 18 MR. VALENTINE: Yeah.  
 19 MS. VEST: So I can put them on as a  
 20 provider and let that go at that?  
 21 MR. ROUSSEAU: Yes.  
 22 MR. BROWN: Yes.  
 23 MR. VALENTINE: Yes.  
 24 MR. BAYNE: Yes.  
 25 MS. VEST: The next one is Martin

1 Methodist College, 20 hours. Well, we know what  
 2 that's -- it's going to be 12. You're going to --  
 3 MR. VALENTINE: That seems to be okay.  
 4 MS. VEST: That's criminal justice,  
 5 criminal cyber, and investigations are the course  
 6 that it took. It got kind of confusing because it  
 7 said Martin Methodist College, then it's Nova  
 8 Southeastern University. From what I understand he  
 9 has to take one course in order to take the second.  
 10 They do a second. Now, I will put this one on the  
 11 system only under his name. This is just  
 12 specifically for him.  
 13 MR. BAYNE: It should be because this is  
 14 a Ph.D. This is a four-year process for this man.  
 15 MS. VEST: Right.  
 16 MR. BAYNE: 68 hours of credit.  
 17 MS. VEST: But I won't put them on as a  
 18 provider.  
 19 MR. BAYNE: Right.  
 20 MR. BROWN: Right.  
 21 MS. VEST: All right. Let me write that  
 22 down. Excuse me.  
 23 All right. Then we have the SBI Seminars  
 24 out of Dothan, Alabama, Lawyers & Investigators, A?  
 25 Team Approach.

1 MR. BAYNE: Six hours.  
 2 MS. VEST: Six hours is what they've  
 3 asked for.  
 4 MR. BAYNE: I've reviewed it, and I'm  
 5 fine with it.  
 6 MR. VALENTINE: It's fine with me.  
 7 MR. ROUSSEAU: Same.  
 8 MS. VEST: Okay. Specialized  
 9 Investigation Consultants out of Miami, 20 hours.  
 10 We'll change that to 12 but ...  
 11 MR. VALENTINE: I don't know who is going  
 12 down there to take that course, but more power to  
 13 them.  
 14 MR. BAYNE: This is another example of  
 15 claiming 20 but only deserving 13 or 12.  
 16 MS. VEST: Right. Well, he's only going  
 17 to get 12.  
 18 MR. BAYNE: They don't count breaks and  
 19 lunches and receptions and ...  
 20 MS. VEST: Well, we have -- Chairman  
 21 Valentine, we have quite a few -- whoever said that,  
 22 we have quite a few private investigators that do go  
 23 out of state and take courses for whatever reason.  
 24 So this will just be for this gentleman?  
 25 MR. VALENTINE: Yes.

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1 MR. ROUSSEAU: Yes.  
 2 MS. VEST: Okay.  
 3 MR. BAYNE: Why? Why just --  
 4 MS. VEST: Not a provider is what I'm  
 5 saying.  
 6 MR. BAYNE: Why just this gentleman?  
 7 MR. VALENTINE: That's an organization  
 8 that's teaching the course. Why don't we just make  
 9 it an approved organization?  
 10 MS. VEST: Approved provider.  
 11 MR. BAYNE: Well, throughout all this  
 12 review, 204 pages, I've been impressed with the  
 13 faculty, the trainers. Generally I'm seeing --  
 14 MR. VALENTINE: They're good, yeah.  
 15 MS. VEST: Okay. So I'll put it down as  
 16 an approved provider and approve it for --  
 17 MR. BAYNE: For a 12.  
 18 MS. VEST: Great.  
 19 MR. VALENTINE: Yeah.  
 20 MS. VEST: Okay. And then we have the  
 21 Tennessee Association of Professional Process  
 22 Service, six hours.  
 23 MR. ROUSSEAU: Aren't they already on our  
 24 approved list?  
 25 MS. VEST: Yes. But I'm bringing it back

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1 to get the number because they're going to be a  
 2 provider. This is something that happens all the  
 3 time.  
 4 MR. BAYNE: And six hours is spot on,  
 5 too.  
 6 MR. VALENTINE: No problem.  
 7 MS. VEST: All right. That's all we  
 8 have. So whenever we adjourn -- not adjourn,  
 9 whenever we have the full board here, we'll just  
 10 present it, we'll reread it, and we'll say that the  
 11 education committee approved and get a full vote with  
 12 the commission.  
 13 MR. VALENTINE: Okay.  
 14 MR. BAYNE: (Nods head affirmatively.)  
 15 MS. VEST: All right. Well, if you want  
 16 to adjourn, Mr. Chairman?  
 17 MR. VALENTINE: Do I hear a motion to  
 18 adjourn?  
 19 MR. BROWN: Motion.  
 20 MS. VEST: Wait a minute. Mr. Brown made  
 21 the motion. Who did the second?  
 22 MR. BAYNE: Second.  
 23 MS. VEST: Mr. Bayne. Thank you.  
 24 Before we get started you did have a  
 25 formal hearing today, but it has been canceled or

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1 postponed I believe until -- if it was going to  
 2 happen, you would have already known about it. But  
 3 it has been moved to October and perhaps maybe  
 4 December. We'll go from there and see.  
 5 I'm ready any time you are, Mr. Chairman.  
 6 MS. VEST: Tiffany, you ready?  
 7 MR. VALENTINE: Good morning, fellow  
 8 commission members, staff members, and other guests.  
 9 Today's date is July 18th, 2019, at approximately  
 10 9:35 a.m. I'm Walt Valentine, commission chair.  
 11 I'll now call to order the meeting of the Tennessee  
 12 Private Investigation and Polygraph Commission. The  
 13 executive director, Cody Vest, please call the roll.  
 14 MS. VEST: Robin Brewer-Johnston?  
 15 MS. BREWER-JOHNSTON: Here.  
 16 MS. VEST: Stuart Bayne?  
 17 MR. BAYNE: Here.  
 18 MS. VEST: Douglas Shanks?  
 19 MR. SHANKS: Here.  
 20 MS. VEST: Walt Valentine?  
 21 MR. VALENTINE: Here.  
 22 MS. VEST: David Brown?  
 23 MR. BROWN: Here.  
 24 MS. VEST: Alan Rousseau?  
 25 MS. ROUSSEAU: Here.

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1 MS. VEST: Rick Jones.  
 2 MR. JONES: Here.  
 3 MS. VEST: Larry Flair?  
 4 (No response.)  
 5 MS. VEST: Let the record show that Larry  
 6 Flair is not present, but you do have a quorum.  
 7 MR. VALENTINE: Thank you. The next item  
 8 for approval is the agenda. I would like to ask each  
 9 commission member who has received and had time to  
 10 review a copy of the agenda and if so is there a  
 11 motion to adopt this agenda?  
 12 MR. BAYNE: So moved.  
 13 MR. SHANKS: Second.  
 14 MR. VALENTINE: It's been moved and  
 15 seconded to approve the agenda. Any discussion?  
 16 (No response.)  
 17 MR. VALENTINE: All those in favor say  
 18 aye.  
 19 MR. BAYNE: Aye.  
 20 MR. BROWN: Aye.  
 21 MS. BREWER-JOHNSTON: Aye.  
 22 MR. JONES: Aye.  
 23 MR. ROUSSEAU: Aye.  
 24 MR. SHANKS: Aye.  
 25 MR. VALENTINE: All those opposed?

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1 (No response.)  
2 MR. VALENTINE: Motion carries.  
3 The next item on our agenda is the  
4 approval of minutes for the last meeting.  
5 MS. VEST: Mr. Chairman, we do not have  
6 any minutes for you to approve today. I will present  
7 them at the next meeting. We had some corrections,  
8 and I haven't been able to get the other set printed  
9 off for you.  
10 MR. VALENTINE: Okay. We will skip that  
11 and go to the legal report next on our agenda.  
12 Jesse Gentry --  
13 MR. GENTRY: Yes, good morning.  
14 MR. VALENTINE: -- assistant general  
15 counsel has a report for us.  
16 MR. GENTRY: Right. So the first  
17 complaint we have is 2019038251. This complaint  
18 actually in the number two are related to the same  
19 facts, so I put the facts in complaint number one and  
20 then you'll see it in number two just as if these are  
21 the same ones.  
22 So the summary of this complaint is that  
23 it was made against a licensed PI and an identical  
24 one was made against his company. The complainant  
25 alleges that the owner engaged in reckless and

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1 dangerous activity in Jonesboro, Arkansas, including  
2 being involved in a high-speed-car chase with  
3 complainant. Complainant stated that he and his own  
4 private investigator had been following respondent in  
5 Jonesboro after they had seen respondent meet with  
6 complainant's wife. Complainant also alleged that  
7 respondent told complainant he would need to pay him  
8 \$200,000 and insinuated that he had teams in Uruguay  
9 and Spain that could harass complainant's family  
10 members there. Respondent stated that he is a  
11 witness for complainant's wife in the divorce case  
12 between complainant and complainant's wife.  
13 Respondent stated that complainant has been following  
14 and tracking him, has been attempting to intimidate  
15 him as a witness.  
16 Respondent has filed police reports  
17 against complainant and has been talking to an  
18 attorney about filing a civil case against him as  
19 well. Respondent was in Jonesboro to file a police  
20 report against complainant. Respondent stated that  
21 when he saw complainant, complainant drove off at a  
22 high speed. Respondent admitted to calling  
23 complainant and calling law enforcement, however, he  
24 denied engaging in a high-speed chase with  
25 complainant and there's no evidence respondent

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1 actually engaged in such behavior.  
2 Respondent admitted to meeting with  
3 complainant about his behavior and stated that he  
4 would be pressing felony charges against him, but he  
5 denied making statements that he would harass him or  
6 that he tried to extort him.  
7 The recommendation for this complaint is  
8 to close it.  
9 MR. BROWN: Mr. Chairman, I so move that  
10 we accept counsel's recommendation.  
11 MS. BREWER-JOHNSTON: I second.  
12 MR. VALENTINE: Moved and seconded by  
13 Brewer-Johnston. Any discussion?  
14 (No response.)  
15 MR. VALENTINE: All in favor say aye.  
16 MR. BROWN: Aye.  
17 MS. BREWER-JOHNSTON: Aye.  
18 MR. JONES: Aye.  
19 MR. ROUSSEAU: Aye.  
20 MR. SHANKS: Aye.  
21 MR. VALENTINE: All opposed?  
22 (No response.)  
23 MS. VEST: Mr. Bayne, did you vote?  
24 MR. BAYNE: No, I did not. I'm just  
25 trying to understand more clearly.

