

**Report of Investigation Regarding the Performance of
Monterrey Security Consultants, Inc.**

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September 25, 2017**

I. EXECUTIVE SUMMARY

SMG engaged Maslon LLP to conduct an independent investigation of Monterrey Security Consultants, Inc. (“Monterrey”). Maslon attorneys Steve Schleicher and David Suchar, both former federal prosecutors, conducted the investigation on behalf of SMG.

It should be noted that the scope of this investigation was limited to issues of regulatory compliance. It was not a security or safety assessment as such review would be beyond our expertise. That being said, the undersigned did not uncover any incident in which a Monterrey employee’s conduct caused harm to a Stadium guest or created a risk of such harm. Nor did this investigation seek to assess job performance at the stadium as such assessment would need to be made by a qualified industry standards expert. From a lay perspective, no deficiency with respect to job performance by Monterrey staff at the stadium was noticed by the undersigned.

The primary conclusion reached as a result of this investigation is that Monterrey has failed to comply with state laws and regulations for private security companies. Examples include failure to conduct required background checks, employment of individuals with disqualifying criminal records, failure to comply with state training requirements and failure to accurately respond to inquiries from state security industry regulators.

The major findings of this investigation are summarized below:

Monterrey uses ambiguous job titles as justification to ignore state requirements for the private security industry. Monterrey is a security company that “engage[s] in the business of protective agent,” as that phrase is defined under Minnesota law. Companies providing private protective services are regulated by the state, which requires their employees pass a background check and complete state-approved pre-assignment training. Monterrey asserts that these requirements do not apply to those employees to which it refers in terms other than “protective agent.” Monterrey refers to these employees as “Event Ambassador” or “Event Services Personnel” and asserts that unlike protective agents, such employees are exempt from required comprehensive protective agent training or state-mandated background checks.

What constitutes a “protective agent” is determined by the employee’s actual job duties and not by job title. Monterrey “Event Ambassadors” routinely perform protective services such as crowd management, access control, bag screening and operation of metal detectors. There is no functional difference between those employees the company calls protective agents and those labeled as event staff. Monterrey’s approach would allow private security companies to avoid state regulation through creative name assignment. Further, SMG hired Monterrey to perform security services at U.S. Bank Stadium. The proposition that the majority of employees of this security company do not actually perform security, but rather some vaguely- described “event

service” work, is inconsistent with Monterrey’s purpose at the Stadium and is not even believed by its own employees.

Monterrey employs people with disqualifying criminal histories to perform security at U.S. Bank Stadium. Monterrey has admittedly employed hundreds of people who would be unable to pass a state-mandated background check due to disqualifying prior criminal convictions. While some employees’ criminal histories involve minor infractions, others contain more serious violations including burglary, felony robbery, felony theft, assault, weapons violations and drug offenses. Monterrey hired some employees with full knowledge of their recent criminal backgrounds and categorized them as event services employees, a distinction without a difference as noted above. Monterrey learned the extent of the criminal backgrounds of other employees after they were hired and often after they had begun to perform security services in violation of Minnesota law. In some instances, Monterrey continued their employment as protective agents for months after discovering this information. Despite assurances that its hiring practices have changed, Monterrey continues to staff events with employees who have disqualifying criminal backgrounds.

Many Monterrey employees have either not passed or been submitted for a background check in accordance with state law. Monterrey has defined the majority of its workforce as event staff and takes the position that Minnesota’s protective services laws are inapplicable to those employees. Many of these employees have never been subjected to any state-approved background check. Others were screened using an ineffective private background check service called “Oracle,” contrary to statutory requirements that the checks be conducted by the BCA and FBI. Still others were submitted to proper BCA and FBI checks. Many of those who failed the private, BCA or FBI checks were hired, labeled “event services” and put to work performing protective agent functions.

Monterrey failed to properly train its employees in accordance with state law. In April 2016, Monterrey submitted an application for a 20-hour protective agent training course. The Minnesota Private Detective and Protective Agent Services Board (the “Board”) approved the course and certified two instructors. (Ex. 1, Email approving Monterrey training course and instructors (Apr. 26, 2016).) It is impossible to establish by reviewing training records whether any Monterrey employee ever completed the full 20-hour course. It is possible to establish that a large segment did not complete the course, despite being issued “Certificates of Achievement.” It is more likely than not that no Monterrey employee has ever completed the 20-hour course approved by the Board. The course itself was taught by instructors who were not Board approved at the time of the course, and the Board-approved instructors *never* taught any course. Yet the certificates issued by Monterrey all purport to bear the signature of one of the two approved instructors, neither of whom ever taught a class in Minnesota.

Monterrey has poorly managed compliance with those regulations even it believes apply. Monterrey takes the position that state regulations apply to a small portion of its total work force. However, Monterrey has not implemented policies or procedures to ensure compliance with basic statutory and regulatory requirements for even that small segment of its employees. It routinely allows employees to work as protective agents prior to being cleared by BCA background checks despite statutory requirements. In one instance, an employee was allowed to continue to work as a protective agent for eight weeks *after* the company was notified by the

BCA that the employee failed a criminal background check. Another employee was allowed to work for 6 months after Monterrey received his failed background check from the BCA, and Monterrey misrepresented the nature of this employee's work to the Board in response to its investigation.

Monterrey has admitted that at one point, approximately 25% percent of those it acknowledged to be protective agents were not educationally qualified per state requirements. The actual figure is closer to 100% for the 2016-17 Minnesota Vikings season, either because none have supporting attendance records demonstrating course completion or because none were taught by a Board-approved instructor.

