

TEXAS PRIVATE SECURITY BOARD

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,
OCTOBER 30, 2008**

**TEXAS DEPARTMENT OF PUBLIC SAFETY
6100 GUADALUPE ST. BUILDING E
CRIMINAL LAW ENFORCEMENT BUILDING
AUSTIN, TX 78752**

BOARD MEMBERS PRESENT:

Honorable John Chism, Chairman;
Honorable Howard H. Johnsen, Vice-Chairman
Honorable Mark Smith, Secretary
Honorable Charles Crenshaw
Honorable Doris Davis-Washington

BOARD MEMBERS NOT PRESENT:

Honorable Stella Caldera
Honorable Harold Warren

STAFF PRESENT:

RenEarl Bowie, Captain- Manager, Private Security Bureau;
Steve Moninger, Senior Staff Attorney, Texas Department of Public Safety,
Regulatory Licensing Service;
Jim Morgan, Lieutenant - Investigations, Private Security Bureau;
Reginald Andrews, Program Supervisor II – Licensing, Private Security Bureau;
David Wise, Private Security Board Attorney, Texas Department of Public Safety,
Regulatory Licensing Service;
Other members of the staff;
Members of the industry;
Members of the general public.

MINUTES

These minutes are a summary record of the Board's work session meeting. This meeting was audio recorded and video taped. For a detailed record of discussions and statements made by persons speaking at this meeting, please consult the audio tape and/or video tape on file at the Board's office. The Board meeting was called to order at 9:05 a.m.

Chairman Chism welcomed everyone to the meeting and asked that all cell phones and pagers be turned off or set to vibrate for the duration of the meeting.

Agenda Item I: Approval of Minutes for Board Meeting from July 23, 2008.

On a motion made by Vice-Chairman Johnsen and seconded by Secretary Smith, the Board voted unanimously to approve the Minutes for the Board Meeting of July 23, 2008 as written.

Agenda Item II: Status report from advisory committees.

Chairman Chism introduced this agenda item and asked Secretary Smith if he had anything to report from the Advisory Committee. Secretary Smith stated that the committee had no report at this time.

Agenda Item III: Status report on pending proposed rules.

Steve Moninger, Bureau Attorney, stated that all pending proposed rules and rule changes were still awaiting review by the Public Safety Commission. He further stated that they are set to be reviewed by the Commission at their December meeting.

Secretary Smith stated that he wanted to see the language for manager qualifications changed. He stated that he wanted to see the language specifically state “2 years experience working under a qualified security manager”. Steve Moninger stated that the Board could issue a resolution to add the necessary language to the rule. Secretary Smith made a motion to resolve to change the wording to 2 years experience working under a qualified manager. Chairman Johnsen asked how anyone can work as a security person without working under a qualified security manager. Secretary Smith explained that a security person may have exposure to a supervisor only and not necessarily a qualified security manager. Secretary Smith went on to say that it may not be needed in smaller companies, but for a company his size it was a needed addition to the language. Chairman Chism stated that this issue is something that may need to be looked at further before issuing a resolution to the rule. There was no second to Secretary Smith’s motion and Item III was tabled pending further discussion by the Rules Committee.

Agenda Item IV: Discussion regarding Rule 35.34, relating to employers’ 72 hour notification of an employee arrest.

Captain Bowie addressed this issue with the Board. He stated that there had been discussion as to the enforcement of this Rule. He stated that the literal interpretation of the rule should be left up to a more discretionary issue, meaning that as long as a manager or supervisor makes a good faith effort to get as much information and submit that to the Bureau, then he has satisfied the rule. He went on to say that all twenty seven trooper investigators of the Bureau were brought in for training in mid-October and this was one of the issues that was addressed.

Secretary Smith asked if the problem was addressed regarding when an event happens over a holiday or weekend and the 72 hours still being enforced. Captain Bowie responded that was addressed and that the investigators were using their discretion concerning mitigating circumstances.