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1 MS. VEST: So we'll just open it up for  
2 discussion perhaps.  
3 MR. BAYNE: Okay. I just want to  
4 understand why the motion was made and seconded to  
5 close this. Why is this closing? I'm missing  
6 something here, I think, in other words.  
7 MR. GENTRY: My recommendation was to  
8 close based on the fact this is going to be a  
9 difficult one to prove that he engaged in reckless  
10 behavior. The only evidence that there really is is  
11 the complainant's own testimony that this actually  
12 happened. There was no evidence provided by him.  
13 Respondent did provide copies of the police report.  
14 It's a very nasty he said she said in this case.  
15 It's going to be complainant's word versus  
16 respondent's word. Based on all of the facts that  
17 are presented it's going to come down to whether or  
18 not who is going to be more believable. And at that  
19 point it's still going to be a difficult decision to  
20 show that he actually engaged in this behavior.  
21 MR. BAYNE: Thank you for that further  
22 explanation.  
23 MR. VALENTINE: This is in Jonesboro,  
24 Arkansas, that it all occurred?  
25 MR. GENTRY: Yes, sir.

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1 MR. BAYNE: I will vote aye.  
 2 MR. VALENTINE: What other legal  
 3 ramifications of being in Jonesboro, Arkansas, with a  
 4 Tennessee PI?  
 5 MR. GENTRY: In which way? In the way  
 6 that could we discipline him for activity that  
 7 occurred in Jonesboro? Is that what you're asking?  
 8 MR. VALENTINE: Yes.  
 9 MR. GENTRY: I believe that we would  
 10 still have the ability to issue discipline against  
 11 him as a licensee because we're saying that he did  
 12 engage in -- if we were to say he engaged in this  
 13 reckless or dangerous activity.  
 14 There was also some statements by  
 15 complainant that there may have been a carryover of  
 16 the harassment into Tennessee. Again, there was no  
 17 actual documentation on that, though.  
 18 MR. VALENTINE: But does he have a  
 19 license to go into Arkansas?  
 20 MR. GENTRY: To perform activity in  
 21 Arkansas? I do not believe so. And there was no  
 22 evidence that he was actually in Arkansas performing  
 23 duties as a private investigator.  
 24 MR. BAYNE: Other than he said she said;  
 25 is that correct?

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1 MR. GENTRY: Yes, sir.  
 2 MR. VALENTINE: All right.  
 3 MS. VEST: All right. So I think the  
 4 vote was Mr. Brown made the motion to accept --  
 5 MR. BROWN: Yes, ma'am.  
 6 MS. VEST: -- counsel's decision. It was  
 7 seconded by Ms. Johnston?  
 8 MS. BREWER-JOHNSTON: Yes.  
 9 MS. VEST: Can I have the vote again?  
 10 MR. VALENTINE: All in favor say aye.  
 11 MR. BAYNE: Aye.  
 12 MR. BROWN: Aye.  
 13 MS. BREWER-JOHNSTON: Aye.  
 14 MR. JONES: Aye.  
 15 MR. ROUSSEAU: Aye.  
 16 MR. SHANKS: Aye.  
 17 MR. VALENTINE: All opposed?  
 18 (No response.)  
 19 MS. VEST: Thank you.  
 20 MR. GENTRY: Thank you.  
 21 So complaint number two that we have  
 22 today, 2019039481, these are the same facts. The  
 23 case is just made against the respondent's actual  
 24 company versus the other one was against him as the  
 25 private investigator. The recommendation for this

Page 23

1 one is also to close.  
 2 MR. BAYNE: I'll make a motion to close  
 3 it.  
 4 MR. ROUSSEAU: Second.  
 5 MR. VALENTINE: Any discussion?  
 6 (No response.)  
 7 MR. VALENTINE: Hearing none, all in  
 8 favor say aye.  
 9 MR. BAYNE: Aye.  
 10 MR. BROWN: Aye.  
 11 MS. BREWER-JOHNSTON: Aye.  
 12 MR. JONES: Aye.  
 13 MR. ROUSSEAU: Aye.  
 14 MR. SHANKS: Aye.  
 15 MR. VALENTINE: All opposed?  
 16 (No response.)  
 17 MR. VALENTINE: Motion carries.  
 18 MR. GENTRY: Number three and four --  
 19 that concludes the new cases we had. Three and four  
 20 are actually representations of previously presented  
 21 complaints. I'll start with number three. These are  
 22 both again related based on the fact that they are  
 23 again a private investigator and his company.  
 24 2018025961 the previous recommendation of  
 25 the Board was to authorize formal charges and to send

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1 a consent order with a civil penalty in the amount of  
 2 \$1,000 for violation of Tennessee Rules and  
 3 Regulations 1175-04-.05, conflicts of interest, no  
 4 licensee or employee of a licensee shall contract or  
 5 cause to be contracted -- or contacted any individual  
 6 under investigation for the purposes of revealing  
 7 confidential information to that individual. In  
 8 Tennessee Rules and Regulations 1175-04-.07,  
 9 confidential client information, licensee shall not  
 10 disclose confidential information without the  
 11 specific consent of the client. That previous -- or  
 12 when it was first presented, there were issues that  
 13 the respondent had told the ex-husband of the  
 14 complainant information and offered to sell it. We  
 15 did get some new information, which was that the  
 16 respondent had voluntarily surrendered his license on  
 17 June 14th, 2019. He told disciplinary counsel that  
 18 he has moved from the State of Tennessee, he is no  
 19 longer engaged in the private investigation business,  
 20 he has no intention on returning to said business.  
 21 We sent letters to him as well, and they have been  
 22 returned. He had stated -- he had moved to the  
 23 Virgin Islands.  
 24 The recommendation at this point is to  
 25 close and flag it. His license will expire



1 3-21-2020.  
 2 MR. VALENTINE: So we will flag both of  
 3 his -- his PI license and his company license?  
 4 MR. GENTRY: That's correct.  
 5 MS. VEST: The gentleman did return his  
 6 license, his PI license and his company license.  
 7 MR. GENTRY: That's correct.  
 8 MR. VALENTINE: He did, okay.  
 9 MS. VEST: He voluntarily surrendered it.  
 10 I'm still going to flag it, yes, sir.  
 11 MR. VALENTINE: Because he still owes  
 12 \$1,000, right?  
 13 MR. GENTRY: Well, that's what I was  
 14 going to say, if he ends up -- because he did  
 15 surrendered his license -- I talked to Director Vest  
 16 about this as well. If he were to come back and try  
 17 to have his license reinstated, at that point he  
 18 would have to address the complaint. But by closing  
 19 and flagging it, it will stay there on his record in  
 20 case he tries to reinstate his license or apply for a  
 21 new one in the future.  
 22 MR. VALENTINE: Okay. Very good. Do I  
 23 hear a motion?  
 24 MR. ROUSSEAU: I move that we accept the  
 25 recommendation of counsel.

1 MR. JONES: I'll second it.  
 2 MS. VEST: That was Rick Jones seconded?  
 3 MR. JONES: Yes.  
 4 MR. VALENTINE: Moved and seconded. Any  
 5 discussion?  
 6 (No response.)  
 7 MR. VALENTINE: Hearing none, all in  
 8 favor say aye.  
 9 MR. BAYNE: Aye.  
 10 MR. BROWN: Aye.  
 11 MS. BREWER-JOHNSTON: Aye.  
 12 MR. JONES: Aye.  
 13 MR. ROUSSEAU: Aye.  
 14 MR. SHANKS: Aye.  
 15 MR. VALENTINE: All opposed?  
 16 (No response.)  
 17 MR. GENTRY: And then just for the record  
 18 number four, which is 2018026001, it's the same  
 19 facts. But, again, this is against the business  
 20 instead of the individual. The recommendation on  
 21 this one previously was a \$500 civil penalty for  
 22 the -- a violation of Tennessee Rules and Regulations  
 23 117504.064, the licensee shall not bill a client for  
 24 services or expenses which have not been provided or  
 25 incurred. That was the previous recommendation but

1 the same new information as that previous complaint  
 2 that he had moved from the state and is no longer  
 3 engaged in the business. And there's a  
 4 recommendation to close and flag this one as well.  
 5 MR. BROWN: Mr. Chairman, I so move and  
 6 accept counsel's recommendation.  
 7 MR. ROUSSEAU: Seconded.  
 8 MR. VALENTINE: Moved and seconded. Any  
 9 discussion?  
 10 (No response.)  
 11 MR. VALENTINE: Hearing none, all in  
 12 favor say aye.  
 13 MR. BAYNE: Aye.  
 14 MR. BROWN: Aye.  
 15 MS. BREWER-JOHNSTON: Aye.  
 16 MR. JONES: Aye.  
 17 MR. ROUSSEAU: Aye.  
 18 MR. SHANKS: Aye.  
 19 MR. VALENTINE: All opposed?  
 20 (No response.)  
 21 MR. VALENTINE: Motion carries.  
 22 MR. GENTRY: Thank you. And that  
 23 concludes all the cases on the legal report.  
 24 MR. VALENTINE: Thank you.  
 25 MS. VEST: Mr. Chairman, before we go any

