

MINUTES

**UTAH
Security Services Licensing Board
MEETING**

June 14, 2012

**Room 210 – 4th Floor – 9:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:03 A.M.

ADJOURNED: 3:14

Bureau Manager:

Clyde Ormond

Board Secretary:

Yvonne King

Board Members Present:

Sheriff Jeff Merrell
Perry Rose
John Tinsley
Jack Gardner

Board Members Absent:

Chief Johnny McCoy, Board Chair
Alan Connor

Guests:

DOPL Staff Present:

Debra Troxel, Compliance
Mark Steinagel, Division Director
Dave Furlong, Chief Investigator

Hearing, Andre Montoya

The Hearing for Mr. Montoya was considered a default hearing due to no response.

ADMINISTRATIVE BUSINESS:

Approval of the February 9, 2012 Board Meeting Minutes

Mr. Rose, seconded by Mr. Gardner made a motion to approve the February 9, 2012 Board Meeting Minutes as written. The motion carried unanimously.

Nominations for Chair

Mr. Tinsley nominated Sheriff Merrill for Chair. The Board voted unanimously for Sheriff Merrill as the new Chair.

TOPIC FOR DISCUSSION

Peace Officers Obtaining Security Licenses
Proposed Rule R156-63a-102

Mr. Ormond presented a proposed rule change R156-63a-102 regarding peace officers obtaining security licenses. Mr. Ormond gave some back ground of why this rule was proposed which included issues with the qualifying agent being employed or participating in activities in more than

one area. Mr. Ormond stated the term “regular basis” defined in statute sets a minimum standard of 20 hours a month that the qualifying agent must be involved with a company.

Mr. Ormond also stated that if we make the rule too restrictive, it could also affect areas with respect to conflict of interest; such as, an individual who owns both a private investigation and contract security company.

Mr. Steinagel stated that there is one place in Utah Code where regular basis is referred, 58-63-306 which sets the minimum standard for a qualifying agent to have functional ability. Mr. Steinagel stated you must be very careful and must not go against the intent of the statute.

Mr. Steinagel also stated that there are two reasons that law makers would be concerned with the decisions the Board and Division make; (1) Going beyond the legal authority which may restrict an individual’s ability to work; and (2) Doing something that is unfair to any party. Mr. Steinagel then stated that we need to find the proper balance. The Board should feel pretty good at what has been done to this point. This rule probably needs to be defined some more but not be overly restrictive

Mr. Tinsley stated that the Board in years past has done an excellent job in raising the bar in putting a significant emphasis on expectations, duties and responsibilities of the qualifying agent. The issue that comes up is splitting those responsibilities. The qualifying agent must be 100% loyal to the company.

Mr. Gardner believes the rule as it reads today is sufficient and questioned why the Board would want to change it.

Mr. Rose believes that part of the reason the rule must be looked at is that the lines are blurry between law enforcement and contract security. We must have good definite lines in statute and rule.

Sheriff Merrill stated that the Board has put in place the qualifying agent exam which has been refined and if the qualifying agent passes that exam it appears to me that we are second guessing the process. If the qualifying agent fails in the job there are recourses set in place with the Board.

Sheriff Merrill also questioned how much the Board would limit the qualifying agent’s ability to work if for example the qualifying agent had a little league game to attend in another county etc. Sheriff Merrill stated that he believes

the language is already there and the Board may be getting too restrictive. If the statute says 20 hours a month with respect to “regular basis” why is the Board second guessing that?

The public spoke for and against the current language. Creating that distinction between law enforcement and security guards. Some of the public felt that working as a law enforcement does not qualify one to be a qualifying agent however Mr. Ormond stated that an individual working in a supervisory capacity in law enforcement would qualify. There were people representing law enforcement that believe the rule change is proposed in greed and those who want the change do not want to share the occupation.

Senator Dayton’s concern was having tax subsidized security companies managed by “law enforcement” competing with free enterprise, “those security companies not managed by law enforcement”. Senator Dayton stated; it is unfair to have tax dollars subsidizing private enterprise.

Mr. Steinagle replied to Senator Dayton by stating the clarity of the statute presumes a qualifying agent may receive his experience from law enforcement but appears to be silent on the issue if the qualifying agent is employed currently or was employed previously with law enforcement.

Mr. Steinagle then stated after listening to all the comments from the Board and the public, he would have to refer this to the Attorney General’s office to see if the Division has rule making authority to make any changes pertaining to the issues at hand.

