TENNESSEE PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION
COMMISSION MEETING MINUTES

Date: Friday, March 18, 2016 9:30 A.M. CDT

Place: Davy Crockett Tower
Conference Room 1-A
500 James Robertson Parkway
Nashville, TN 37243

Call To Order – **Minnie Lane, *Chairman***

Chair Lane called the meeting to order at approximately 9:40 A.M. and the following business was transacted.
Roll was called by Executive Director Cody Vest.

Commission Members Present:
Minnie Ann Lane, Chair
Paul David Brown, Jr.
Larry T. Flair, Sr.
Alan G. Rousseau
Dr. Paul Ritch (Via Teleconference)

Absent: David W. Horton
William Rick Jones
Arthur G. (Jerry) Richards

Staff Members Present:
Cody Vest, Executive Director
Beth Smith Bell, Administrative Assistant RB3
Phyllis Patrick, Administrative Assistant RB2
Ashley Thomas, Assistant General Counsel
Regina Oldham, Paralegal

Guests:

William Keck	Elizabeth Brown	Michael Hayes
Steve Jarratt	Angie Lawless	Chris Pennell
Rich Riddle		

AGENDA *(Attachment 1)*
MOTION was made by Alan Rousseau to *adopt the agenda as proposed.* Motion seconded by David Brown.
Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye
Rousseau	Aye

MOTION CARRIED

MINUTES

MOTION was made by Larry Flair to *approve minutes of the February 5, 2016 Commission meeting, as written.* Motion seconded by Alan Rousseau.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye
Rousseau	Aye

MOTION CARRIED

Executive Director Vest announced that Commission member Walt Valentine had resigned from the Commission, and noted that the Commission would need to elect a new Vice Chair.

ELECTION OF VICE CHAIR

MOTION was made by Larry Flair to move the election to the next meeting to allow for more Commission members to participate. Motion was seconded by David Brown.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye
Rousseau	Aye

MOTION CARRIED

LEGAL REPORT – ***Ashley Thomas, Assistant General Counsel***

[Ex A] Complaint Review

NEW CASES

1. **Case No.: 2015021544(1), (2)**

Respondent 1: **P.I. Company**
Issued:
Expires:
Complaint History:

Respondent 2: **Private Investigator**
Issued:
Expires:
Complaint History:

This complaint opened alleging misconduct by Respondents. Complainant alleges that after contracting for surveillance services, Respondent failed to return telephone calls and the Complainant stopped using Respondent's services. Complainant states that they requested from Respondent a surveillance report and corresponding video completed by Respondent for a client.

Complainant states that after multiple unreturned telephone calls and emails, Complainant filed the instant complaint. After filing the instant complaint, Complainant received a returned telephone call and written report from Respondent. Complainant states that Respondent was hired as an investigator under his company license and did produce the written report. Complainant states that Respondent did not produce the video.

Respondent states that he was employee of Complainant Company rather than having been hired as a separate investigations company. Respondent states that he completed the investigation request and provided a written report to Complainant. Respondent states that after the investigation, the video was offered to Complainant and was told to hold to keep the copy. Respondent states that a second request for the video came from the Complainant six (6) months after the investigation. Respondent states that through an accident, the borrowed camera including the internal hard-drive was destroyed. Respondent states that he was paid by check made to him personally.

Recommendation: **Close, as there appears to be no violation by Respondent.**

MOTION was made by Alan Rousseau to *concur with the recommendation of counsel and Close.* Motion was seconded by David Brown.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Abstained
Rousseau	Aye

MOTION CARRIED

2. **Case No.: 2015021012(1), (2)**

Respondent 1: **P.I. Company**
Issued:
Expires:

Respondent 2: **Private Investigator**
Issued:
Expires:

This complaint alleges misconduct by Respondent. Complainant states that Respondent was hired to provide investigative services through an attorney. Complaint states that after providing three thousand five hundred dollars ($3,500.00) to the Respondent, through the attorney, he failed to receive itemized services and/or failed to complete the investigative services. Complainant filed the instant complaint in an effort to compel Respondent to provide the investigative services results and itemized listing or, a refund of the money offered as payment.

Respondent states that he was hired and paid by Complainant's former attorney and therefore, his obligation was to that attorney. Respondent states that his position is that the results of his investigative services fall within attorney work product and he is unable to release said information without express consent from the hiring attorney. Through investigation, Respondent

states that he did not offer a response directly to Complainant as to avoid the appearance of being under Complainant's employ and destroys any previously effective privilege. Respondent provided a list of itemized services during investigation and, according to the services, the amount exceeded the amount paid by Complainant to the attorney over the criminal matter.