Monterrey made misrepresentations in support of its application for a license in 2015. In support of Monterrey's initial license application, CEO Juan Gaytan submitted an application and made certain representations to the Board at the Board's monthly meeting on June 30, 2015. Said application and presentation contained several misrepresentations, including regarding Mr. Gaytan's law enforcement service and his disciplinary history as a law enforcement officer. Mr. Gaytan falsely represented that he had been "exonerated" of all disciplinary charges brought against him as a Chicago police officer. In fact, the Chicago Police Board found Mr. Gaytan guilty of "disrespect and maltreatment of a person while on or off duty" for his conduct during incidents in 1995 and suspended him for three months. Mr. Gaytan was later charged by the Chicago Police Department for a separate incident which took place in 1994. The case was referred to the Chicago Police Board for allegations of misconduct, including unlawful display of a weapon, and making a false police report. Mr. Gaytan resigned in 2002 before the Chicago Police Board's hearing on this matter.

Mr. Gaytan also misrepresented the time of his service with the Chicago Police Department, the nature, substance and timing of his service with the Bridgeview, IL Police Department and he did not list his Chicago Police Department service on his application.

Monterrey lacks transparency and has not made timely disclosures either to SMG or the Board. Monterrey did not alert SMG to these deficiencies until required to do so pursuant to this investigation. The degree to which Monterrey has been forthright with regulators is questionable. It failed on numerous occasions to produce accurate documents in response to requests by the Board and undersigned counsel. Monterrey has continued its violations even through this investigation and appears to be unwilling or incapable of conducting its operations in compliance with the law.

Monterrey has employed questionable billing practices. Monterrey has engaged in what appears to be billing SMG in what is at best a mistaken manner and one that is potentially fraudulent. Monterrey included a number of terminated employees on its invoices to SMG, claiming that those employees had performed services at two concert events in the summer of 2017. Monterrey also included duplicates of many employees on its bills, and in some cases claimed that certain employees worked more than 24 hours in a single day. For at least one event, these terminated and duplicate employees represented nearly **Redacted** of all Monterrey employees listed as having performed services—**Redacted** **Redacted**

Redacted

Redacted

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Monterrey has not been forthright in responding to this investigation. Monterrey has not provided straightforward responses during this investigation, including responses regarding employees who have failed a private or BCA background check, billing anomalies, and busing of employees from Chicago. Monterrey’s responses to direct inquiries have included incomplete documentation and information that is logically inconsistent with prior responses.

II. PURPOSE AND SCOPE OF INVESTIGATION

SMG was engaged by the Minnesota Sports Facilities Authority for the overall management of U.S. Bank Stadium. Monterrey contracted with SMG to provide Crowd Management Services and Twenty-Four Hour Security Services pursuant to two separate agreements. (Ex. 2, 24 Hour Security Agreement; Ex. 3, Crowd Management Services Agreement (the “Agreements”).) SMG engaged Maslon LLP to conduct an independent investigation to determine whether Monterrey employed people who were unqualified to perform security services due to disqualifying criminal records or other reasons, and whether Monterrey provided false documentation to the Board.

This audit and investigation was requested by SMG following allegations made to the Board that were reported in the local media. (Ex. 4, *Major Investigation of Possible Security Issues at US Bank Stadium*, KSTP, June 8, 2017; Ex. 5, *State Investigating U.S. Bank Stadium’s Security Company*, Star Trib., June 8, 2017.) These news reports reference unidentified sources who claimed that Monterrey employed unqualified people—specifically, individuals with disqualifying criminal convictions—to fill security positions at the Stadium, and that Monterrey submitted false documents to the Board.

A. Authority to Conduct Investigation.

The two Agreements between SMG and Monterrey contain an Audit and Review clause which require Monterrey to keep and preserve “full and accurate books and records . . . relating to the Services it provides to SMG” and to “give SMG and its designated representatives . . . access to the Records during such period of time to review and/or audit the Records, from time to time, upon request.” (Ex. 2, 24 Hour Security Agreement, ¶16; Ex. 3, Crowd Management Services Agreement, ¶18.) SMG exercised these audit and review rights to obtain documents and other information from Monterrey. As described more fully in this report, Monterrey offered limited cooperation and disputed its legal obligation to comply with document requests made pursuant to these provisions. (Ex. 6, Letter from Monterrey Counsel Refusing Document Request (Aug. 8, 2017).)

B. Standard of Proof.

This investigation was conducted in light of the Minnesota civil standard of proof, that is, the greater weight of the evidence or “fair preponderance of the evidence” standard. *Minnesota Practice: Jury Instruction Guides-Civil* § 14.15; *Canada v. McCarthy*, 567 N.W. 2d 496, 507 (Minn. 1997) (citing *Carpenter v. Nelson*, 101 N.W.2d 918, 921 (Minn. 1960)). Accordingly,

conclusions are based upon facts believed to have been demonstrated by the greater weight of evidence, that is, that it is more likely than not that the event occurred.