Vice-Chairman Johnsen asked which version of the Rule the Bureau was operating under at this time. Captain Bowie replied that the Trooper Investigators had already been instructed to operate under the revised version while pending approval.

Agenda Item V: Discussion and possible action regarding Rule 35.201, relating to employee records for companies with records destroyed and/or damaged by Hurricane Ike and other verifiable disasters.

Chairman Chism addressed this agenda item. He stated that it had come to the attention of the Board that some companies were having difficulty reestablishing their company and employee files after Hurricane Ike. He went on to say that he had discussed this matter with Captain Bowie and asked that the Bureau give assistance to any companies in need of help recovering any documentation that may have been lost or damaged.

Agenda Item VI: Discussion regarding Rule 35.257, relating to Level I and Level II training for full time peace officers.

Chairman Chism stated that this concerns Captain Bowie's development of a new registration form and changes to the requirements for a level I and Level II training for full time police officers. Captain Bowie addressed the Board stating that the Bureau was currently developing a policy to exempt full time active duty peace officers from Level I and Level II training. He also stated that it was 60%-70% complete.

Agenda Item VII: Discussion and possible action regarding proposed amendments to Rule 35.311, relating to installation of locksets and exemption from licensure as locksmith.

Vice-Chairman Johnsen stated that he felt there needed to be additional research done on this issue. He stated that the Board's Rules Committee could address this issue. Chairman Chism stated that the issue would be referred to the Rules Committee for study and tabled the issue until the next meeting.

Agenda Item VIII: Discussion and possible action regarding proposed Rule 35.321, relating to types of entities required to be licensed as investigations companies under Occupations Code 1702.104.

Steve Moninger addressed the Board on this issue. He stated that the Board had two proposals before them. The first one was proposed at the July 23, 2008 Board meeting. He stated that in addition to that proposal there was a second proposal to consider. Chairman Chism stated that due to the fact that the Board was currently involved in a lawsuit relating to this issue, the Board would go into Executive Session to discuss the matter.

Executive session began at 9:23 a.m.

Meeting was called back to order at 9:31 a.m.

Chairman Chism stated that during Executive Session the Board discussed proposed Rule 35.321. The Board decided not to discuss this issue further during regular session and to table the issue until a further date.

Agenda Item IX: Discussion and possible action regarding online registration for individuals.

Bob Burt, past president of ASSIST addressed the Board on this issue. He stated that according to Rule 35.34, the Manager is responsible for the registration of individuals; however the online registration is going against that. He further stated that one page of online registration even poses the question, "Is this you" to the registrant. He went on to say that the Manager is responsible for maintaining employee files, as well as ensuring that the licensee's picture is attached to the pocket card. He also stated that the Board should limit or prohibit individuals from going through the online process. He stated that one solution would be to institute a PIN # policy for this process. He stated that the company manager could use the PIN number to process the registration application. He stated that this idea may not be a long term fix, but may work until one could be instituted.

Vice-Chairman Johnsen stated that the reason for having the online registration process was to make it easier for the companies to have applications processed in a timely manner. Captain Bowie stated that he agreed, the online process was faster and more convenient. Vice-Chairman Johnsen stated that with this in mind, the Board may not wish to go back to the paper and mail system that may take weeks to process. He asked if there was already a company code that could be used. Bob Burke responded that it could be used but the company numbers are public knowledge. Vice-Chairman Johnsen stated that the Board may need to look into implementing additional features such as having a picture of the individual digitally affixed to the pocket card. Captain Bowie stated that there is no timeline right now for the new pocket cards. Progress continues to be made on this matter, but there is no definite date on this yet.

Board member Crenshaw stated it may be appropriate to give this issue to the Bureau and see where the problems are and what can be done to make it a more secure process. Captain Bowie stated there were other security concerns with this issue and that he would like to present those to the Board in writing to make the Board, as well as the public, aware.