Within Complainant's documentation included an April 7, 2015 letter wherein the attorney states that "the contract for services (or agreement in this matter) was between you [Complainant], your mother and [Respondent]." This statement seems to contradict Respondent's position that he was employed by the attorney. Further, Complainant included correspondence directly from Respondent, which further lends itself to the implication that Respondent was hired by Complainant but did in fact receive payment from Respondent's attorney.

Recommendation: **Issue a letter of warning regarding Tenn. Comp. & Regs. 1175-04-.06(4) and 1175-04-.08, including warning regarding clearly defining the relationship between investigator and client and close. As to a refund, that is outside the jurisdiction of the Commission.**

MOTION was made by Alan Rousseau to *concur with the recommendation of counsel and Close.* Motion was seconded by Larry Flair.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Abstained
Rousseau	Aye

MOTION CARRIED

3. **20150216991**

Respondent: **Unlicensed**

Let the record show that Paul David Brown, Jr. recused himself and left the room.

This complaint opened alleging unlicensed activity by Respondent. The complaint included an email wherein Respondent Company requested criminal record searches to be completed. The email contained the parameters of the criminal search requirements as well as the form to be completed. The complaint included Respondent Company's advertisement which indicated that it conducts onsite county criminal and civil record searches.

Respondent is a subsidiary of a Texas limited liability company and initially leased space in Tennessee in 2008. The lease expired in 2011 and, since that time, has maintained one (1) employee in the State of Tennessee, who performs sales and information technology services. Respondent states that the company searches and retrieves criminal and civil public records, but denies providing investigative and/or security services. Respondent states that its action is less interfering on the public than the exceptions of a mortgage default inspector or mystery shopper. Respondent states that it is not an investigations company or private investigator as defined as it does not obtain or provide information "with reference to" any of the enumerated acts of Tenn. Code Ann. § 62-26-202(6), but rather the information is obtained and furnished with reference to customer requests. Respondent states that there would be no benefit to the public to require

licensure and request that the Commission allow the company to continue operations in the State of Tennessee without a private investigator license.

Through investigation Respondent states that currently, four (4) of its customers reside in Tennessee and three (3) of the customers have requested public records research and retrieval services. The fourth customer has yet to make a request for services. A search of Respondent's website indicates that the company "specializes in on-site county-level criminal and civil record information" for its customers.

Recommendation: Close as no violation found.

MOTION was made by Alan Rousseau to *concur with the recommendations of counsel and close as no violation found.* Motion was seconded by Larry Flair

Roll Call Vote:

Brown	Recused
Flair	Aye
Lane	Aye
Ritch	Abstained
Rousseau	Aye

MOTION CARRIED

Let the record show that Paul David Brown, Jr. returned to the meeting.

CASES FOR RE-PRESENT

1. **Case No.: 2015017902**

Respondent: Unlicensed P.I. Company

This complaint opened alleging that Respondent engaged in unlicensed activity, in violation of Tenn. Code Ann. § 62-26-204(a). Respondent, on referral from an out of state corporate office, contracted with a Tennessee corporation to provide background screening services. Respondent states that for information obtained from sources outside the State of Tennessee, it provides those services to the receiving corporation. Respondent further states that for sources of information within the State of Tennessee, it entered into an independent-contractor relationship with a licensed private investigations company. Respondent contends that it has not acted as an investigations company or private investigator because of its contract with a Tennessee company for private investigative services for sources outside the State of Tennessee.

The prior recommendation was to authorize formal and issue a consent order with a civil penalty in the amount of one thousand dollars ($1,000.00) for violation of Tenn. Code Ann. § 62-26-204(a). Through further legal research, additional consideration by the Commission is needed.

Revised Recommendation: Further discussion by the Commission.

MOTION was made by Alan G. Rousseau to *concur with the recommendation of counsel and further discuss the case.* Motion was seconded by David Brown.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye

Ritch Abstained
Rousseau Aye
MOTION CARRIED

MOTION was made by Alan Rousseau to *rescind consent order and close this case.* Motion was seconded by Larry Flair.
Roll Call Vote:
Brown Aye
Flair Aye
Lane Aye
Ritch Aye
Rousseau Aye
MOTION CARRIED

2. **Case No.: 2014027721**

Respondent: Private Investigator

This complaint was established on October 28, 2014, when the Commission received information from a news report indicating the Respondent had been arrested. Information shows that the Respondent was arrested on June 30, 2014 for assault (which is no longer a part of Respondent's criminal history) and September 9, 2014 for theft of property over $10,000, currently on judicial diversion through 2017. The Respondent failed to report either arrest to the Commission. The Commission previously authorized a formal and issued a proposed Consent Order with a civil penalty in the amount of one thousand dollar ($1,000.00).