1 further we have a guest with us I would like to  
 2 introduce you to, our new assistant commissioner Toby  
 3 Compton.  
 4 MR. COMPTON: I'm Toby Compton. I'm the  
 5 new assistant commissioner with the department. I've  
 6 been trying to come and say hello to every board and  
 7 commission as they meet. Chairman Valentine and I  
 8 had a coffee this morning, got to know each other a  
 9 little bit. I learned a little bit more about the  
 10 industry and what was happening, and that was a  
 11 pleasure. I've enjoyed working with Cody. If  
 12 there's anything I can do to help assist you guys  
 13 with the work you do in your industry, please, let me  
 14 know. You can reach out. I look forward to working  
 15 with you and doing anything, and I really enjoy  
 16 state/government -- what work we all do together. So  
 17 I look forward to collaborating with you in any way I  
 18 can.  
 19 Are there any questions y'all have got  
 20 for me or anything you would like to know?  
 21 (No response.)  
 22 MR. COMPTON: Y'all are simple. That's  
 23 great. Please, feel free to reach out. I look  
 24 forward to working with you in the months ahead,  
 25 years ahead, and I'm sure we'll be in touch. Cody is

1 great. She keeps me straight.  
 2 MR. VALENTINE: Toby Compton, thank you  
 3 for coming and appearing before us.  
 4 MS. VEST: All right. I believe our  
 5 other appearance here is Mr. Duncan. I believe it's  
 6 Steven Duncan. We had talked to Mr. Duncan about the  
 7 eye scanning. We talked about this at several  
 8 meetings before, and I said, well, perhaps we can ask  
 9 the gentleman to come in and give us a brief history  
 10 of it, tell us what's happening in the future, what's  
 11 going to happen with our PIs, or how it's going to  
 12 affect our PIs. So, Mr. Duncan, would you mind  
 13 coming up? If you would be more comfortable, you can  
 14 take Mr. Flair's seat there.  
 15 MR. DUNCAN: You tell me. You're the  
 16 boss here.  
 17 MS. VEST: Just go over there and sit in  
 18 Mr. Flair's seat.  
 19 MR. DUNCAN: That's fine.  
 20 MS. VEST: And use the microphone there.  
 21 It might be a lot more comfortable.  
 22 MR. DUNCAN: This one?  
 23 MS. VEST: Yes, sir. Make sure the red  
 24 light is on.  
 25 MR. DUNCAN: Right. Firstly, Director

1 Vest, I appreciate you inviting me to come up. I  
 2 want to take a couple of minutes of your time to just  
 3 get a little background here so you know kind of  
 4 what's going on. Former commission member, Jerry  
 5 Richards, had approached me after Director Vest had  
 6 talked with him about if he knew anyone or knew  
 7 anything about ocular motion deception testing. And  
 8 he really had not gotten involved in it, but he knew  
 9 that I had. So he approached me, and I contacted  
 10 Director Vest and she asked if I would come up and  
 11 address the commission on it. And just real briefly,  
 12 as far as my background so you kind of know where I'm  
 13 coming from, I was in law enforcement and emergency  
 14 services and so forth for about 35 years. I retired  
 15 from the Georgia State Patrol over their polygraph  
 16 program actually. I've been a polygraph examiner for  
 17 over 25 years now and a licensed polygraph examiner  
 18 and private investigator in Tennessee and a number of  
 19 other surrounding states. After I retired, I've  
 20 really gone to work I guess it seems like. So I  
 21 wanted to let you know from that perspective. I'm  
 22 also the president of the American Polygraph  
 23 Association, and so I have some insights into things  
 24 I guess from that perspective that others may not  
 25 have.

1 Now, to qualify after that, I'm not here  
 2 representing any company or any entity or the  
 3 American Polygraph Association or anybody affiliated  
 4 with ocular motion detection testing. I have no ties  
 5 with them in any way nor, again, am I representing  
 6 the APA. I just came as an informational source  
 7 because I -- my position with the APA being on the --  
 8 I've been on the board of that for I guess 20 years,  
 9 25 years, off and on. So I have been exposed to a  
 10 lot of the newer information coming along and the  
 11 developments and so forth, and I have worked for the  
 12 Department of Defense over at the National Center for  
 13 Credibility Assessment. And so I kind of keep up  
 14 with what is going on because of other things I have  
 15 involved. So that's -- that's how I got involved  
 16 with this ocular motion deception testing and came to  
 17 know about it a few years ago. So what I'm going to  
 18 try to do is just present to you what I know. I  
 19 don't do it, I don't use it. And, again, I have no  
 20 interest in it one way or the other, so I'm sort of a  
 21 neutral party here. As you would probably guess, I'm  
 22 a little -- I lean a little toward the polygraph side  
 23 because that's my business and that's my passion  
 24 actually. So I lean a little toward it, but I'm  
 25 always open to new ideas. If there's a better mouse

1 trap, I'll buy one. That's where I'm coming from  
 2 just to let you know my perspective.  
 3 Now, as far as ocular motor deception  
 4 testing -- that's very difficult for me to say.  
 5 Maybe we should just use eye scan.  
 6 MS. VEST: Yes, sir.  
 7 MR. DUNCAN: Anyway as far as the basis  
 8 of it, most of the research I've been exposed to  
 9 indicates it is based theoretically on the same type  
 10 of principles as polygraph in that it depends on  
 11 physiological reaction with the threat of light. And  
 12 a lot of you are experienced investigators and so  
 13 forth, and you know there are things that people do  
 14 when they lie, just not the same things for every  
 15 person. But there are certain things that happen to  
 16 us physiologically when we lie and that's been proven  
 17 over and over and over and over through polygraph  
 18 research and interview research and et cetera, you  
 19 know, Dr. Reid (phonetic) and all kinds of people  
 20 have done all kind of research on that. So this is  
 21 just another step along those lines, but it's using  
 22 the eyes alone as opposed to polygraph using three or  
 23 four or five or whatever different components. It's  
 24 using exclusively -- and the latest research has just  
 25 used the pupils themselves. They found the most

1 validity, reliability, and accuracy in pupil change,  
2 actually getting larger. And that ties back, we  
3 think, to a couple of things. And there's  
4 disagreement in the field right now, not only in the  
5 ocular motion field but in the polygraph field as  
6 well, as to if it is truly fight or flight response  
7 or if it's a cognitive response, i.e., are we having  
8 to think more about lying than we do about telling  
9 the truth. And that -- that sort of makes sense to  
10 me. I'm not a physiologist or a psychologist either  
11 one, but it kind of makes sense to me it's harder to  
12 lie than it is to be truthful. So that cognitive may  
13 be part of it and the emotion of being caught in a  
14 lie may be part of it. That's sort of the thinking  
15 now and what the research tends to indicate although  
16 that is just theory.

17 Now, the latest research that has been  
18 published on ocular motion, I brought a copy in case  
19 anybody wanted to take a look at it. It was done by  
20 Dr. John Kircher. And Dr. Kircher is out of the  
21 University of Utah in Salt Lake City, and he has done  
22 a tremendous amount of research over the past -- I  
23 don't know how many years, years and years, many  
24 years, on deception, all kinds of things on polygraph  
25 and other things involved with detection of deception

1 or to tell us if someone is telling the truth. And  
2 he's been heavily involved in it, and he and others  
3 got involved in a rather large research project in  
4 ocular motor deception tests. And his is the most  
5 current research I have, it was published in 2018.  
6 Excuse me.

7 And just in a nutshell what they did is  
8 they took a relatively large sample group of people  
9 and they had some of them commit a crime, you know,  
10 steal some money and another part of that group not  
11 steal money. And then they tested them using ocular  
12 motion, and they used several different things.  
13 They -- and I mentioned earlier they came up with the  
14 most -- the most telling was pupil change size. They  
15 also tried time and answering -- in the same  
16 experiment they used time and answering and errors  
17 and movement, eye movement, and several other  
18 parameters, but the pupil change was the thing that  
19 they found that was most discerning of deceptive.

20 And, again, in a nutshell what they came  
21 up with on a specific issue -- I'll come back to that  
22 in a second -- is somewhere in the neighborhood of --  
23 their lowest was about 82 percent and the highest was  
24 86 percent accuracy.

25 MR. BAYNE: Wow.

1 MR. DUNCAN: Now, here is sort of the  
2 clincher of this, that is on a specific issue, one  
3 thing. Now, others are touting, and I have heard it  
4 personally, so I can testify to it. I've heard it  
5 from sales people that this is the greatest thing  
6 since peanut butter for screening, but the accuracy  
7 figures that I have seen published are not near close  
8 to this 80 percentile, in the mid 80s, in screening  
9 tests because -- and you have to understand if -- if  
10 I can say, Chairman Valentine, did you park on the  
11 street?

12 MR. VALENTINE: (Nods head  
13 affirmatively.)

14 MR. DUNCAN: That's an easy one, isn't  
15 it? It's very hard for you to get away from that or  
16 to rationalize around it. You either did or you  
17 didn't.

18 MR. VALENTINE: (Nods head  
19 affirmatively.)

20 MR. DUNCAN: Whereas if I said, have you  
21 ever parked on a street on the south side of  
22 Nashville of I-40, you've got to think about that,  
23 you've got to decide where that would be, have you  
24 done it, try to remember back. Those are more what  
25 the screening tests do because we ask in screening

1 tests -- many of the times we ask people a number of  
2 different things like, for example, in preemployment  
3 testing in law enforcement arenas and so forth. So  
4 the accuracy has not even been anywhere near as  
5 close, nor is it in polygraph. We lose accuracy in  
6 polygraph. Some of those figures are down, you know,  
7 in the high sixty -- 68 something percent I think the  
8 Office of Technological Assessment study of the 90s  
9 came out with. We know now we're on up -- we're much  
10 better than that because of our instrumentation and  
11 procedures and so forth but still a lower -- a lower  
12 accuracy rate even in polygraph. But the accuracy  
13 rate in the screening has not been very good.