III. PARTIES & WITNESSES

- **U.S. Bank Stadium (“Stadium”):** 66,665 seat facility that is home to the National Football League’s Minnesota Vikings, and also hosts a variety of concerts, sporting events, and other gatherings.
- **Minnesota Sports Facilities Authority:** Established by the Minnesota Legislature by 2012 Minnesota Laws, Chapter 299, and charged with the design, construction and operation of the Stadium. The current members of the MSFA are Michael Vekich (chair), Tony Sertich, Bill McCarthy, Barbara Butts Williams, and Laura Bishop.
- **Minnesota Private Detective and Protective Agent Services Board (“Board”):** Administrative agency created by the Minnesota Legislature and tasked with ensuring that investigative and security service practitioners meet statutory qualifications and training for licensure, and maintaining standards set forth under Minnesota law. The current members of the Board are Rick Hodsdon, Jim Hessel, Kip Sandoz, Jeff Hansen, and Pat Moen.
- **SMG:** World leader in public venue management, marketing and development. SMG was engaged by the MSFA to manage and operate the Stadium.
- **Monterrey Security Consultants, Inc. (“Monterrey”):** Provider of security and guest services based out of Chicago, IL. Monterrey was engaged by SMG in March 2016 to provide 24-hour and event security services for the Stadium.
- **Juan Gaytan, Jr.:** Monterrey President and CEO. Mr. Gaytan is a former City of Chicago police officer who founded Monterrey in 1999. In 2015 he filed an application with the Board for Monterrey’s protective agent license in Minnesota and is identified as Monterrey’s “Minnesota manager.”
- **Patricia Gaytan Perez:** Monterrey Vice President of Administration. She leads operational functions in the areas of finance, human resources, technology, compliance, risk management and space planning.
- **Matt Dutton:** Monterrey Director of Stadium Event Services. He is responsible for deployment of Monterrey staff at Stadium events.
- **Kevin Boles:** Monterrey’s Event Services Project Manager. He is responsible for proper staffing at Stadium events.
- **Sarah Solper:** Monterrey’s Minnesota Administrative Office Manager. She performs various human resources functions in Monterrey’s Minnesota office. Solper met with the Board regarding certain allegations of misconduct, along with Monterrey’s former general manager.

- **D. B.:** Monterrey’s former General Manager for Minnesota operations. He is a former City of Minneapolis police officer and was responsible for Monterrey’s day-to-day operations at the Stadium. He filed a whistleblower report with the Board.
- **Minnesota Bureau of Criminal Apprehension (“BCA”):** Administrative agency that provides background checks that are required by statute to employ protective agents.
- **Oracle Screening Services (“Oracle”):** Private company that purports to provide employment, volunteer, and tenant screening services. Monterrey relied on Oracle background checks prior to hiring many or most of its employees.

IV. FACTS

A. Law Enforcement History of Juan Gaytan and Monterrey’s History in Minnesota.

Monterrey CEO and owner Juan Gaytan was a police officer for the Chicago Police Department (the “CPD”) from November 1993-August 2002. (Ex. 7, Gaytan Resignation.) According to records produced by the Chicago Police Board in response to a FOIA request, on December 9, 1994, Mr. Gaytan was accused of fabricating evidence, unnecessarily displaying his weapon and providing false information in a police report. (Ex. 8, Chicago Police Board Charges (Dec. 2001).)

The CPB’s FOIA response further demonstrates that in 1995, Mr. Gaytan was accused by Chicago Police Superintendent Matt Rodriguez and the Chicago Corporation Counsel at the time, of taking money by use of force and “disrespect to or maltreatment of any person.” (Ex. 9, Chicago Police Board Charges for 1995 Incident.) The Superintendent and Counsel recommended Officer Gaytan be terminated as a result. After a contested hearing, the Chicago Police Board acquitted Mr. Gaytan of some charges but found him guilty of disrespect or maltreatment of a person for striking two individuals with a flashlight, and suspended him for three months. (Ex. 10, Chicago Police Board Findings and Decision (July 3, 1997).)

As a result of the 1994 incident, Mr. Gaytan was charged by a different Chicago Police Superintendent, Terry Hillard, and Hillard and the Chicago Corporation Counsel again recommended, now for the second time, that Mr. Gaytan be fired and supported the filing of charges against Mr. Gaytan, again in front of the Chicago Police Board. (Ex. 8, Chicago Police Board Charges (Dec. 2001).) Specifically the Chicago Police Board and Chicago Corporation Counsel charged Gaytan with fabricating evidence, pointing a weapon and threatening to shoot for no reason and providing false information for official police reports. Mr. Gaytan resigned from the CPD on August 31, 2002, before he was to appear before the Chicago Police Board regarding that inquiry. (Ex. 11, Transcript of Sept. 4, 2002 Hearing.)

Monterrey was awarded a contract to provide security services for Chicago’s Soldier Field in 2001. (Ex. 12, *Soldier Field’s Gate Keepers*, Chi. Business, Sept. 7, 2013.) That contract was renewed for ten years in 2013. (Ex. 13, *Insecurity at Soldier Field*, Chi. Sun Times, Apr. 16, 2016.) On March 20, 2015, Monterrey was awarded a contract to provide security services for Chicago’s Wrigley Field. (Ex. 14, *Monterrey Security scores big*, *Negocios Now*, Mar. 20, 2015.) In November 2015, two Monterrey employees were accused of being involved in a

scheme to sell wristband access to Soldier Field to plainclothes police officers. The employees did not have security licenses, and Mr. Gaytan stated the employees did not require licensure as security guards because they were employed in “guest services.” (Ex. 13, *Insecurity at Soldier Field*.)

The Board approved Monterrey’s application for a 2-year protective agent license on July 28, 2015. Monterrey was awarded the security contract from SMG on March 10, 2016 following a competitive bid process. (Ex. 57, *Monterrey Security Selected*, Vikings News, Mar. 10, 2016.) The selection of Monterrey was the culmination of a five-month process during which several potential security vendors were considered. Monterrey submitted a high quality application packet that included positive recommendations from numerous clients. Monterrey entered into the Agreements with SMG on March 29, 2016. (Exs. 2-3.) Monterrey participated in a hiring fair from April 26-28, 2016, which was sponsored by SMG. (Ex. 58, *You’re Hired*, Star Trib., Apr. 26, 2016.) The first event at the Stadium was a soccer match between AC Milan and Chelsea FC on August 3, 2016.