Since receiving the proposed Consent Order, the Respondent expressed to legal counsel that she no longer practices or works in the field of Private Investigation. The Respondent requested the Commission accept voluntary revocation of her license rather than the civil penalty. The Respondent has agreed to sign a consent order revoking the Respondent's license.
Revised Recommendation: Accept the Respondent's voluntary revocation in lieu of the civil penalty.
MOTION was made by Larry Flair to *concur with the recommendations of counsel and accept the respondent's voluntary revocation in lieu of the civil penalty.* Motion was seconded by David Brown.
Roll Call Vote:
Brown Aye
Flair Aye
Lane Aye
Ritch Aye
Rousseau Aye
MOTION CARRIED

Executive Director requested a change in the agenda to accommodate the schedule of Rich P. Riddle, Investigator for the Tennessee Office of the Attorney General & Reporter.

Rich P. Riddle, Investigator
Tennessee Office of the Attorney General & Reporter
Investigator Rich presented the Commission, and those present, with an overview of his duties as an investigator with the Tennessee Attorney General's office. Conducting investigations into various fraud cases, fraudulent solicitation, door to door solicitation, and many other areas. Commission members thanked Mr. Riddle for taking the time to speak with them.

ADMINISTRATIVE MATTERS* – *Cody Vest, Executive Director

[Ex B] Regulatory Boards Disciplinary Action Reports
Executive Director Vest presented the disciplinary action report for January and February, 2016.

[Ex C] Monthly Reports
Executive Director Vest presented the monthly reports for January and February, 2016.

[Ex D] Budget Review
Executive Director Vest presented the Year to Date budget review for FY 2015-2016.

[Ex E] Legislative Update HB1474
Executive Director Vest presented the movement of HB1474/SB1493 concerning motor vehicles, particularly automobiles owned or leased by licensed private investigators or private investigation companies. This bill would lift the current restrictions regarding the darkness of the tint on the windows. Governor signed the bill effective March 10, 2016, and it becomes effective as law on July 1, 2016.

[Ex F] Alabama Reciprocal Agreement
Executive Director Vest presented the final agreement with Alabama. Administrative Assistant Bell advised the board that the agreement was posted on the Commission website on March 18, 2016.

Private Investigator/Private Investigation Company
[Ex G] Vogel, Robert Lee F#7992/Bald Eagle Investigations F#2123
Executive Director Vest presented the Private Investigator and Private Investigation Company applications submitted by Robert Lee Vogel, and indicated that Mr. Vogel's license to practice law had recently been suspended for one (1) year by the Tennessee Supreme Court based on complaints involving professional misconduct. Commission members reviewed the Supreme Court Ruling.
MOTION was made by Alan Rousseau to deny both the Private Investigator and Private Investigation Company applications based on Tenn. Code Ann. § 62-26-207(a)(5). Motion was seconded by David Brown.
Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye

Rousseau Aye
MOTION CARRIED

[Ex H] Education Report
Administrative Assistant Bell presented a review of the meeting that occurred immediately prior to Commission meeting. Education Committee Members: Minnie Ann Lane, Dr. Paul A. Ritch, and Alan G. Rousseau. Education Committee meeting held at 9:00 A.M. on Friday, March 18, 2016, Dr. Paul A. Ritch absent. Administrative Assistant Bell indicated that the education committee recommendation on all of the courses submitted had been to approve.

Private Investigator Continuing Education
Charvat, Ann Marie F#4745 Exp Date: 03/31/2016
NAZA (Nashville After Zone Alliance)
"Advancing Youth Development"
12 Hours
January 7-8, 2015

Ham, Kristal L. F#6690 Exp Date: 04/30/2016
Law Enforcement Training Institute
National Animal Cruelty Investigation School
Level I – Professional Animal Cruelty Investigator
40 Hours
October 10, 2014
Level II – Advanced Animal Cruelty Investigator
40 Hours
November 7, 2014
Expert Investigator – Level III
40 Hours
December 12, 2014

Ilinson, Ricky Allen F#6954 Exp Date: 01/31/2018
North Carolina Polygraph Association Continuing Education Seminar
14 Hours
March 17-18, 2016

Whaley, Mike David F#7443 Exp Date: 04/30/2016
Tennessee Methamphetamine and Pharmaceutical Task Force
Clandestine Laboratory Investigation Certification
38.5 Hours
September 18, 2015

Regional Organized Crime Information Center (ROCIC)
Video Surveillance for Law Enforcement
24 Hours
February 3-5, 2015

Nettles, Lee Richard F#7446 Exp Date: 04/30/2016
Coffee County Sheriff's Department
40 Hour In-Service
April 6-17, 2015