14 So what the federal government has done,  
15 the current status or current state if you will,  
16 this -- a caveat, Dr. Kircher is involved with the  
17 eye detector people. He is a -- it's my  
18 understanding, I don't know this for a fact, but my  
19 understanding is he is involved on their board or  
20 involved with them. I don't know if financially but  
21 at least, you know, in giving them information and  
22 research and so forth. He's involved with the ocular  
23 motion folks. But he is also known as a very honest  
24 reporter. I believe his -- if he reported it was the  
25 80 percentile on that one specific issue, I believe

1 it to be true. But the federal government, the  
2 assessment -- the National Center for Credibility  
3 Assessment, they wanted some independent study. And  
4 I think we all kind of like to see that, somebody  
5 that doesn't have a dog in the fight.

6 MR. BAYNE: A second opinion.

7 MR. DUNCAN: Yes, sir. Exactly. Someone  
8 who, once again, does not profit from it, not that  
9 they've done anything wrong or incorrect but it's  
10 just not -- it just makes us all feel better, I  
11 think, and makes it much more easy to market and  
12 accept.

13 So the federal government -- I understand  
14 it's a large sum and I guess that's sort of relative,  
15 but it is classified the amount of money they have  
16 funneled into Oak Ridge Laboratories to do a  
17 completely independent study. And they -- I  
18 understand it's big money to --

19 MR. BAYNE: So it was funded to the ORNL?

20 MR. DUNCAN: Yeah, it was given to them  
21 to independently research. And the feeling was not  
22 that the -- the National Center for Credibility  
23 Assessment, they actually have done research on this  
24 as well. But they are so heavily tied into polygraph  
25 I think some of the folks involved said let's get

1 someone totally removed so nobody can say, you know,  
2 you skewed it toward polygraph. Because if it's your  
3 profession, you're bound to have some natural bias.  
4 I think it's virtually impossible not to. So they  
5 have funneled a tremendous amount of money from what  
6 I was told into Oak Ridge, and Oak Ridge jumped right  
7 on it. So I know it had to be a big chunk, if you'll  
8 pardon my vernacular there. But they jumped right on  
9 it, and they were tasked with coming back with some  
10 data by the end of the fall of this year. Now if  
11 that occurs, I will be -- I will be elated. Because  
12 it's -- it's a big research project, and I understand  
13 they're going to have to use a large number of people  
14 in order to have validity for the testing and just to  
15 do a test like that and to do all the calculations  
16 necessary for it to meet the modern day parameters of  
17 scientific research it's going to take some time.  
18 But they are, I understand, working on it full board  
19 at this point in time. So I anticipate and I -- it  
20 's my understanding again, although the exact  
21 parameters they were using and the exact methodology  
22 were also classified, I understood from somebody that  
23 was involved since the inception that it's going to  
24 look at probably specific issue, one certain thing,  
25 and screening.

1 Because a lot of the -- a lot of the  
2 interest in this was in being able to screen people  
3 faster and cheaper particularly in  
4 counterintelligence and so forth. That was one of  
5 the big interests of the federal government, that and  
6 prescreening of employees before -- you know, before  
7 the polygraph because it's much quicker, it's much  
8 cheaper, you don't have to train someone to the  
9 extent because it takes -- you know, it's -- the  
10 shortest polygraph schools that we have that the  
11 American Polygraph Association accredits is ten  
12 weeks. And some of them are 14 weeks. And then you  
13 have an internship and everything. So it's a pretty  
14 lengthy process to get a polygraph examiner. And  
15 then the instrumentation is expensive whereas this  
16 the instrumentation is I think leased or rented.

17 Sort of the take back I understand from  
18 this, though, is that you test the person with the  
19 ocular motion deception test and you send the results  
20 to the company and you pay them a fee and they -- or  
21 you send your data, I'm sorry, your data to the  
22 company, you pay them a fee, and they send you the  
23 result back. Deceptive or non deceptive.

24 So what it does -- it's not polygraph.  
25 Because in polygraph -- and once again I'm a little

1 biased here and I'll admit it. But polygraph you  
2 get a lot of information. Polygraph examiners are  
3 information gatherers. If many of you have used  
4 polygraph or been affiliated with it, like in  
5 preemployment screening or whatever, it's more  
6 important a lot of times to our client or whoever  
7 we're doing the exams for to get the surrounding  
8 information, whether it be from a legal perspective,  
9 either side, prosecution or defense, or from a -- you  
10 know, a potential employee or employer to be able to  
11 provide them with information on that subject so they  
12 can make a wise and informed decision, whether they  
13 should hire them or not, you know, to obviously  
14 negate negligent hiring suits and so forth. So it's  
15 a totally different thing. But it appears by the  
16 research Kircher did to work on this specific issue  
17 quite well, just a few points below polygraph  
18 average. Because polygraph now we're looking into  
19 the mid 80s, upper 80s to the mid 90s, in specific  
20 issue testing percentage-wise. And both, of course  
21 -- you know, we have to account for people that don't  
22 cooperate, people who give wrong answers, people that  
23 move or we have artifacts in the testing that won't  
24 give it. So, you know, it's -- it's worth looking at  
25 obviously to the federal government and others. I

1 don't think it's -- it does what polygraph does.  
2 Again, I'll tell you, I'm probably biased toward it  
3 with that being my passion. But it is a -- it  
4 appears to maybe have some validity and reliability,  
5 some viability in some applications, but not in the  
6 place of polygraph in my opinion. And that's Steve's  
7 opinion, Steve Duncan's opinion, on that.

8 So once again I have the research paper.  
9 If anybody wants to take a look at it --

10 MR. BAYNE: Is that Kircher's research?

11 MR. DUNCAN: Yes, sir, it is. And it's  
12 published, Detecting Concealed Information Deception  
13 Recent Development Cambridge MA, Academic Press, in  
14 2018.

15 MR. BAYNE: Of course I would be  
16 interested.

17 MR. DUNCAN: I can tell you.

18 MR. BAYNE: Really, seriously.

19 MR. DUNCAN: If you're going to read it,  
20 allow a little time because some of it is a little  
21 dry, as much research is. But, yes, sir, if you want  
22 to --

23 MR. BAYNE: Can we somehow get it  
24 available to us?

25 MS. VEST: Yes, would you like to -- all

1 of the board -- commission members, we can make you a  
2 copy that.

3 MR. DUNCAN: I just thought it might be  
4 interesting to --

5 MR. VALENTINE: If we could just get the  
6 website -- just get the website where we can have --

7 MR. DUNCAN: How about if I just leave  
8 this with you and you can copy this or scan it? Do  
9 you want me to just do that?

10 MS. VEST: I beg your pardon?

11 MR. DUNCAN: I'm sorry, Director Vest. I  
12 said, do you want me to just -- I'll just give you  
13 this. I don't need it. I've got it on my computer.

14 MS. VEST: Oh, okay. That will be fine.  
15 I'll take that.

16 MR. DUNCAN: I'll just leave this, and  
17 that way it gives you the site on it and you can --  
18 and all the --

19 MS. VEST: I can e-mail that to everyone.

20 MR. VALENTINE: Yeah, just send the site  
21 to everybody.

22 MR. DUNCAN: It references some of the  
23 other -- a number of the others. It's a good  
24 reference reference as well because it references  
25 some of the other testing and stuff that was done on

1 screening and so forth that didn't turn out.

2 And I will mention one other study that  
3 is not published. You won't hear about this because,  
4 again, I understand it was classified, not by us but  
5 by another country. But a lot of testing was done in  
6 Columbia on -- testing what they call assets, people  
7 that are providing information and so forth. I wish  
8 I had written down exactly what I was told, but it  
9 was along these lines. It did not work well in that  
10 application. But I think there was some other  
11 confounds involved with language and education,  
12 educational level of some or their informants, not  
13 understanding the instructions and different  
14 dialects. And I think there were some other  
15 confounds that probably hurt it, but it was so bad  
16 that they never published or released the percentage  
17 results. And I think -- I think the project just  
18 didn't work as they predicted, and it showed worse  
19 than it probably performs because of so many -- you  
20 know, if you try to do research and it doesn't follow  
21 your parameters, then it's pretty worthless to  
22 anybody. It's not worth saying we only did 30  
23 percent accuracy when it's -- when that's not  
24 accurate.

25 MR. VALENTINE: The Oak Ridge National

1 Lab, is that experimentation or that investigation  
2 was ocular only?

3 MR. DUNCAN: I was told yesterday that  
4 there's also another method of detection of deception  
5 involved, but they've -- they would not tell me what  
6 it is. I guess my clearance is not high enough.

7 MR. VALENTINE: How will we be able to  
8 get the results of that?

9 MR. DUNCAN: I would anticipate --  
10 because there's so much eyes on this -- and the guys  
11 that are pushing this ocular motion, they are -- the  
12 eye detector people particularly, they're doing a  
13 hard sale on a lot of entities worldwide. They're  
14 really pushing it. Is his name Cuban that's  
15 financing and supporting? They're doing a hard  
16 sale all over the world.

17 MR. VALENTINE: You don't mean Mark  
18 Cuban?

19 MR. DUNCAN: I think, yes, sir. I don't  
20 know him, but he's involved with this and they've got  
21 a lot of financing and so forth. And they're  
22 promoting it actively worldwide for screening stuff.