Vice-Chairman Johnsen suggested a security measure to be considered. He stated that perhaps before the final processing of the application an email alert could go out to that company letting them know that the application is about to be processed unless the company notifies the Bureau within 2-3 days. Secretary Smith stated that the Bureau was currently working on pilot for the termination process and that this may be helpful as well. Captain Bowie stated that on the current system there is no way to have an automatic email sent out to the companies. George Craig interjected that as a point of clarity, under the current system an email can be requested of the Bureau.

Bob Burke stated that with the PIN number system, it would be faster, easier and take some of the burden off of the Bureau. He went on to say that the Bureau was currently working with both hands tied behind their back. He stated that when updates are made on an individual, the Bureau does not know why those updates are being made. He stated that it is difficult for the Bureau to know whether an individual is supposed to be registered with a certain company because the industry allows individuals to be registered with and work for more than one company at a time. Vice-Chairman Johnsen asked if this was an isolated case of a few people working for multiple companies or thousands. Reggie Andrews stated that there are thousands of individuals working for more than one company.

Captain Bowie stated that the PIN number solution seemed to be a good one. He also stated that he was advised by Mr. Andrews that this is one of the parts of the current re-engineering process. Chairman Chism stated that they appoint one or two Board members to work with the Bureau on this issue. He suggested Secretary Smith and Board member Crenshaw and they agreed. Vice-Chairman Johnsen reminded them that the Board is looking for a long term solution that can be utilized over a long period.

Agenda Item X: Discussion and possible action regarding Manager's discretion to review other than Honorable Discharges.

Steve Moninger addressed the Board on this issue. He indicated that problems had arisen in the application of Administrative Rule 35.43. He went on to say that the part causing a problem was subsection (D) regarding other than Honorable Discharges "for any other reason". He went on to explain that he recently had a case before SOAH, where the individual swore under oath that his Other Than Honorable Discharge was a result of being caught gambling in the barracks as a recruit. Mr. Moninger went on to say that disqualifying a person for 10 years in a case like that is rather harsh. He asked that the Board adopt a resolution that under subsection (D), the Bureau Manager could exercise some discretion in such matters. On a motion made by Vice-Chairman Johnsen and seconded by Secretary Smith, the Board voted unanimously to accept the resolution to the Rule.

Agenda Item XI: Discussion and possible action regarding Temporary ID cards for Commissioned Security Guards.

Secretary Smith stated that he has had discussions with colleague Kevin Galloway regarding this issue and asked him to address the Board.

Kevin Galloway, president of the Gulf Coast Region of ASSIST addressed the Board. He stated that Agenda Item XI should be referring to Non-commissioned Security Guards, not Commissioned Security Guards. He further stated that what ASSIST is seeking of the Board is documentation proving that those security officers with applications pending are valid and that proper registration has taken place. He went on to say that he recently had an incident where a police officer demanded a TCLOESE card from one of his security officers. He also stated that this would piggy-back the PIN number idea.

Vice-Chairman Johnsen asked what the feasibility of something like this would be. He stated that it sounded good, but asked if it were possible and would there be a problem getting applications processed quickly. Captain Bowie stated that details would need to be worked out on issuing temporary government documents. He stated that the Bureau currently had safeguards in place. Vice-Chairman Johnsen stated that as an example he had heard that you can receive an email when applications are received. He went on to say that a receipt from the online registration could be printed and the security officer could have that on them for proof that time has not expired on their application. Board member Crenshaw stated that his company makes a copy of that receipt for the employee to carry with them. Captain Bowie stated that an individual can also print their status off of the website showing that their application is still pending. He also stated that there were other law enforcement agencies out there that may not be as well trained as the Bureau's Trooper Investigators on this subject. Kevin Galloway stated that the specifics would need to be worked out on this. He went on to say that a card holds more weight than a piece of paper and that a card can defuse a situation much faster than a paper receipt.