According to Monterrey’s website, it currently provides security services for multiple sports facilities in Chicago and the University of Notre Dame, in addition to the Stadium. It also provides security for numerous concert venues, retail sites, parks, and tourist attractions in Chicago. (*Monterrey Security*, <http://www.monterreysecurity.com/event-planning/> (last visited August 17, 2017).)

B. Board Audit of Monterrey.

The present allegations against Monterrey became public following complaints to the Board by four former employees. Two of the former employees claimed that Monterrey knew that they had criminal convictions but were nonetheless allowed to work in a security position at the U.S. Bank Stadium for several months. These employees claimed that Monterrey eventually terminated their employment, but waited to do so until the end of the NFL football season. A third employee claimed to have completed protective agent training with the company, but was not provided documentation of certification after requesting it. These complaints triggered an audit by the Board, which provided Monterrey notice of the allegations and requested documentation. (Ex. 15, Board Audit Notice to Monterrey (May 10, 2017).)

As part of the audit process, the Board provided a spreadsheet template that Monterrey was required to complete, which consisted of employee names, hire dates and dates of training. Staff at Monterrey’s Minneapolis office began the process of responding to the request by populating the information in the form. Sarah Solper, the administrative office manager completed the spreadsheet template and sent it to members of Monterrey’s upper management for review. Patricia Gaytan Perez, Monterrey’s Vice President of Administration, asked the office manager to revise some of the information in the form and to add fields that were not requested by the Board.

There is a discrepancy about what happened thereafter. It is undisputed that the office manager became concerned about the revision requests and was uncomfortable making the changes requested by Perez and that she communicated these concerns. There was a lapse of several days prior to her receiving a response from Perez. Solper became upset and made her concerns

known to the former general manager of Monterrey's Minnesota Office. The general manager listened to her concerns, requested copies of several documents including emails and training records, and eventually indicated that he intended to make these concerns known to the Board. The office manager acknowledged that she accompanied him to the office of the Board and attended a meeting with the Board's Executive Director. She further stated that her concerns were eventually resolved when she was contacted by Perez, who was able to explain that the requested changes to the information were intended to supply more accurate information to the Board for their review. The office manager is still employed by Monterrey.

The former general manager gave a different account. He indicated that the office manager told him that she was being requested by Monterrey to provide false information to the Board. The general manager stated that the office manager, who was upset and occasionally crying, told him that the training records were false and were recently fabricated. He described the office manager as having pulled purported training records kept in a folder out of a filing cabinet and telling him that all of the records were "fake." He took copies of these records, notified Monterrey that he intended to resign his position and reported the allegations to the Board. He stated that the office manager accompanied him to the Board where they both met with the Executive Director for over an hour. He is no longer employed by Monterrey.

The Board's investigation consisted of the previously mentioned audit in response to the original allegations, follow up questions based on the general manager's statement, a site visit to the Stadium and a series of document requests in connection with the Board's examination of Monterrey's license renewal, which was to expire in July 2017. At its July 25, 2017 meeting, the Board issued Monterrey a 60-day contingent license while it continued its investigation into Monterrey's hiring and business practices. (Ex. 16, July 25, 2017 Board Meeting Minutes.)

C. Monterrey Board Submissions.

1. June 9, 2017 Letter.

In response to the Board's May 10, 2017 audit letter, Monterrey submitted additional materials on June 9, 2017 (the "June 9 Letter"). (Ex. 17 at 1.) The June 9 Letter stated that only 204 of its employees since 2016 were "protective agents" subject to statutory requirements, including a BCA background check and training. (*Id.*) Monterrey alleged that the remaining 1000+ current and former employees were "non-protective-agent personnel" that perform jobs such as "scanning tickets, answering guest questions, handling guest complaints, and ensuring that the tens-of-thousands of people entering U.S. Bank Stadium have a positive guest experience." (*Id.* at 2.) Monterrey also alleged that all employees are required to attend 8 hours of on-site training, and all employees it designates as protective agents must attend a "20-hour classroom-style certified training course." (*Id.*)

Monterrey further stated that 169 employees were hired as "event staff" and were not subjected to fingerprint background checks. (*Id.* at 2 n.1.) At Juan Gaytan's interview, he and his counsel stated that these 169 employees failed an Oracle background check but were hired to perform what Monterrey classifies as "non-security duties." (Ex. 18, July 19 Interview of Juan Gaytan, at 1:03:00.)

In addition to the 169 employees Monterrey admitted failed an Oracle background check, Monterrey stated it hired and employed 73 individuals who failed a BCA background check, 5 of whom served as what Monterrey designates as a protective agent. (Ex. 17 at 3.) Although Monterrey stated that these 5 employees were terminated, many employees worked for months after Monterrey was notified that they had failed their BCA background check, in many cases until the conclusion of the 2016-2017 NFL season. In fact, 19 employees identified by Monterrey as having failed their BCA background check appear on its September 5, 2017 list of active employees. (See Ex. 60, “Failed BCA Report-Hired” Spreadsheet produced July 5, 2017; Ex. 19, “Master Agents v Event Staff” Spreadsheet produced Sept. 5, 2017.) Monterrey further admitted that it was not submitting fingerprints to the BCA in a timely manner.