23 So the federal government is obviously  
24 very interested in it, and I think -- what I would --  
25 and this is a prophesy, just based on what I've seen

1 in the past. If they get that research done in the  
2 fall, which I would be surprised, let's say maybe by  
3 the first of next year, they will release it to the  
4 Department of Defense to the National Credibility  
5 Assessment Center and then they will probably release  
6 it next summer. I would anticipate --

7 MR. BAYNE: An unclassified version of  
8 it?

9 MR. DUNCAN: Right, right, right. And  
10 some of it we may never see because some of the stuff  
11 we never see. I've worked on a couple of projects  
12 for them, and we're still forbidden from discussing  
13 it just from a national security perspective. I hate  
14 that, and I know everybody else does, too. But if  
15 they tell you they'll put you in jail if you talk  
16 about it, I don't talk about it. But I think they  
17 will probably -- it wouldn't surprise me if they  
18 didn't do a presentation at the American Polygraph  
19 Association seminar next year. It would not surprise  
20 me if they get the data back by then and are able  
21 to -- because what they'll do is they'll take that  
22 data and confirm it and so forth. So we're still --  
23 it's still too new to really hang your hat on, I  
24 think. And this is in Steve Duncan's opinion again.  
25 But it may have some promise. I just don't know yet.

1 I would like to see that independent research and see  
2 what Oak Ridge -- because they'll tell us exactly  
3 like it is, and they won't pull any punches.

4 MR. VALENTINE: Well, thank you very  
5 much. We appreciate you coming here --

6 MR. DUNCAN: Yes, sir.

7 MR. VALENTINE: -- and enlightening us on  
8 all of this research.

9 MR. DUNCAN: I appreciate your time. And  
10 if anybody has any questions, Director Vest has my  
11 personal cell number and my personal e-mail. I meant  
12 to bring some business cards here. But after sitting  
13 in that traffic over there, I was a bit brain dead  
14 when I pulled up out here. But she has both of my  
15 personal contacts. And if you have questions on it  
16 or something -- if I don't know the answer, I'll sure  
17 try to get it for you because I know a lot of people  
18 are heavily involved in this. And I'll try to get  
19 any answers I can get for you or polygraph as well.  
20 I'm always glad to assist the commission in any way I  
21 can.

22 MR. VALENTINE: Director Vest, you'll  
23 give us his --

24 MS. VEST: Oh, yes, I'll send that out to  
25 you. Yes.

1 MR. VALENTINE: -- e-mail as well as the  
2 website.

3 MS. VEST: Yes.

4 MR. VALENTINE: Okay. Very good. Thank  
5 you very much.

6 MR. DUNCAN: And like I said, I'll be  
7 glad to help you folks in any way I can.

8 MR. BAYNE: Quick question if I may?

9 MR. DUNCAN: Yes, sir.

10 MR. BAYNE: Is it simply -- is it as  
11 simple as pupil size change, or is it pupil size  
12 change and the direction.

13 MR. DUNCAN: What they said in the --  
14 they looked at movement as well.

15 MR. BAYNE: As well as movement.

16 MR. DUNCAN: They don't want any  
17 movement. And I know where you're going with that,  
18 NLP, neurolinguistic patterning, I taught that for  
19 many years. And now they're telling us it's not  
20 accurate even though I've used it in hundreds of  
21 cases. But what they found was -- and they looked at  
22 the movement, they looked at the size change, they  
23 looked at a number of parameters. It mentions  
24 several of them in here. But the pupil size,  
25 according to Kircher, seemed to be the most

1 diagnostic of --

2 MR. BAYNE: Diminishes for deception?

3 MR. DUNCAN: Getting bigger. I read that  
4 again, and I think I understood that right. But if  
5 you read it and I'm wrong, tell me because that was  
6 kind of my understanding. Now, of course, that  
7 wasn't pertinent to my discussion today so I didn't  
8 look deeper into it. Change was the effector there.

9 But I guess I can kind of see that from my limited  
10 expertise in physiology because when we tend to focus  
11 on something or try to collect more information, a  
12 fight or flight response, we know we get pupil size  
13 change, larger, when we take in more light. Yes, so  
14 that would sort of fit with my perception of the  
15 physiological --

16 MR. BAYNE: Yes.

17 MR. DUNCAN: -- perception of either  
18 cognitive or the fight or flight response. Both  
19 maybe.

20 MR. VALENTINE: Thank you again.

21 MR. DUNCAN: Thank you all. I appreciate  
22 it.

23 MS. VEST: I appreciate you coming in.

24 MR. VALENTINE: Director Vest, I think  
25 we're ready for administrative matters now.

1 MS. VEST: Oh, yes, sir. All right. If  
2 you would, we'll look under my section here. It's  
3 the monthly reports that we sent out. We do have  
4 March, April, May, and June, but I'm going to cut  
5 right over to June. And actually it just tells you  
6 about the meetings that Jesse and Ashley and I do try  
7 to get together and have. And I have a meeting on  
8 the finances with the assistant commissioner that you  
9 just met. I have other meetings with him with your  
10 information as well. But you'll see I still have  
11 three commission members that are vacant. We have  
12 Alan Rousseau, Rick Jones, and the polygraph where  
13 Jerry Richards has left.

14 Yes, sir? Did you sign in, Mr. Duncan?

15 MR. DUNCAN: I didn't. I guess I need to  
16 sign.

17 MS. VEST: Yes, sir. You don't need  
18 continuing education if you're with the polygraph  
19 commission.

20 MR. DUNCAN: But I'm both. I'm a PI as  
21 well.

22 MS. VEST: Oh, okay. If you need  
23 continuing education, sign, yeah, sure.

24 MR. DUNCAN: Sorry to interrupt.

25 MR. VALENTINE: Not a problem.

1 MS. VEST: I'm sorry, excuse me. The  
2 three vacancies here, the open one for the polygraph,  
3 of course, was Jerry's, Jerry Richards' position. We  
4 have received numerous names for people who would be  
5 interested in serving on the commission, and it's  
6 going through the necessary process. Hopefully we'll  
7 have new people appointed soon. That takes care of  
8 that one.

9 Now, let's go to the budget review.  
10 Excuse me. At the end of May you were in the red  
11 \$5,356. You do not have your June totals there. You  
12 will have -- I will receive the June totals. And now  
13 we'll also be receiving the yearend closure totals.  
14 As soon as I get this information, I will send it out  
15 to the commission members that are waiting for a  
16 meeting. I'll send it out. Hopefully June's will  
17 show that we can come out of the red. If we do not  
18 come out of the red, this is your second year. We  
19 will be set for a -- we will have to probably attend  
20 a sunset hearing, and it will probably be all board  
21 members will be brought in.

22 MR. VALENTINE: Oh.

23 MS. VEST: This would be a big one. If  
24 you have -- we've previously talked about ways that  
25 perhaps we could increase this budget. About the

1 only way we can is more people coming in, more people  
2 renewing. I gave you already a printout of a  
3 seven-year spread that we went out and looked. It's  
4 not a big decrease, but it's -- as you can see, every  
5 year has decreased. And unfortunately what you have  
6 there for this year is just for six months. And for  
7 us to come out even with last year I think we need at  
8 least another 70 people apply. That's probably --  
9 probably not going to happen for the rest of the  
10 year. I'm not sure, but we've got our fingers  
11 crossed. But I wanted you to see that because you  
12 had asked me before how the surrounding states, which  
13 I am doing that again, another study, a little bit  
14 more in depth, and asking about the fees that they  
15 are charging, how many people. I'm having to use the  
16 resource for our answer because some states you have  
17 to do a public records request. It gets a little bit  
18 more difficult. We're more open to give information  
19 apparently in the State of Tennessee. So I'm trying  
20 to do that. I've got two people that are working on  
21 that now, so hopefully I'll have that information to  
22 you. I'll go ahead and send it out to you in advance  
23 before the next board meeting if I get all that  
24 information together just so we can see what we're  
25 looking at. But all of it is really going to hinge

1 on what the budget is going to be, what it's totally  
2 going to end up with.

3 If you don't have any questions about  
4 that --

5 MR. BAYNE: I have two.

6 MS. VEST: Of course you do, Mr. Bayne.  
7 What can I help you with? I could tell by looking at  
8 you.

9 MR. BAYNE: If you were -- if you were to  
10 look at this trend line, how does that look in the  
11 other professions, the other regulated professions.

12 MS. VEST: I can only tell you what mine  
13 look like.

14 MR. BAYNE: That would be great. Is it a  
15 similar trend line?

16 MS. VEST: No, sir.

17 MR. BAYNE: It is not?

18 MS. VEST: No, it is not. Security  
19 guards are quite healthy as could be expected. A lot  
20 of them are renewing instead of -- we used to be --  
21 our bread and butter used to be the applications, now  
22 it's the renewals. More people are keeping the job  
23 once they obtain the job, that trend is.

24 MR. BAYNE: That makes sense.

25 MS. VEST: Alarms, no, sir, that

1 profession is very healthy. They have registered  
2 employees, and that's really where we would get our  
3 money from is the registered employees. A lot of the  
4 companies have purchased other companies or they've  
5 combined or whatever, and it's quite healthy. This  
6 program is the only one that I have that's not  
7 self-sustaining.

8 MR. BAYNE: The second question is: Is  
9 this program the only program which has not raised  
10 its fees in 13 years?

11 MS. VEST: Private Protector, which is  
12 our security guard, has never raised their fees. And  
13 they've been in business since '88, '89, '90. They  
14 have never raised fees. I have taken a look --  
15 that's why we're doing it to the other states --  
16 about raising fees. I didn't mention that because  
17 I've mentioned it before. You don't raise the fee to  
18 prohibit people coming into the industry. We would  
19 raise the renewal fee.

20 MR. BAYNE: Yes.

21 MS. VEST: How high would I have to raise  
22 the renewal fee is the question.

23 MR. BAYNE: I see.

24 MS. VEST: And is that going to take care  
25 of the problem two years from now, three years from

1 now, four years from now. That's what I'm trying to  
2 look at the overall -- maybe in the next ten years is  
3 what I'm trying to do, take a look at where we're  
4 going to be at then.