Board member Washington asked if police agencies had access to pull up and see if an individual has a pending status. Kevin Galloway stated that he did not know the answer to that, but that they could get the information off of the website. Board member Washington asked if a person could hire an officer without doing a criminal background check and put them out there to work. Kevin Galloway stated that that was not supposed to happen. He also stated that an individual would likely not stick around two to three weeks for a job. Some individuals can be hired and begin work the same day. It was also stated that a criminal background check was required.

Agenda Item XII: Discussion and possible action regarding termination of company employees and possible need to develop a pilot program.

Captain Bowie stated that this pilot program has been started. He further stated that at this time the Bureau is using two companies for the test. He stated that Secretary Smith's company is one and former Board Chairman George Craig's company is the other. He went on to say that as this program had just begun, there was not anything to report at this time but that he would keep the Board up to date.

Agenda Item XIII: Discussion regarding ASSIST training proposal.

Dan Flores, president of ASSIST addressed the Board on this issue. He stated that he submitted their new training proposal to the Board. He went on to say that the proposal was designed to make their security officers better trained. He asked that they review the proposal and consider it. Chairman Chism stated that the proposal had been presented to the Board. Level I training is what everyone goes through, clerical, etc.

Level II is training for non-commissioned security officers. Level III is training for commissioned security officers.

Agenda Item XIV: Discussion and possible action regarding Class B misdemeanors not listed in the current rule.

Steve Moninger addressed the Board on this issue. He stated that some problems have arisen with the application of Rule 35.42. He went on to say that there are some Class B misdemeanors not listed in the rule, that are Bs because they were only attempted. He further stated that to address this issue, he proposed the following resolution:

For purposes of interpreting and implementing Rule 35.42:

- (a) Any unlisted offense that is substantially similar in elements to a listed offense is disqualifying in the same manner as the corresponding listed offense;
- (b) Any Class B misdemeanor offense that was an “attempted” Class A offense is disqualifying;
- (c) Any offense that is classified as a Class B misdemeanor as a result of a reduction from a Class A misdemeanor is disqualifying, subject to the discretion of the Bureau Manager.

He went on to state that with regard to subsection (c), it may be necessary to have discretion on the part of the manager.

Chairman Chism stated that he understood the need for this new language. He stated that a case that he is currently involved with he has seen a police officer filed on for felony family violence, but he pled guilty to a Class C misdemeanor. He stated that it is common to see with plea bargains.

On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to approve the resolution to Rule 35.42.

Agenda Item XV: Report from Private Security Bureau.

Lieutenant Morgan presented the information from the Bureau’s Investigations section. He stated that for the period of 8/1/08 to 10/26/08 the Bureau investigated 1,129 violations. He went on to say that there were 12 cases opened for operating with an expired license, 246 cases opened for operating with a suspended license, and 88 cases opened for operating without a license. He further stated that there were 51 criminal cases presented to prosecutors.

Lieutenant Morgan went on to say that the Bureau continues to be proactively and reactively working with members associations within the industry. He also stated that he wished to give his appreciation to the trooper investigators as well as the support staff that assists them on a daily basis.

Vice-Chairman Johnsen asked if the numbers presented reflect how many cases came from outside sources. Captain Bowie stated that it is possible to have the system breakdown by sources. Vice-Chairman Johnsen stated that he was interested to know how many of the 88 cases were from outside, such as from other police agencies.

Chairman Chism stated that he was aware of a Houston task force working with the trooper investigators there. He also stated that he was also aware of the same thing in Dallas.

Vice-Chairman Johnsen stated that he was happy for the assistance but was curious as to what percentage came from other sources. Lieutenant Morgan stated that he would be happy to report that information, but he did not have access to that information at that time.