2. June 20, 2017 Letter.

Monterrey supplemented its response to the Board’s letter on June 20, 2017 (the “June 20 Letter”). Monterrey stated that two additional employees had worked as protective agents and never had their fingerprints sent to the BCA, and BCA background check results for a third employee were missing. (Ex. 20 at 1-2.) Monterrey also claimed that the total number of Event Staff employees was “understated” in the June 9 Letter, but alleged that those individuals “did not perform any security functions for Monterrey and, therefore, are neither subject to statutory requirements nor the subject of the Board’s audit inquiry.” (*Id.* at 2.)

Monterrey claims to have hired a total of 1,245 people between April 2016 and June 23, 2017. As of June 23, 2017, Monterrey purports to have 600 active employees. Of this number, 205 employees were employed as “protective agents” and 395 were “event staff.” (See Ex. 21, Monterrey “Hiring and Training Process.”)

3. July 5, 2017 Letter.

After the Board requested additional information and documents, Monterrey responded with a third letter on July 5, 2017 (the “July 5 Letter”). Therein, Monterrey admitted that fifty-six of its recent protective agents did not complete Monterrey’s 20-hour certified training course. (Ex. 22 at 3.) Monterrey stated it was implementing policies to ensure that all employees would complete the 20-hour course. (*Id.*) Monterrey also produced an “Event Staff Only” spreadsheet which contains the names of 301 Monterrey employees who ostensibly passed an Oracle background check and were never subjected to a BCA background check. (Ex. 23, “Event Staff Only” Spreadsheet attached to July 5 Letter.)

Monterrey further produced training records, including 200 “Certificates of Achievement” and attendance records from Monterrey’s 20-hour certified training course. The attendance records do not demonstrate that any of the 200 individuals who received certificates completed Monterrey’s certified training course. Only 34 people ostensibly attended the course for the statutorily mandated 12 hours of instruction. Sixty-eight people attended for less than 12 hours, and insufficient information exists to determine the number of instructional hours for 98 of the individuals who received certificates.

Although Monterrey’s Board-certified course listed Edward Konstanty and Francis Marrocco as instructors, in response to undersigned counsels’ investigative requests about the identity of its

training instructors, Monterrey produced records indicating that two different people, Joey Lash and Anthony De La Casa, were the actual instructors.¹ Despite the fact that Lash and De La Casa allegedly performed all training for Monterrey, the signature of Edward Konstanty—someone who never performed training for Monterrey’s Minnesota-approved 20 hour training course—appears on each training certificate produced to the Board. (Ex. 24, Monterrey Certificates of Achievement; Ex. 25, “PreAssign.Refreshers Training Dates” Spreadsheet produced Aug. 24, 2017.)

D. Interviews

Several Monterrey employees were interviewed during this investigation, including four individuals whose responses are pertinent to this report:

1. Juan Gaytan

Mr. Gaytan is president and CEO of Monterrey, and he lives and works in Chicago. He stated that the former general manager had day-to-day management duties over compliance with Minnesota’s protective agent statute. (Ex. 18, July 20, 2017 Interview of Juan Gaytan, at 11:00.) He stated that “it falls on everyone to look at the general safety of every person, employee, and patron.” (*Id.* at 17:30.) However, he alleged that protective agents are trained to assist with engaging patrons who act in a suspicious or dangerous manner, whereas event staff are instructed to report suspicious behavior to their supervisor or an off-duty police officer. (*Id.* at 25:55.) But he also stated that event staff may assist with bag checks and wandering, and that “an event staffer could have his or her own supervisor who is not a protective agent.” (*Id.* at 21:00, 29:10.)

2. Kevin Boles

Kevin Boles has served as an event services project manager for Monterrey since October 2016. (Ex. 26, July 19, 2017 Interviews of Kevin Boles and Matt Dutton, at 0:13.) He staffs events, making sure there are a proper number security personnel for each event. (*Id.* at 0:53.) He stated that he could not tell the difference between employees who serve in a protective services function versus those who serve an event services function, and that “the only difference that [he] would see would be whether they would be supervisor or manager.” (*Id.* at 5:45, 7:00.) He also agreed that “everybody is just doing the same job of securing the building,” and “We’ve been all trained to do every job . . . all supervisors and all employees.” (*Id.* at 12:04, 13:25.) He did not know why there’s a distinction between protective staff and event staff, and he did not know “the difference of where [protective staff and event staff] can and can’t be.” (*Id.* at 21:20, 22:00.)

¹ Lash was approved as an instructor at the Board’s August 2017 meeting, despite having been involved in training for Monterrey since May 2016. There is no evidence that De La Casa has ever sought or received Board approval.

3. Matthew Dutton

Matt Dutton is Monterrey's director of stadium event services. (*Id.* at 35:30.) He has worked for Monterrey for the past 9 years. (*Id.* at 36:15.) He is tasked with ensuring that supervisors and other team members are appropriately staffed for various positions, as well as venue-specific training. (*Id.* at 40:30.) He stated that "protective agents' primary role is to . . . ensure the effective [security] screening," whereas event services is "more of a customer service function." (*Id.* at 47:30, 48:10.) He also stated, however, that event staff "can be involved" in security screening as well as wand and bag checks. (*Id.* at 49:10.) He stated that "security is part of everyone's job." (*Id.* at 48:40.) The difference, he stated, is that event staff perform these functions under the supervision of protective agents. (*Id.* at 49:20.) He also agreed that apart from an extra identification card, there is no way to distinguish protective staff from event staff because "they all wear the same uniform." (*Id.* at 1:10:20.)