5 MR. BAYNE: I understand. I just  
6 remember in an earlier meeting in which we  
7 acknowledged that we had not raised renewal fees in a  
8 very long time.

9 MS. VEST: Very long time. And I also  
10 remember that meeting to where I don't think all the  
11 commission members were in agreement for raising the  
12 renewal fee. They talked about the application fee.  
13 But with this administration or perhaps any  
14 administration maybe that would be prohibitive of  
15 people coming into your industry, making the fees  
16 higher. That's why I'm trying to do the fee  
17 comparisons with all the other states.

18 MR. BROWN: Something we talked about  
19 before, internet is killing us. You can do so much  
20 investigative stuff up there. People are doing it,  
21 licensed or not.

22 MS. VEST: I would like to ask you on the  
23 record if you do have any suggestions please send  
24 them to me, perhaps how we can get more people in the  
25 industry, perhaps by raising the fees if you've done

1 your own study or whatever. I would like to see this  
2 profession continue. Perhaps it can be placed with  
3 another program such as Private Protective Services.  
4 That may take a change on the hill because you're a  
5 commission and that's a commissioner run program.  
6 But that's something that I'm looking into.

7 Yes, sir?

8 MR. VALENTINE: Director Vest, I was on  
9 the PI commission in Indiana for several years, and  
10 their staff director, Amy Hall, was very cooperative.  
11 And they only licensed the company, and currently  
12 they have 425 companies in Indiana, \$300 initial fee  
13 and every three years another 300 renewal for three  
14 years. The company then does their own hiring of  
15 applicants and their own backgrounds and submit them  
16 to the commission, which I thought was interesting,  
17 to hold them accountable. They -- wherever they've  
18 lived for the past seven years they have to do an  
19 arrest check, the applicant does, and provide that to  
20 the company. And then the company then provides it  
21 to the commission.

22 MS. VEST: And they can sustain that?

23 MR. VALENTINE: Yes.

24 MS. VEST: Okay. That was Indiana,  
25 right?

1 MR. VALENTINE: Yes, Indiana.

2 MS. VEST: I wrote down Indiana. We're  
3 looking into Indiana.

4 MR. VALENTINE: And they have no  
5 attorneys on staff. They have an attorney general  
6 staff person available to them. And if they request,  
7 they can attend the meetings.

8 MS. VEST: (Nods head affirmatively.)

9 MR. VALENTINE: They only have five board  
10 members for the private investigators and the private  
11 security. Two of each and then one public member.

12 MS. VEST: All right. That's kind of the  
13 stuff we're looking into, Mr. Chairman.

14 MR. VALENTINE: Yeah.

15 MS. VEST: Like I said, you're already  
16 commissioned. To make any particular changes I'm  
17 sure would have to be done on the hill. So we would  
18 have to have everybody's input there to make any  
19 changes. But I'm just letting you know in the office  
20 we're all looking at this. I'm doing my best to make  
21 sure that we can have the PI profession regulated.  
22 We may have to do some changes. We may come out and  
23 have three or \$4,000 left or whatever. As you know,  
24 I have to start July 1st over with a zero balance  
25 anyway. But if it's in the red, we will be subject



1 to a sunset hearing and they will want to know what  
 2 I'm going to do about it.  
 3 MR. VALENTINE: Okay.  
 4 MS. VEST: So I've got to have your  
 5 input. It's your profession.  
 6 MR. BAYNE: You'll get it from me.  
 7 MS. VEST: All right. Thank you.  
 8 All right. Legislative update, I don't  
 9 believe we have any legislative update.  
 10 Application reviews, we don't have any  
 11 education reviews.  
 12 MR. VALENTINE: You mean application.  
 13 MS. VEST: Application, I'm sorry.  
 14 So let's go down to correspondence.  
 15 Exhibit A is Gary Lamb, L-A-M-B, of Lamb  
 16 Investigations. This was a question. I have a  
 17 question that has come up from one of the attorneys I  
 18 work with. I worked a conspiracy case last year, and  
 19 my client on a drug conspiracy was able to work out a  
 20 plea deal. He pled and went on to do his time. I  
 21 was approached by a different attorney to work a new  
 22 conspiracy, new docket number, which I have  
 23 discovered is a later roundup of the same conspiracy.  
 24 I have spoken with the first client who has no  
 25 knowledge of this new guy. The question is: If I

1 get a letter from the original client stating that  
 2 fact, is there still a conflict in the new case? The  
 3 problem is that there are not enough PIs to cover the  
 4 big conspiracy cases in this area. And he's from  
 5 Knoxville.  
 6 I didn't know how to answer his question.  
 7 MR. VALENTINE: Have you talked to our  
 8 attorney about this?  
 9 MS. VEST: Have I talked to you about it?  
 10 MS. THOMAS: No.  
 11 MS. VEST: I haven't talked to her about  
 12 it, no, sir. Excuse me.  
 13 MS. THOMAS: So in your rule it does  
 14 state under 1175-04-.05, subpart one, the licensee  
 15 shall not accept compensation, financial or  
 16 otherwise, for more than one party for services on or  
 17 relating to the same investigation set of  
 18 circumstances, court case, or issues unless all  
 19 interested parties consent in writing after full  
 20 disclosure by the licensee.  
 21 If he gets that consenting writing, I  
 22 think legally I think he's fine. I think he wants  
 23 the commission's opinion on, I guess, prac --  
 24 MR. VALENTINE: So he just needs to get a  
 25 letter from his client that he -- that it's okay for

1 him to work on this other.  
 2 MS. THOMAS: Right. It would have to be  
 3 all interested parties, so probably both sides of it.  
 4 MR. BROWN: The question I've got is was  
 5 he hired by this attorney to work on this case. This  
 6 defendant took a plea deal or --  
 7 MS. VEST: You've got all I've got.  
 8 MR. BROWN: That's what I'm not clear  
 9 about, if he hired the attorney -- he's talking about  
 10 that maybe -- I'm not confusing the -- is he talking  
 11 about the defendant, is he going to have a conflict?  
 12 Or is he talking about his attorney because his  
 13 attorney may have a different opinion than ours to  
 14 begin with. That may answer his question right  
 15 there. And I'm thinking if I'm an attorney, the  
 16 defendant may not want him working.  
 17 MS. VEST: That's why he's asking the  
 18 question, I believe, because now he finds out that  
 19 it's related back to the first case he was working.  
 20 MR. BROWN: And that's quite probably a  
 21 conflict.  
 22 MR. SHANKS: And is he appointed by AOC?  
 23 MR. BROWN: That's what we don't know.  
 24 MR. SHANKS: So it sounds like conflict  
 25 to me.

1 MR. BROWN: Yeah, me too. But without  
 2 his --  
 3 MR. VALENTINE: If he gets a letter from  
 4 all the parties involved, then that resolves his  
 5 conflict?  
 6 MS. THOMAS: According to our rules, yes,  
 7 sir.  
 8 MR. BROWN: Well, it depends on who hired  
 9 him. If the attorney hired him, he's going to need a  
 10 letter from the attorney. He's also going to need a  
 11 letter from the defendant stating he doesn't have a  
 12 conflict. Otherwise if he does it with just one, he  
 13 could be missing the boat here. It could be bad.  
 14 MR. VALENTINE: So he needs a letter from  
 15 the defendant and the attorney in the original case  
 16 stating it's okay to work the second case.  
 17 MS. THOMAS: I think that would cover the  
 18 all interested parties requirement.  
 19 MR. VALENTINE: Okay.  
 20 MR. BROWN: Uh-huh.  
 21 MS. VEST: So we don't have a lot of PIs  
 22 in the Knoxville area that could take on these cases?  
 23 MR. BROWN: Oh, I can think of three or  
 24 four.  
 25 MR. BAYNE: Isn't that interesting?

1 MS. VEST: Right. That's the point that  
 2 really interested me.  
 3 MR. BAYNE: I hope someone is listening.  
 4 MR. BROWN: I can think of one or two  
 5 right off the top of my head.  
 6 MR. JONES: I know Byron is --  
 7 MS. VEST: Okay. So what I'm going to do  
 8 is contact Mr. Lamb and tell him that he would need a  
 9 letter from the attorney and from the defendant in  
 10 the first case that says it's okay for him to work  
 11 the second case.  
 12 MR. VALENTINE: Yes.  
 13 MR. BAYNE: Not that it's okay but there  
 14 is no conflict.  
 15 MS. VEST: Excuse me. No conflict.  
 16 MR. SHANKS: Hey, Cody.  
 17 MS. VEST: Yes, sir.  
 18 MR. SHANKS: Could you send him a list of  
 19 all the private investigators in Knoxville?  
 20 MS. VEST: Yes, sir, I sure could do  
 21 that.  
 22 MR. SHANKS: I'm just kidding. He can  
 23 look it up on the website.  
 24 MR. BROWN: I can think of a bunch of  
 25 them.