Reginald Andrews introduced Brandy Byers, one of his new licensing technicians, who was sitting in on the meeting. Mr. Andrews then presented the information from the Bureau's Licensing section to the Board. He stated that for the period of 7/22/08-10/28/08 the Bureau received 140 original company applications, 1,377 renewal company applications, 10,200 original individual applications, and 8,550 renewal individual applications. He went on to say that for the same time period the Licensing section issued 190 original company licenses, issued 1,414 company renewal licenses, issued 11,585 original individual licenses, issued 8,461 individual renewal licenses, and processed 6,345 employee information updates. He further stated that for this time period records indicate there are 5,043 active company licenses, 194 active school licenses, and 115,371 active individual registrants.

Reginald Andrews also made note to everyone to make a point of visiting the Private Security Bureau's website, especially for forms. He asked that everyone please use the most current forms. He also announced that a DVD copy of the Board meetings would soon be available for order as well.

Vice-Chairman Johnsen noted that the Licensing section processed more applications than it received for the presented time period. He went on to commend Mr. Andrews as well as his staff for this accomplishment.

Agenda Item XVI: Public Comment

Rodney Hooker, with TBFAA, addressed the Board. He stated that during the summer there was a problem with unlicensed people coming into the state to sell and install alarms. He further stated that he recently met with representatives of TALI, ASISST, TBFAA, and TLA regarding a rule change proposal. He read the proposal to the Board as such:

“Any company that operates as an Alarm Systems Company as defined by occupations Code Chapter 1702.105 shall have either a Qualified Manager or a Registered Agent as defined by the Texas Secretary of State that has a physical address in the State of Texas. A U.S. post office box or private postal service box will not be considered a physical address. The records of all employees that have direct physical contact with the public shall be held by either the Qualified Manager or the Registered Agent in the State of Texas, and shall be made available to the agency for inspection at any time as required to insure compliance to all applicable law and rules.”

Mr. Hooker went on to say that all industry groups seemed to like the proposal and asked to sign off on it. He went on to say that during discussions with the Agency over the summer, they had been very responsive to try to catch some of these guys.

He went on to say there is one problem that the Bureau faces and that is that they can't put hands on these people from out-of-state. He also stated that therefore, if they are going to do business in the State of Texas they should have a registered agent who DPS can either

serve or arrest if necessary a person for violating applicable rules and law. Due to this problem, he asked the Board to take this proposal into consideration and put this issue on the next agenda.

Chris Russell, with TBFAA, was next to address the Board. He stated that he wanted to make the Board aware of a problem to be addressed in January through rule change. He stated that the problem was with the definition of an alarm system which falls under rule 1702.002 1 (c). He stated that it has to do with camera systems and the language that anyone can install a camera system as long as it is not being monitored by security personnel or services. He stated that he didn't think this was the intent of the Board to allow companies to install camera systems that can be used to be monitored later. He stated that this may be language that needs to be cleaned up a bit.

Kathy McReynolds, with ASSIST, also addressed the Board. She stated that rule 35.34 needed to be looked at again. She stated that they appreciated Captain Bowie's no-nonsense approach to the issue but was fearful of what would happen if another Captain were to take over. She stated that the rule needed to have specific language.

Brett Rowley, with Off Duty Services, addressed the Board next. He stated that streamlining the registration process for full-time, active duty peace officers would be beneficial. He went on to say that only a small percentage of police officers work through private security companies. He also stated that as time goes on, if the process is easier for them, this may be changed. He stated that for example the previous day a peace officer was out directing traffic and was struck by a vehicle. He stated that the Police agency had a policy that states there was no coverage if working an off duty job. He went on to say that through his company, by contract with the customer, the Officer would be covered.

John Arnold, with TLA, also addressed the Board. He stated there has been some issue with out of state people, mostly unlicensed. He went on to say that with the two latest tricks a person would put the name of a legitimate company into a search engine like Google. The search engine would show all of the correct information on a company except the phone number. The phone number would belong to someone else. Some of these people are acquiring large blocks of local phone numbers and having the phonebook show legitimate lock smiths with correct information except again with their phone number. He went on to say there has not been any resolution to this issue yet and they are currently speaking to Google about the problem as well.