Definition of Formal and Basic Education

Mr. Ormond presented the definitions for basic and formal education which was defined by the Security Education Peer Committee. This was requested by the Board in the February Board meeting.

Basic and Formal Education was approved as follows:

Basic Education definition: “The training which gives a person a rudimentary understanding of their required position duties, sufficient to perform the beginning aspects of their job safely.

Formal Education definition: “A formal education program is the process of training and developing people in knowledge, skills, mind, and character in a structured program through the use of any combination of lecture, hands-on, or the demonstration-performance method, either

in person or by electronic means as it relates to continuing education.

Tinsley seconded by Mr. Gardner made a motion to adopt the amended language for the definition of formal and basic training. The motion carried unanimously.

Code of Ethics for QA

Lynette Phillips presented a draft of Code of Ethics for the qualifying agent in for R156-63a and b.

Ms Phillips stated she would like to incorporate this in statute or rule Mr. Ormond suggested developing this with an association then recommend it to the Board. Mr. Gardner stated that he is happy with the rule as it stands now however Mr. Rose liked the idea of a Code of Ethics.

Code and Fire Regulations

Ms. Phillips also presented 922 federal regulations. Ms. Phillips believes that the regulations need to be tightened up because there is nothing in our provisions to enforce the federal regulation which makes it a hazard to the general public.

Ms. Phillips stated that she just wanted to propose language that would help to close the loopholes and lessen the vulnerability to both DOPL and the security companies. The language Ms. Phillips proposed was in R156-63a-613(2), R156-63a-302f(3) and R156-63b-607d.

Mr. Ormond stated that most of this language is in statute already. Sheriff Merrill stated the Board would look at the language and address it at another time.

APPOINTMENTS

Paul Jarosak
Security Industry Specialists

Mr. Jarosak appeared before the Board for his scheduled appointment. Mr. Jarosak was applying to be the replacement qualifying agent for Security Industry Specialists. Mr. Jarosak stated that he works as a commanding officer for Salt Lake County Unified Police Department in internal affairs.

Mr. Ormond reviewed the application and explained that the Board had previously reviewed the application in October of 2011 denying Mr. Jarosak from becoming the qualifying agent due to the fact that the Board considered this to be a conflict of interest because Mr. Jarosak already had full time employment with law enforcement; however the company, Security Industry Specialists received the notification of the denial and Mr. Jarosak was not notified. Because of this, Mr. Jarosak did not have an ample amount of time to appeal the denial so the application was remanded back to the Board for further review. It was then

reviewed by the Board in February but because the legislature was still in session with the possibility of legislative changes which could affect the decision making process, the Board decided to table the decision for the April Board meeting however that Board meeting was canceled in April due to many of the Board members not being able to attend. The application was then tabled for this Board meeting.

Mr. Tinsley stated there is a conflict of interest allowing Mr. Jarosak to become the qualifying agent. Mr. Jarosak asked what those conflicts would be.

Mr. Tinsley stated that because Mr. Jarosak works for the Salt Lake County Unified Police Department, Mr. Jarosak would then hire police officers from the tax payer's personnel. Mr. Jarosak disputed the remark and stated that things would be run in a fair manner.

Mr. Tinsley seconded by Mr. Perry made a motion to deny Mr. Jarosak as the qualifying agent for Security Industry Specialists. Mr. Tinsley and Mr. Perry voted in favor of the motion. Sheriff Merrill and Mr. Gardner opposed the motion.

Mr. Ormond stated that because there was a tie, the Division would make the final decision.

Debra Troxel, Compliance

Ms. Troxel went through the list of probationers stating many of them have not worked in the past six months and she had no information on them. Ms. Troxel suggested that with the Board's recommendation to provide the probationers the options to either surrender their license or have them meet with the Board at the next scheduled meeting. The Board was in agreement with that decision.

Sam Mahana

Mr. Mahana appeared before the Board for his scheduled appointment. Ms. Troxel had stated previously that she was unable to reach Mr. Mahana however Mr. Mahana stated that he did contact Ms. Troxel in May. Mr. Mahana stated that he has not been able to find a job in the field.

Mr. Rose performed the interview. Mr. Rose stated that he will need to provide monthly employer reports whether he is working or not. Mr. Rose stated to continue as is. Mr. Mahana will not need to appear before the board until he is working in the field.