4. Sarah Solper

Sarah Solper is Monterrey's administrative office manager for the Minnesota office. She was tasked with various human resources responsibilities, including new hire training and orientation. She discussed her response to the 2017 Board audit and stated that she was asked to change some hiring dates. (*See* Ex. 27, email from S. Solper to P. Perez.) She told VP of Administration Patricia Perez that she "didn't feel comfortable changing dates," and that she "didn't know why we were doing it." (Ex. 28, July 17, 2017 Interview of Sarah Solper, at 35:57, 37:15.) Perez explained that there are "so many different ways you can look at a hire date," and that she was asking Solper to add a "rehire date" for each employee that corresponded to the first day the employee "actually worked." (*Id.* at 32:58.)

Solper stated that Monterrey's former general manager "obviously thought that that was a huge red flag." (*Id.* at 37:15.) Although Solper and the general manager had multiple conversations regarding this issue, Solper could not remember the substance of them, other than that she "knew obviously something was wrong with the email and the training sheets [that the general manager requested]." (*Id.* at 42:39, 51:05, 53:10.) The former general manager and Solper went to the Board the following week with the intention to make a complaint to the Board. (*Id.* at 54:00.)

V. ANALYSIS

A. Monterrey Uses Ambiguous Job Titles To Avoid State Requirements for the Private Security Industry.

1. Monterrey's "Event Staff" perform the statutory duties of protective agents.

A person may not engage in the business of a protective agent in Minnesota without having first obtained a license from the Board. Minn. Stat. § 326.3381, subd. 1. In pertinent part, a "protective agent" is

[a] person who for a fee, reward, or other valuable consideration undertakes any of the following acts . . . :

(1) providing guards, private patrol, or other security personnel to protect persons or their property or to prevent the theft, unlawful taking of goods, merchandise, or money, or to prevent the misappropriation or concealment of goods, merchandise, money, or other valuable things, or to procure the return of those things; [or]

....

(5) providing management and control of crowds for the purpose of safety and protection.

Minn. Stat. § 326.338, subd. 4.

Monterrey claims that the majority of their staff are “Event Staff” or “Event Ambassadors” rather than protective agents. However, these individuals perform the duties of protective agents regardless of what they are called. According to Monterrey’s “Minnesota Event Staff Job Description,” Event Staff are required to “[e]nforce facility policies and procedures,” “[i]dentify and respond to emergencies according to emergency protocols,” “[p]roactively approach guests that may have an issue and/or complaint,” and [c]reatively resolve issues/complaints.” (Ex. 61, Minnesota Event Staff Job Description.) These tasks necessarily involve “management and control of crowds for the purpose of safety and protection.” Minn. Stat. § 326.338, subd. 4.

Moreover, Event Staff must perform “[o]ther duties as assigned by management.” (Ex. 61.) As discussed above, Monterrey allows and expects event staff to take part in bag checks and wandering if supervised by a protective agent (although Mr. Gaytan stated that Event Staff may not have a protective-agent supervisor). Regardless whether Event Staff are supervised by protective agents, they are undoubtedly managing crowds for the purpose of safety and protection and “protect[ing] persons or their property” while performing these functions. The protective agent statute makes no distinction that people are not protective agents merely because they are under supervision. The duties of Event Staff fully encompass the duties of protective agents under the statute.

Furthermore, the Agreement for Crowd Management Services provides that Monterrey was hired to perform functions such as “Crowd control,” “Bag searches,” “Use of metal detection,” “Credential checks,” “visually monitoring the crowd for any potential problems,” “Response Teams,” “Sideline security,” “Parking Lot and Perimeter Security,” and enforcement of various NFL policies. (Ex. 3 at A-1 to -2.) These duties are undoubtedly within the statutory definition of a protective agent. Monterrey’s argument that the vast majority of its employees do not provide security services therefore suggests that those employees are not providing the very services for which Monterrey was hired to perform.

2. Monterrey’s own management and employees acknowledge that “Event Staff” perform the duties of a protective agent.

Even Monterrey’s own staff believe that Event Staff perform the statutory duties of protective agent. In his interview, Kevin Boles stated that protective agents and Event Staff alike are “just doing the same job of securing the building,” and that everybody has been “trained to do every job.” (Ex. 26, Boles and Dutton Interviews at 12:04, 13:25.) Both Matt Dutton and Juan Gaytan acknowledged that Event Staff participate in bag checks and wandering, and Dutton stated that

“security is part of everyone’s job.” (*Id.* at 48:40, 49:10; Ex. 18, Gaytan Interview at 21:00.) Mr. Gaytan also stated that “an event staff could have his or her own supervisor who is not a protective agent.” If Event Staff do not have a protective-agent supervisor, it belies the notion that Event Staff are under constant supervision (and, as discussed above, the statute makes no distinction based on supervision).

Moreover, Messrs. Gaytan, Dutton, and Boles agreed that Event Staff are indistinguishable from protective agents because everybody wears the same uniform. There is therefore no way to determine who is permitted to act in what authority.

3. Two July 2017 site visits demonstrated that Monterrey’s Event Staff perform protective agent functions.

On July 24, 2017 and July 30, 2017 respectively, undersigned counsel attended and observed the performance of Monterrey’s security staff at the NFL 2017 Fuel Up to Play 60 event, and the subsequent Guns ‘N Roses concert at the Stadium. Counsel was given access to, and provided access wristbands to, each event by SMG. Counsel observed Monterrey’s personnel at work and made several photographic and video recordings of Monterrey’s personnel in action.

Several important observations came out of these events.

First there is no distinction between those employees Monterrey describes as protective agents and those it describes as event staff, either in appearance or job function. As Monterrey admits, all such employees wear the same red uniforms. The only perceived distinction between any Monterrey employee based on appearance is that some Monterrey uniforms bare the designation “Supervisor” and some do not. However, many such purportedly supervisory employees are designated by Monterrey as “event” staff, as opposed to a designation as protective agent. (*See* Ex. 18, Interview of Juan Gaytan, at 29:10.)