1 MR. BAYNE: The letter could remind the  
 2 individual that there are resources that can be  
 3 accessed with a little bit of investigative research.  
 4 MS. VEST: I will be talking to Mr. Lamb  
 5 personally about that.  
 6 MR. BAYNE: That would be fine.  
 7 MS. VEST: If he has those kind of  
 8 questions, perhaps there should be someone else that  
 9 he could go through or his attorney could or  
 10 whatever. But that's why I brought it to you is  
 11 because you know more about that than I do.  
 12 Okay. The next one here is a little  
 13 different. This is Exhibit B. Well, I spoke to this  
 14 gentleman this morning, Mr. Michael Frawley,  
 15 F-R-A-W-L-E-Y. It's -- he's saying he just got off  
 16 the phone with Ms. Gabriel (phonetic) and discussed  
 17 his company, KPMG, being allowed to offer assets  
 18 location services to our clients. They feel like  
 19 that they are exempt under 62-26-223(a) because they  
 20 are a CPA firm. Well, that's what that exemption is,  
 21 a CPA firm. So I'm going, I don't exactly understand  
 22 what he was trying to ask me. So when I called him,  
 23 it kind of stuck in my mind. I had this ready for  
 24 you today. I said, well, maybe I misunderstood what  
 25 he said, so I called him. So what they're doing is

1 they are a CPA firm who will have an employee in  
 2 their office look up unclaimed property in the State  
 3 of Tennessee, contact the individual and say we found  
 4 whatever they found for you and charge a fee. I  
 5 said, but you're a CPA firm. He said basically  
 6 that's what they are, they're a CPA firm. So was  
 7 this a different -- are you branching out into a  
 8 different area or what are you doing. And he said  
 9 that's what they're doing, they want to actually  
 10 offer their services to find unclaimed property in  
 11 the State of Tennessee.  
 12 MR. BROWN: Doesn't he realize that list  
 13 is public and free?  
 14 MS. VEST: Well, anybody can do that.  
 15 It's free, yes, sir, I got that. But we do work with  
 16 the -- our department does work with the unclaimed  
 17 department with the State of Tennessee, and any time  
 18 they get these kind of inquiries they say, oh, wait a  
 19 minute, you might need to meet with a PI. So they  
 20 always refer them to me.  
 21 MR. VALENTINE: We've had this before.  
 22 MS. VEST: Yes, sir.  
 23 MR. VALENTINE: What did we decide  
 24 before?  
 25 MS. VEST: We decided before if he's

1 doing PI work, even though they are a CPA firm, they  
 2 need to be -- they need to hire a PI in their CPA  
 3 firm to do this. Certified public accountant is  
 4 unclaimed properties getting paid to locate moneys,  
 5 something a CPA firm does? I don't know. So that's  
 6 why I brought it to you.  
 7 MR. BROWN: I feel like it should be a  
 8 licensed PI.  
 9 MR. JONES: I think so, too. There's  
 10 going to be certain aspects of that where they're  
 11 going to cross lines in investigative services.  
 12 MR. ROUSSEAU: Do we have an opinion from  
 13 our attorney?  
 14 MS. THOMAS: Well, my honest opinion, if  
 15 they are exempted and they are operating under their  
 16 accountancy firm, they are exempt. And at that point  
 17 if -- if the commission is saying they are exempt,  
 18 then we can't require them to hold a PI license under  
 19 that firm. So like when Cody said if they're going  
 20 to branch out, if they're going to become KPMG  
 21 Investigations, of course, that would be a different  
 22 arm of it that would need a license. But if part of  
 23 their business is to research this unclaimed  
 24 property, I think that would still fall under the  
 25 exemption. That's my opinion.

1 MR. VALENTINE: And locating the people  
2 that own it, that would require some research.

3 MS. THOMAS: Right. That's why I said I  
4 guess it matters how they -- how they've structured  
5 it. If they're still operating and doing all of that  
6 as an accounting firm, statute says that accounting  
7 firms are exempt from our regulation. If they've  
8 structured it as something separate, if they can  
9 contact KPMG solely for investigating this property  
10 and recovering this unclaimed property, I think that  
11 looks more like investigation.

12 MR. BAYNE: The TCA has an additional  
13 part to that, 223(a), the phrase is -- I'll read the  
14 whole thing. Quote, this part does not apply to --  
15 exceptions, this part does not apply to a public  
16 accountant and a certified public accountant or the  
17 agent of either performing duties relating to public  
18 accountancy. So it seems to -- the question is: Is  
19 this public accountancy?

20 MS. THOMAS: Is it relating to public  
21 accountancy.

22 MR. BAYNE: Yeah, I see your point.

23 MS. THOMAS: Uh-huh.

24 MR. SHANKS: And accountants have to be  
25 licensed in Tennessee?

1 MS. THOMAS: They do.

2 MS. VEST: They are. Their company is  
3 fine.

4 MR. SHANKS: Oh, okay.

5 MS. VEST: It's not a problem. I did  
6 check that.

7 MS. THOMAS: So I think that's probably  
8 the more accurate question for the commission is an  
9 accountancy firm researching unclaimed property, is  
10 that related to public accountancy thereby they would  
11 fall under that exemption.

12 MR. VALENTINE: What does the Board  
13 think?

14 MR. BROWN: I think they're reaching out  
15 and extending themselves beyond what's normally  
16 thought of as a CPA.

17 MR. JONES: Well, it's just what I was  
18 saying a minute ago, certain aspects say, for  
19 example, you know, identifying who someone is one  
20 thing, but then the techniques involved in trying to  
21 identify them, trying to locate them, for example,  
22 you don't just pick up the phone and say, hey, this  
23 is your unclaimed property. Sometimes you've got to  
24 go through several steps, and that's where you may be  
25 crossing the lines of doing investigative work.

1 MR. ROUSSEAU: Mr. Chairman, would it be  
2 possible to ask them to give us a more specific  
3 understanding of what they mean by researching for  
4 unclaimed property and getting paid by a potential  
5 client for this service?

6 MS. VEST: This is a -- they do hold a  
7 license, and they are located here in Nashville. Is  
8 this something we might want to ask them to come in  
9 and talk to us about?

10 MR. ROUSSEAU: I would think so.

11 MS. VEST: It's three months down the  
12 road.

13 MR. ROUSSEAU: Or either to staff.

14 MR. BROWN: It sounds like -- is the  
15 industry trying to do something a little bit  
16 different? Because it's going to have to be a  
17 contact or a fee agreement. If somebody calls me up  
18 and says, Mr. Brown, I found \$10,000 for you in  
19 unclaimed property, what am I going to do? I'm going  
20 to go Google it right away to see if I have unclaimed  
21 property.

22 MS. VEST: You probably would, but what  
23 they're going to do is call you and say, I found this  
24 and you pay me X number of dollars, I'll help you  
25 recover it.

1 MR. JONES: Yeah, but to what lengths

2 will they go to find someone and what methods would  
3 they use?

4 MS. VEST: Now, what we can do since the  
5 board meeting will be so far out, I can have an  
6 informal, bring in the chair or whoever would  
7 volunteer that, and ask them to come in and talk to  
8 us about it --

9 MR. BROWN: That's fine.

10 MS. VEST: -- one-on-one to get an idea  
11 if you feel that's necessary. But that's one step we  
12 can take, or we can ask them to wait for an opinion  
13 until the next board meeting and come in and address  
14 what they do, however you want to handle that. Or we  
15 can tell them it's fine.

16 MR. VALENTINE: Or that it's not fine,  
17 they have to have a license.

18 MR. ROUSSEAU: Maybe we can recommend to  
19 the chair that we ask the director to call them and  
20 come in, meet with representative of the Board and  
21 the director and get some more clarification on their  
22 procedure.

23 MS. VEST: Yes, it could just be myself,  
24 the attorney, and one of our board members for the  
25 informal to get a better understanding of what they

1 're doing.

2 MR. ROUSSEAU: Does that need to be in  
3 the form of a motion?

4 MS. VEST: Yes, sir.

5 MR. ROUSSEAU: I would like to move that  
6 we direct Cody Vest, the director, to contact the  
7 company and ask them to come in for some additional  
8 information and meet with the executive staffing or  
9 representatives.

10 MR. BROWN: I second that.

11 MR. VALENTINE: It's been moved and  
12 seconded. Any further discussion?

13 (No response.)

14 MR. VALENTINE: If none, I'll call for  
15 the vote. All in favor say aye.

16 MR. BAYNE: Aye.

17 MR. BROWN: Aye.

18 MS. BREWER-JOHNSTON: Aye.

19 MR. JONES: Aye.

20 MR. ROUSSEAU: Aye.

21 MR. SHANKS: Aye.

22 MR. VALENTINE: All opposed?

23 (No response.)

24 MR. VALENTINE: Motion carries.

25 MS. VEST: All right. I can do that.

1 I'll get that set up for you.

2 MR. VALENTINE: Okay.

3 MS. VEST: All right. Now, we're going  
4 to go to the education report. We had our education  
5 meeting this morning. And I believe all the case --  
6 all the education that we reviewed was approved.

7 I'll have to spell this again. H-A-N-W-H-A,  
8 T-E-C-H-W-I-N America was approved, that course.

9 Specialized Investigation Consultants was  
10 also approved. Administration Office of the U.S.  
11 Courts Defender Services Office Training Division  
12 approved for three different individuals.

13 D-E, V-A-N & Associates was also  
14 approved.

15 The Tennessee Division International  
16 Association of Identification was approved.

17 And the Tennessee Association for  
18 Professional Process Service was approved.

19 I talked with the education committee and  
20 explained to them that we have the capability now on  
21 our computer system to list these courses and give  
22 them an actual course number. They were broken down  
23 into two categories out on the internet. The private  
24 investigator could go out and see who their provider  
25 is that's been approved. And then down here at the

1 bottom, the second part of that, is where we put the  
2 individuals that were just approved for their  
3 particular course. This will help the PIs for their  
4 continuing education credits. Do I have a vote? Can  
5 we do a vote, Mr. Chairman?

6 MR. ROUSSEAU: One addition.

7 MS. VEST: Yes, sir.

8 MR. ROUSSEAU: We did pull the Awana  
9 (phonetic) Technical Training. That got mixed up.

10 MS. VEST: Yes, that was an alarm course.  
11 We did remove that. The education committee did.

12 MR. VALENTINE: We also approved the  
13 personal credits for Robert Schoeberl --

14 MS. VEST: Yes.

15 MR. VALENTINE: -- for Martin Methodist  
16 College and Nova Southeastern University for 12  
17 hours.

18 MS. VEST: Yes.

19 MR. SHANKS: I make a motion we accept.

20 MR. ROUSSEAU: Seconded.

21 MR. VALENTINE: Moved and seconded. Any  
22 discussion on the education committee?

23 (No response.)