Chairman Chism announced that there would be a 30 minute break taken at this time. The meeting was recessed at 10:50 a.m.

Chairman Chism called the meeting back to order at 11:20 a.m.

Agenda Item XVII: Administrative Hearings

A. Proposals for Decision:

Steve Moninger, Attorney, presented all PFD cases to the Board.

Kyle Faulkner- Docket No. 008722008

Mr. Faulkner was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Faulkner's application for a commissioned security officer license was denied based on a "bad conduct" discharge from the military. He further stated that the Bureau was asking that the Board reject the PFD, render a Default ruling, and deny Mr. Faulkner's commission license application.

Vice-Chairman Johnsen made a motion to reject the PFD, render a Default ruling, and deny Mr. Faulkner's commission license application. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

Robert Roteman II- Docket No. 009742008

Mr. Roteman was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that the Bureau was seeking to deny Mr. Roteman's application for registration as manager, and to revoke his registration as an alarm installer based on his other than honorable discharge from the armed forces. He further stated that that the Bureau was asking the Board to reject the SOAH decision, deny Mr. Roteman's application and revoke his registration as an alarm installer. Secretary Smith asked what Mr. Faulkner did to receive an other than honorable discharge. Mr. Moninger stated that Mr. Roteman testified under oath to unlawfully carrying a weapon.

Vice-Chairman Johnsen made a motion to leave Mr. Roteman's application pending until the next Board meeting at which time the Board would like to speak with Mr. Roteman. Secretary Smith seconded the motion, and the Board voted unanimously in favor of holding this hearing over to the next Board meeting.

Frizell Chattman- Docket No. 007492008

Mr. Chattman was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Chattman's registration as a non-commissioned security officer was issued erroneously. He asked that the Board uphold SOAH's decision and revoke Mr. Chattman's registration based on his two felony convictions and misrepresentation made on his application relating to his criminal history. Board member Washington made a motion to uphold SOAH's decision to revoke Mr. Chattman's registration. Vice-Chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

Broderick Daniel- Docket No. 007562008

Mr. Daniel was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Daniel's application as a private investigator was denied based on his felony conviction. He asked that the Board uphold SOAH's decision and deny Mr. Daniel's application for licensure as a private investigator.

Vice-Chairman Johnsen made a motion to grant Mr. Daniel a provisional license with restrictions.

1. The provisional license will be in effect until he is eligible for licensure in August 2009.
2. He be granted licensure at that time if there are no other disqualifying events above a Class C misdemeanor. Secretary Smith seconded the motion. The Board's decision was split with three members voting for licensure (Chism, Johnsen, and Smith) and two members voting against licensure (Crenshaw and Washington). Mr. Daniel will be issued a provisional license.

Mark Howard- Docket No. 011922008

Mr. Howard was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Howard's application for registration as a non-commissioned security officer was denied based on his Class A misdemeanor. He asked that the Board uphold SOAH's decision and deny Mr. Howard's application.

Secretary Smith made a motion to deny Mr. Howard's application for registration as a non-commissioned security officer. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion.

Malik Palmer- Docket No. 010672008

Mr. Palmer was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Palmer's application for registration as a non-commissioned security officer was denied based on his conviction following a general court martial. He asked the Board to uphold SOAH's decision and deny Mr. Palmer's application.

Secretary Smith made a motion to uphold SOAH's decision and deny Mr. Palmer's application for registration as a non-commissioned security officer. Vice-Chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

Jacqueline White- Docket No. 008742008

Ms. White was neither present to address the Board on this case, nor did she have counsel present. Mr. Moninger stated that Ms. White's application for registration as a non-commissioned security officer was denied based on her Class A misdemeanor conviction. He asked the Board to uphold SOAH's decision and deny Ms. White's application.