Phazzer Electronics, Inc.
Conductive Energy Weapon Operator Certification
4 Hours
January 21, 2016

Organizations
PI Education.com (Online Continuing Education)

Basic Crime Scene Photography	12 Hours
Covert Surveillance Tactics for the Professional Investigator	6 Hours
Insurance Investigations from "A to Z"	6 Hours
Investigating Nursing Home Abuse	6 Hours
The Art Surveillance	6 Hours

Tennessee Professional Investigators Association (TPIA)
2016 Continuing Education Program
March 26, 2016 – Knoxville, TN
Revised Seminar Agenda
6 Hrs
MOTION was made by Alan Rousseau to approve all of the education as presented. Motion was seconded by David Brown.
Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye
Rousseau	Aye

MOTION CARRIED

UNFINISHED BUSINESS
Executive Director Vest thanked Judge Collier for her presentation to the Commission at the previous meeting, and thanked Rich Riddle for his presentation to the Commission today.

NEW BUSINESS
Executive Director Vest announced that Phyllis Patrick would be taking over Beth Bell's responsibilities for Commission meetings. Ms. Vest noted that they were reorganizing staff duties, and were busy preparing for online applications.

Dr. Paul Ritch thanked the Commission and staff for allowing him to participate by teleconference, and indicated that his wife was too weak for him to leave his home at this time.

CONTINUING EDUCATION PARTICIPANT FORUM

There were no participants.

MOTION was made by Alan Rousseau *to adjourn the March 18, 2016 meeting of the Tennessee Private Investigation and Polygraph Commission.* Motion seconded by David Brown.

Roll Call Vote:

Brown	Aye
Flair	Aye
Lane	Aye
Ritch	Aye
Rousseau	Aye

MOTION CARRIED

MOTION CARRIED

MEETING ADJOURNED 11:22 A.M.

Minutes prepared by Phyllis Patrick, Administrative Assistant

MINUTES of the Tennessee Private Investigation and Polygraph Commission Meeting held **March 18, 2016,** in Nashville, Tennessee.

Minnie Ann Lane, Chair

Paul David Brown, Jr.

Larry T. Flair, Sr.

absent
William Rick Jones

Dr. Paul Ritch

absent
Arthur G. (Jerry) Richards

Alan G. Rousseau

absent
David W. Horton

Notice of March 18, 2016 meeting of the Tennessee Private Investigation and Polygraph Commission posted to the Commission website on March 10, 2016.

State of Tennessee
Department of Commerce and Insurance
Private Investigation and Polygraph Commission
500 James Robertson Parkway
Davy Crockett Tower
Nashville, Tennessee 37243-1167
Telephone: 615.741.4827 Fax: 615.532.2965
Website: http://www.tn.gov/commerce/section/private-investigation-polygraph

AGENDA

Private Investigation and Polygraph Commission
NOTICE OF COMMISSION MEETING
Davy Crockett Tower – Conference Room 1-A
500 James Robertson Parkway
Nashville, TN 37243

Friday, March 18, 2016

9:00 A.M. CDT **Education Committee Meeting**

9:30 A.M. CDT **Call To Order – Commission Meeting**
Minnie Ann Lane, *Commission Chair*
Roll Call - Cody Vest, *Executive Director*
Agenda (Review/Adopt)
Minutes 02/05/2016 Commission Meeting (Review/Approve)
Election of Vice Chair

Legal Report – Ashley Thomas, Assistant General Counsel
[Ex A] Complaint Review

Administrative Matters – Cody Vest, Executive Director
[Ex B] Regulatory Boards Disciplinary Action Reports
[Ex C] Regulatory Boards Monthly Reports
[Ex D] Budget Review
[Ex E] Legislative Update
[Ex F] Alabama Reciprocal Update

Private Investigator/Private Investigation Company Application Review
[Ex G] Vogel, Robert Lee #7992/Bald Eagle Investigations #2123

Education Report - Beth Smith Bell, Administrative Assistant
[Ex H] Education Review

Rich P. Riddle, Investigator
Tennessee Office of the Attorney General & Reporter

Unfinished Business
New Business
Continuing Education Participant Forum
Review questions submitted by participants during Commission Meeting
Adjournment

The listed order of items and times on the agenda are subject to change, as the Commission reserves the right to move to the next agenda items due to cancelations or deferrals.

Commission meetings will be conducted by permitting participation of the Commission members by electronic or other means of communication if necessary. Any member participation by electronic means shall be audible to the public at the location specified above. The Department of Commerce and Insurance is committed to principles of equal access. If you need assistance with attending this meeting due to a disability please contact the Department's ADA Coordinator at 615.741.0481