The Board considers Mr. Mahana compliant with his Memorandum at this time.

Adam Hanover

Mr. Hanover appeared before the Board per phone

interview. Mr. Ormond reviewed the application. Mr. Hanover stated he was employed with ABS Security.

Mr. Gardner made a motion to approve a probationary license for two years. There was no second. The motion died.

Mr. Rose seconded by Mr. Tinsley made a motion to deny Mr. Hanover for licensure as a Security Officer due to not enough time elapsing from his conviction. The motion carried unanimously.

Shawn Harmon

Mr. Harmon appeared before the board for his scheduled appointment. Mr. Ormond reviewed the application.

12:35 p.m.; Mr. Rose seconded by Mr. Tinsley made a motion to close the meeting. The Motion carried unanimously.

12:55 p.m.; Mr. Tinsley seconded by Mr. Gardner made a motion to re-open the meeting. The motion carried unanimously.

Mr Tinsley seconded by Mr. Rose made a motion to approve Mr. Harmon for a probationary unarmed security agent for the term of three years contingent Mr. Harmon provide evidence that he is mentally fit. The motion carried unanimously.

Howard Begay

Mr. Begay appeared before the board for his scheduled appointment. Mr. Ormond reviewed the application to explain his criminal history. It was noted that it had been five years since his last conviction.

Mr. Rose conducted the interview. Mr. Begay stated he did drink occasionally.

Mr. Rose seconded by Mr. Gardner made a motion to approve Mr. Begay for full licensure as a Security Officer. The motion carried unanimously.

Total Security Solutions of Utah

Mr. Terry appeared before the Board for his scheduled appointment. Mr. Ormond reviewed the application with the Board.

Mr. Gardner conducted the interview.

Mr. Terry was seeking the approval of qualifying agent with Total Security Solutions of Utah as the security company.

Mr. Gardner seconded by Mr. Tinsley made a motion to

approve Mr. Terry as the qualifying agent and Total Security Solution of Utah as the security Company. The motion carried unanimously.

Garrett Bergston

Mr. Bergston appeared before the Board for his scheduled appointment. Mr. Ormond reviewed the application.

Mr. Tinsley performed the interview.

Mr. Tinsley seconded by Mr. Gardner made a motion to approve Mr. Bergston as a Security Officer with two years probation and random alcohol and drug testing. The motion carried unanimously.

G4S Security
QA: Troy W. Hales

Mr. Hales appeared before the Board for his scheduled appointment. Mr. Ormond reviewed the application. Mr. Hales is applying to be the replacement qualifying agent for G4S Security Solutions.

Mr. Rose performed the interview

Mr. Perry seconded by Mr. Tinsley made a motion to approve Mr. Hales as the new qualifying agent for G4S Security. The motion carried unanimously.

American Eagle
Paragon systems
QA: Jeffrey Rahter

Mr. Rahter appeared before the Board for his scheduled appointment. Mr. Rahter appears to be the qualifying agent for SPS Superior Protective services but would like to be put on as the qualifying agent for American Eagle and Paragon Systems.

Mr. Gardner performed the interview.

Mr. Gardner asked if there would be a conflict of interest between companies. Mr. Rahter could not state whether there would be a conflict of interest. Mr. Rahter also stated that there was a transition with the companies.

Mr. Gardner seconded by Mr. Tinsley made a motion to approve Mr. Rahter for American Eagle contingent on Mr. Rahter resigning from all other companies. The motion carried unanimously.

Investigations

Mr. Furlong gave a brief summary of the investigational reports which had a comparison of 2011 to the current month of June 2012. This report included for 2012: received cases, 19, assigned cases, 18, Administrative sanction-order 3, administrative sanction MOU, 1, consolidated to another case 2, intelligence filed 1, lack of evidence 1, pharmacy alert 1, unfounded 3, total closed 14, assigned to the attorney general 7, extension approved 1, investigator assigned 10, and total opened 18.

Mr. Ormond

Mr. Ormond will be retiring in mid-July and said thank you for being such a great Board to work with. The Board also expressed their appreciation to Mr. Ormond.

Next Scheduled Board Meeting

August 9, 2012

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

August 9, 2012

(ss) Sheriff Jeff Merrell

Date Approved

Chairperson, Security Services Licensing Board

August 9, 2012

(ss) April Ellis

Date Approved

Bureau Manager, Division of Occupational & Professional Licensing