Secretary Smith made a motion to uphold SOAH's decision and deny Ms. White's application for registration as a non-commissioned security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Walt Yarbrough- Docket No. 010092008

Mr. Yarbrough was neither present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Yarbrough's application for registration as an alarm system sales person was denied based on his two gross misdemeanor convictions. He asked the Board to uphold SOAH's decision and deny Mr. Yarbrough's application.

Vice-Chairman Johnsen made a motion to uphold SOAH's decision and deny Mr. Yarbrough's application for registration as an alarm system sales person. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Daniel Naranjo- Docket No. 010182008

Mr. Naranjo was neither present to address the board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Naranjo's registration as a commissioned security officer was renewed in error. He asked that the Board uphold SOAH's decision and revoke Mr. Naranjo's registration based on his Class A misdemeanor offense.

Vice-Chairman Johnsen made a motion to uphold SOAH's decision and revoke Mr. Naranjo's registration as a commissioned security officer. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

Jesse Arzola- Docket No. 021512007

Mr. Arzola was present to address the Board on this case. He was also represented by Counsel James Sustaita. Mr. Moninger stated that Mr. Arzola's registration as a locksmith was revoked based on his Class A misdemeanor conviction. He further stated that the ALJ recommended that the registration not be revoked because the Department failed to establish a relationship between the conviction and Mr. Arzola's fitness as a locksmith, based on Chapter 53 of the occupations Code. He asked that the board reject SOAH's decision and revoke Mr. Arzola's registration, as Chapter 53 did not apply. Mr. Sustaita addressed the Board on Mr. Arzola's behalf. He stated that the ALJ recommended that the registration not be revoked. He also stated that his client had agreed to take a hair follicle test to prove the lack of drugs in his system. Mr. Arzola addressed the Board as well. He stated that he had a family and was the sole support of his family. He stated that the charges against him were false. Mr. Sustaita stated that Mr. Arzola took a plea agreement, but if they had gone to trial, he felt that they would have won.

Board member Crenshaw made a motion to uphold the ALJ's decision, not revoke his license, and approve the renewal of his license if Mr. Arzola chooses to reapply for his license. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion.

David Becker- Docket No. 003672008

Mr. Becker was present to address the Board on this case. He did not have counsel present to represent him to the Board. Mr. Moninger stated that Mr. Becker's application for registration as an electronic access control device installer was denied based on his Class A misdemeanor conviction. He asked the Board to reject the ALJ's decision and deny Mr. Becker's application. Mr. Becker addressed the Board on his behalf. He stated that he had submitted court documents stating that he has no record. He further stated that the reason this charge is not on those documents is because he fulfilled his agreement of the original court case, which was probation, fines and community service.

He stated that he was informed that if he fulfilled all of the agreement it would be removed from his record. Mr. Moninger stated that the Court's order released him from all penalties and disabilities resulting from the conviction, but that he still has a criminal conviction for purposes of the Private Security Act. After hearing Mr. Becker's explanation of why he was arrested and convicted, Secretary Smith made a motion to uphold SOAH's decision and approve Mr. Becker's application. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Mark Sanchez- Docket No. 007682008

Mr. Sanchez was present to address the Board on this case. He was also represented by Counsel Don Walden. Mr. Moninger stated that Mr. Sanchez's application for registration as an alarm installer was denied based on his Class A misdemeanor conviction. He stated that the ALJ's found there were no grounds for denying his application based on Chapter 53 of the Occupations Code. He asked the Board to reject SOAH's decision and deny Mr. Sanchez's application. Mr. Walden addressed the Board on Mr. Sanchez's behalf. He stated that the facts of the case should allow for the Board to exercise discretion. He also stated Mr. Sanchez's case would fall under the old law as it was in 2003. He also introduced Mr. Kurt Davidson who is Mr. Sanchez's employer. He stated that Mr. Davidson wants to elevate Mr. Sanchez into a higher level job as an alarm installer. Mr. Sanchez addressed the Board on his behalf, as did Mr. Davidson.