Second, all such personnel perform security functions. Counsel observed over 100 Monterrey staff working at magnetometers and with metal detectors as guests were admitted entrance into each event. All such employees performed a security function, including checking bags, wandng guests and determining access to the Stadium as a result. The same could be said of Monterrey employees performing a crowd control function or those guarding access to the Stadium floor. Counsel was granted full access to the Stadium and interacted with numerous Monterrey staff on the way to the stage area during the Guns ‘N Roses concert, for example. All such personnel checked wristbands, guarded floor and/or stage access and performed what can only be described as a security function as a result.

4. Monterrey cannot avoid application of the protective agent statute by calling their employees “Event Staff.”

Contrary to Monterrey’s assertions, application of the protective agent statute does not depend on what an individual’s position is called, or what his job description is on paper. The question is whether the individual is engaged in statutorily defined roles of protecting the safety of persons or managing crowds for a fee. These are clearly the duties of Monterrey’s entire staff.

B. Many Monterrey Employees Have Either Not Passed or Been Submitted for a Background Check in Accordance with State Law.

Monterrey's employment practices allow for a large portion of its staff to maintain security positions after having (a) failed background examinations or (b) never been subjected to a fingerprint background check.

1. Monterrey pre-screened its employees with an ineffective private background check.

The protective agent statute allows a license holder to employ unlicensed employees. If those employees perform the duties of a protective agent, the employer must submit a full set of fingerprints to the BCA for a background check. Minn. Stat. § 326.336, subd. 1.

Monterrey violated the statutory requirement of BCA background checks in numerous ways. First, it used the Oracle background check as an initial screening tool without subsequently submitting employees through the required BCA and FBI background checks. However, the Oracle check does not rely on the more comprehensive fingerprint checks run by the BCA and FBI.

Moreover, the Oracle background checks appear to have flaws which call into question the use of such checks as the sole means for assessing the background qualifications for people who serve a crucial security function for a modern NFL stadium. Oracle reports produced by Monterrey contain a host of disclaimers including those which describe the limited purposes for which such reports can be used, and the limited ability of the reports to uncover relevant criminal conduct. For example, the reports purport not to cover all relevant jurisdictions. (Ex. 29, Sample Oracle Background Check.) Each Oracle check also contains the disclaimer that “[t]his search may not be used as the basis for an adverse action on an applicant.” (*Id.* (emphasis added).) Oracle also requires hits on multiple self-provided identifiers and therefore would likely under-report criminal activity which would be uncovered by a fingerprint background check, such as those performed by the BCA.

2. At least 242 Monterrey employees purportedly “failed” an Oracle or BCA background check, including 5 employees Monterrey designated as protective agents.

As Monterrey admits, it employed 169 people as “event staff” who failed an Oracle background check and therefore “Monterrey has not performed fingerprint background checks on these employees.” (Ex. 17, June 9 Letter at 2 n.1.) In his interview, Juan Gaytan and Monterrey's counsel admitted that these 169 employees all failed the initial Oracle background check screening. (Ex. 18, Gaytan Interview at 1:03:00.) These employees were then hired into “event staff” roles without any submission of fingerprint background checks to the BCA or any other source. (*Id.*)

Monterrey also employed 73 additional people whose BCA background checks disqualified them from working in a protective agent position. These 73 employees ostensibly passed an Oracle background check and later failed a BCA fingerprint background screen. Five of these individuals were employed by Monterrey as “protective agents,” whereas the other sixty-eight

were employed in an “event staff” or “customer service” role. (Ex. 22, July 5 Letter; Ex. 60, “Failed BCA Report-Hired” Spreadsheet attached to July 5 Letter.) As of the date of Monterrey’s response to the Board, 22 of these individuals who failed BCA background checks remain as current Monterrey employees. (Ex. 22, July 5 Letter; Ex. 60, “Failed BCA Report-Hired” Spreadsheet.) And many of the 51 terminated employees continued working for months after their failed BCA background checks were submitted.

Monterrey also admitted to employing five people as protective agents despite the fact that those people had disqualifying criminal records. (Ex. 22, July 5 Letter.) Such employees served as “protective agents” respectively from (1) July 16-December 5, 2016; (2) July 23, 2016-January 2, 2017; (3) June 24, 2016-January 6, 2017; (4) June 18-October 17, 2016 (remained employed until January 16, 2017) (see separate section describing in detail the background history and employment of “T. W.”); and (5) July 22-October 24, 2016. (*Id.*) Monterrey further employed two additional protective agents for whom no BCA background check had been run. (*Id.*) Monterrey also continued until its June 2017 records search to employ another protective agent for whom no BCA background search could be located. (*Id.*)

3. Monterrey did not submit a BCA fingerprint check for at least 301 additional employees.

While these 242 employees who failed a background check continued to serve as Monterrey security staff, Monterrey apparently stopped or suspended the process of putting a large remainder of its “event” staff through any fingerprint background check whatsoever. Specifically, Monterrey hired 301 event staff without ever conducting a BCA background check on them. (Ex. 22, July 5 Letter at 9; Ex. 23, “Event Staff Only” Spreadsheet attached to same.)

Moreover, the impact of Monterrey’s lack of oversight regarding criminal background checks for “event” staff is exacerbated by the relative size of its self-described “protective agent” force in comparison to its “event” staff. For example, Monterrey only employed [Redacted] “protective agent” staff for each NFL game during the 2016-17 NFL season—a number that “did not change throughout the season.” (Ex. 22, July 5 Letter at 9.) Yet Monterrey staffed [Redacted] employees by the end of the 2016 Vikings season, (*id.*), meaning that [Redacted] out of its [Redacted] person game staff [Redacted] fit into a category (“event” staff) which Monterrey believes requires little, if any, criminal background oversight or scrutiny.