24 MR. VALENTINE: All in favor say aye.

25 MR. BAYNE: Aye.

1 MR. BROWN: Aye.

2 MS. BREWER-JOHNSTON: Aye.

3 MR. JONES: Aye.

4 MR. ROUSSEAU: Aye.

5 MR. SHANKS: Aye.

6 MR. VALENTINE: All opposed?

7 (No response.)

8 MR. VALENTINE: Motion carries.

9 MS. VEST: As I told the education  
10 committee, you'll -- as we have these board meetings  
11 and more and more of these come up, I'll be bringing  
12 them to make sure -- to get your vote on that. And  
13 then as we put them on the computer, the office staff  
14 will be able to look at the list just like the  
15 private investigator can and we'll them approved as  
16 quickly as possible.

17 MR. VALENTINE: Okay. So you'll approve  
18 them and just notify us of which ones you have  
19 approved?

20 MS. VEST: No, sir. What I meant was  
21 once you approve these courses and I get them out  
22 there if I want -- if I'm a PI and I want to do a  
23 renewal, I'm going to go out there and look at this  
24 course and I'm going to take it and then I'm going to  
25 send the paperwork in to my office and we'll go ahead

1 and just approve it because it's an approved course.  
 2 MR. VALENTINE: Okay.  
 3 MS. VEST: If that's all right.  
 4 Okay. It looks like we have some --  
 5 MR. VALENTINE: Any unfinished business?  
 6 MS. VEST: Yes, let me get to my  
 7 paperwork here. And we certainly appreciate Mr.  
 8 Duncan coming in to talk with us. I did have quite a  
 9 few questions for the gentleman, but I figured I  
 10 maybe need to read the material before I -- one  
 11 question was: Is there a difference in doing a male  
 12 versus a female with the polygraph?  
 13 MR. BAYNE: Fair question.  
 14 MS. VEST: Maybe do our eyes differ?  
 15 Like he was talking about the size of the eyes. We  
 16 know gentlemen usually don't tell as much truth as  
 17 women do, so I was just wondering. I couldn't resist  
 18 that.  
 19 MR. BROWN: Move her out of order.  
 20 MS. VEST: I was just wondering.  
 21 MR. VALENTINE: Is that from experience?  
 22 MS. VEST: No. I always tell the truth.  
 23 Let me go ahead and let Ashley do -- she has a  
 24 presentation for you under new business.  
 25 MS. THOMAS: So under Governor Lee's

1 executive order number five we are required to do a  
 2 refresher course on the Sunshine Act for all of our  
 3 boards and commissions. I believe Cody and her staff  
 4 sent out to you a PowerPoint presentation to that  
 5 regard, so I'm just going go over it really quickly.  
 6 The biggest thing is everything is an open record.  
 7 That includes e-mails, photographs, any documents  
 8 that we hold. If I get a public records request,  
 9 that is something that can be distributed or provided  
 10 in response to that.  
 11 As far as public meetings, any meeting of  
 12 a governing body is considered a public meeting. A  
 13 governing body is defined as two or more members.  
 14 This is not to say that you all cannot go to lunch  
 15 together, you won't be at the same association  
 16 meetings together. But if that chance meeting, if it  
 17 starts to turn into a discussion or deliberation  
 18 about board business, that technically is a public  
 19 meeting. And it would have to be noticed before any  
 20 of that board business could be discussed. The only  
 21 meeting that is not considered a public meeting would  
 22 be an executive session, and that's very specific.  
 23 That's between the commission members and the  
 24 attorney. If the commission is under lawsuit or  
 25 under threat of lawsuit, then that gives the

1 commission an opportunity to talk to their attorney  
 2 outside of the public in relation to that lawsuit.  
 3 For those public meetings, as we know in  
 4 this commission, we've done it a couple of times,  
 5 electronic attendance is allowed. But once that's  
 6 done all votes must be a roll call vote. I know  
 7 we've done that a couple of times with this  
 8 commission. And if we're using electronic attendance  
 9 to reach a quorum, at that point I would have to file  
 10 a statement of necessity. And that's something Cody  
 11 and I would discuss before the commission meeting.  
 12 The public does have the right to attend all of our  
 13 public meetings, but there's not necessarily a right  
 14 to participate. So they can attend all of them, but  
 15 it's up to the chair and the commission whether or  
 16 not they can be placed on the agenda to be heard.  
 17 The public meeting notice has to pass a  
 18 three-prong test. The first being that the contents  
 19 must reasonably describe the purpose of the meeting.  
 20 I believe Cody does that by publishing the agenda.  
 21 That agenda must be posted at an adequate time for  
 22 advanced notice. I know she puts the meeting dates  
 23 up about a year in advance. The specific agenda for  
 24 that month meeting is about a week before the  
 25 meeting. And then it must be posted in a location

1 where the public can access it. And I know she  
 2 publishes that on the website, like I said, a week  
 3 before. And then the agenda is outside the door on  
 4 meeting days.  
 5 Any violation of the Sunshine Act or the  
 6 Public Meetings Act, it would nullify any decision  
 7 that the Board has made. All that commission action,  
 8 all those costs would be assessed against the annual  
 9 budget, and those decisions would be null and void  
 10 and we would have to hold another public meeting and  
 11 go over that again.  
 12 And the final part that I wanted to point  
 13 out to the Board refers again to the North Carolina  
 14 dental case that just sets forth that the Board or  
 15 Commission could not engage in any anticompetitive  
 16 practice. And they have to -- any board action must  
 17 include active state supervision. And the way the  
 18 Department has implemented that is we do have a  
 19 policy director who reviews all of our board meetings  
 20 to determine that the action the Board is taking is  
 21 not being anticompetitive in any way.  
 22 So like I said, we did just have to  
 23 refresh the Board and Commissions on all of that. So  
 24 I thank you for your attention.  
 25 MS. VEST: Well, thank you, ma'am.

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1 MS. THOMAS: Uh-huh.  
2 MS. VEST: I appreciate that. Does  
3 anybody have any questions about that?  
4 (No response.)  
5 MS. VEST: That's what we just talked  
6 about, the e-mail that I had gotten, when I said we'd  
7 have like -- I refer to it as informal. There would  
8 be one commission member and myself and the attorney  
9 and the individual that sent in.  
10 MS. THOMAS: Uh-huh.  
11 MS. VEST: We would be meeting ...  
12 MS. THOMAS: You would be in compliance.  
13 MS. VEST: Be in compliance, thank you.  
14 Okay. Any questions?  
15 (No response.)  
16 MS. VEST: If we don't, we'll just move  
17 on to the last thing that I've got. What it is under  
18 new business B is actually the website for anyone to  
19 go and apply that wants to be on the Commission on  
20 any commission or any board. This is the website  
21 where they would go out to and fill out the actual  
22 application. The way that I understand that we're  
23 doing it now is, for instance, if someone says I'm  
24 interested in being on your commission and I'll say  
25 great, they'll send me an e-mail. I'll vet the

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1 individual, we'll look and see if -- when the  
2 individual became licensed, how long they've been  
3 licensed, does that individual have complaints. I  
4 don't run a background check because that's already  
5 done because the individual is going to have to be a  
6 PI or a polygraph person, so it's technically already  
7 done. So I would get all that information together,  
8 I would send it to AC Compton who would send it  
9 through the necessary channels, and it would go up to  
10 the hill to the actual governor for the appointment  
11 or committee or whoever.  
12 As far as Jerry Richards' position is  
13 concerned, I do have quite a few polygraph people  
14 that are interested. I've already vetted them. The  
15 names have already been submitted. Hopefully this  
16 new process that we're doing will speed up the  
17 appointments. And we -- we appreciate our board  
18 members whose terms have expired but then continued  
19 to serve.  
20 And actually that's all I've got, Mr.  
21 Chairman.  
22 MR. VALENTINE: Very good. Do we have  
23 anyone appearing for the continuing education  
24 participation forum?  
25 MS. VEST: Not that I'm aware of.

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1 UNIDENTIFIED SPEAKER: I am for  
2 continuing education.  
3 MS. VEST: Did you sign in?  
4 UNIDENTIFIED SPEAKER: I did.  
5 MS. VEST: He signed in. He will be  
6 given credit for that.  
7 MR. VALENTINE: The last item on our  
8 agenda is adjournment.  
9 MR. SHANKS: I make a motion to adjourn.  
10 MS. VEST: Who was that? Mr. Shanks.  
11 MR. JONES: I'll second it.  
12 MR. VALENTINE: Rick seconded. Any  
13 discussion about that.  
14 (No response.)  
15 MR. VALENTINE: All in favor say aye.  
16 MR. BAYNE: Aye.  
17 MR. BROWN: Aye.  
18 MS. BREWER-JOHNSTON: Aye.  
19 MR. JONES: Aye.  
20 MR. ROUSSEAU: Aye.  
21 MR. SHANKS: Aye.  
22 MR. VALENTINE: All opposed say nothing.  
23 We are adjourned.  
24 MS. VEST: Thank you very much everyone.  
25 (WHEREUPON, the foregoing proceedings

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1 were concluded at 10:48 a.m.)  
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1 CERTIFICATE  
2 STATE OF TENNESSEE  
3 COUNTY OF DAVIDSON  
4

5 I, JOY KENNEDY, Licensed Court Reporter, with  
6 offices in Nashville, Tennessee, hereby certify that  
7 I reported the foregoing Education Committee Meeting  
8 and Board Meeting proceedings by machine shorthand to  
9 the best of my skills and abilities, and thereafter  
10 the same was reduced to typewritten form by me.

11 I further certify that I am not related to  
12 any of the parties named herein, nor their counsel,  
13 and have no interest, financial or otherwise, in the  
14 outcome of the proceedings.

15 I further certify that in order for this  
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