Board member Crenshaw made a motion to uphold SOAH's decision and approve Mr. Sanchez's application. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

Bryan Mauldin- Docket No. 010152008

Mr. Mauldin was not present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Mauldin was uncooperative with investigators when interviewed concerning an ongoing investigation into Mr. Mauldin's employer, Fail Safe Security Agency. He further stated that failure to cooperate with the Bureau's investigation constitutes a violation of Rule 35.34(c). He went on to explain that the Trooper investigator issued a citation in the amount of \$500. SOAH's recommendation was that the Board assess an administrative fine of \$250, based on Mr. Mauldin's partial cooperation in answering some of the Trooper's questions.

Secretary Smith made a motion to uphold SOAH's decision and approve the fine be set at \$250. Vice-Chairman Johnsen seconded the motion, and the Board voted unanimously in favor of the motion.

Bonifacio Ramos- Docket No. 006692008

Mr. Ramos was present to address the Board on this case. He did not have counsel present. Mr. Moninger stated that Mr. Ramos' application for registration as a commissioned security guard was denied based on his Class A misdemeanor conviction which leaves him federally disqualified from carrying a firearm. He asked the Board to reject SOAH's decision and deny Mr. Ramos' application as federally disqualifying. Mr. Ramos addressed the Board on his own behalf.

Vice-Chairman Johnsen made a motion to reject SOAH's decision and deny Mr. Ramos' application for registration as a commissioned security officer. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

Michael Riojas- Docket No. 005492008

Mr. Riojas was not present to address the Board on this case, nor did he have counsel present. Mr. Moninger stated that Mr. Riojas' commission was issued in error. He stated that his commission was revoked based on his felony conviction. He further stated that Mr. Riojas' conviction renders him federally disqualified to carry a firearm. He asked the Board to reject SOAH's decision and revoke Mr. Riojas' commission.

Vice-Chairman Johnsen made a motion to reject SOAH's decision and revoke Mr. Riojas' commission. Secretary Smith seconded the motion, and the Board voted unanimously in favor of the motion.

B. Default PFDs:

Steve Moninger, Attorney, presented all PFD cases to the Board at one time and asked the Board to vote on them as a whole. None of the respondents were present nor did they have counsel present on their behalf.

Joe Caldera- Docket No. 007582008

Xavier Champ- Docket No. 000022008

Digital Security Enterprises- Docket No. 022992007

John Littles- Docket No. 010102008

Secretary Smith made a motion to approve all of the Default PFDs. Board member Washington seconded the motion, and the Board voted unanimously in favor of the motion.

C. Direct Appeal to the Board:

Steve Moninger, attorney, presented all Summary Suspension cases to the Board.

Jurgen Morris- Docket No. 000982009

Mr. Morris was not present to address the Board on this case, nor did he have counsel present. Mr. Morris did, however, send a letter of appeal to the Board for their consideration. Mr. Moninger stated that the Bureau was seeking to revoke Mr. Morris' registration as a non-commissioned security officer based on his registration as a sex offender. Mr. Moninger asked the Board to uphold the Bureau's decision to revoke his registration.

Vice-Chairman Johnsen made a motion to uphold the revocation of Mr. Morris' registration as a non-commissioned security officer. Board member Crenshaw seconded the motion, and the Board voted unanimously in favor of the motion.

Agenda Item XVIII: Executive session (consultation with attorney) as authorized under §551.071, if necessary.

The Board elected not to go into executive session at this time.

Agenda Item XIX: Adjournment.

Chairman Chism introduced Agenda Item XIX, Adjournment. On a motion made by Vice-Chairman Johnsen and seconded by Secretary Smith, the Board voted unanimously to adjourn. At 1:10 p.m., the October 30, 2008 Board meeting was adjourned.