Based on Monterrey’s statements, at least 242 “event” staff failed a background check and were then hired by Monterrey or had their employment continued by Monterrey, and an additional 301 were never subjected to a fingerprint background check. While Monterrey did not provide data sufficient to assess the number of its current 395 “event staff” workforce which fits into these two categories, it stands to reason that a high percentage of Monterrey’s past and present employees have failed background checks or were never meaningfully subjected to one.

These results also make plain the flaws in Monterrey’s use of the Oracle system. At least 73 people ostensibly passed an Oracle background check and failed a BCA fingerprint background check. It stands to reason that a not insubstantial number of the 301 people Monterrey hired for “event services” roles who for whatever reason never were subjected to a fingerprint check would *fail* a BCA or other fingerprint background check if they ever took one. This says nothing

of the severity of the crimes for which Monterrey's employees have been convicted. The problems with the Oracle background checks, including passing 73 applicants who then failed an BCA check, strongly suggests that Monterrey is unaware of the severity of crimes for which the employees who were never sent through a BCA screen, have committed.

4. When Monterrey did submit fingerprints to the BCA, it failed to do so in a timely fashion.

Monterrey notes in its correspondence with the Board that it failed to submit fingerprints to the BCA in a timely fashion. Indeed, a cursory review of the "All BCA Background Checks" spreadsheet demonstrates that background checks were routinely submitted to the BCA weeks or months after hiring. (Ex. 30, attached to July 5 Letter.) Monterrey blames this on its former general manager who met with the Board regarding certain allegations of misconduct. However, Juan Gaytan was listed as the Minnesota manager and qualified representative. He had an obligation to be "actively involved in the day to day management and supervision of the licensed activity in the Minnesota office." Minn. Stat. § 326.32, subs. 10a, 12. The general manager, by contrast, was merely an employee with no statutory responsibilities.

Furthermore, employees of a protective agent licensee are conditional and may participate only in training until the employer receives the results of the BCA background check. Minn. Stat. § 326.336, subd. 1. The 470 or more employees who were never subjected to a BCA background check were employed in violation of this provision. Moreover, for those employees whose fingerprints were submitted to the BCA, the period between the employee's hire date and obtaining the background check results often lasted weeks or even months, during which time these employees likely performed protective agent services at the Stadium.

For example, Monterrey hired A. J. on October 6, 2016. A. J. worked ten events at the Stadium *before* Monterrey learned that he *failed* his BCA background check on November 30, 2016. (Ex. 31, A. J. BCA Background Check Results.) He then continued to work an *additional five events* and was not terminated until January 2, 2017. (See Ex. 60, "Failed BCA Report – Hired" Spreadsheet; Ex. 59, Monterrey Invoices for A. J.) Similarly, D. M. was hired on November 3, 2016, and proceeded to work events on November 17, 18, 20, 25, and 30, 2016. After *failing* the BCA background check on November 30 (*see* Ex. 32, D. M. BCA Background Check Results), D. M. continued to work for Monterrey at an additional four events, until being terminated on January 2, 2017. (Ex. 62, Monterrey Invoices for D. M.) Section C below contains additional information regarding the criminal histories of A. J. and D. M.

5. Monterrey did not dismiss employees who failed an Oracle or BCA background check.

Employees of license holders who perform the duties of protective agent and who have a disqualifying offense (defined as a felony conviction in any state or a conviction for other offenses listed in Minn. Stat. § 326.3381, subd. 3, other than a misdemeanor or gross misdemeanor assault), must be dismissed immediately. Minn. Stat. § 326.336, subd. 1. The protective agent statute identifies the following disqualifying offenses: (1) a felony conviction in Minnesota; (2) a conviction in another state for an act that would be a felony in Minnesota; or (3) a conviction for "criminal sexual conduct; assault; theft; larceny; burglary; robbery; unlawful

entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; possession, production, sale, or distribution of narcotics unlawfully.” Minn. Stat. §§ 326.336, subd. 1, 326.3381, subd. 3(1).

However, 22 of the 73 employees who failed a BCA background check were still employed by Monterrey at the time of their submissions to the Board. Of the remaining 51 employees, the vast majority continued to work long after the date of their BCA check, and in many cases until the conclusion of the 2016-17 NFL season. This is to say nothing of the individuals who supposedly “failed” an Oracle check and were retained as employees for an undisclosed period of time. Monterrey has consistently violated Minnesota law by continuing to employ individuals who are statutorily prohibited from providing security services, even after learning of their disqualifying offenses.

6. Monterrey employed over 100 people at recent concerts who had been bused in from Chicago.

At the Board’s July 25, 2017 meeting, Mr. Gaytan stated that “he believed one of the reasons he was awarded the US Bank Stadium contract was that he would not be busing employees in, rather hiring within Minnesota.” (Ex. 16, July 25, 2017 Board Meeting Minutes, at 6.)

Despite purporting to now hire its employees with “protective agent” procedures, Monterrey told an SMG executive after-the-fact that it had employed over 100 people at recent concerts who had been bused in from Chicago. No Minnesota background check or training procedure could have been completed for these Chicago employees. One such event, the Guns ‘N Roses concert, took place on July 30, 2017, just 5 days after Mr. Gaytan made his statement to the Board.

C. Monterrey Employs People with Disqualifying Criminal Histories To Perform Security at U.S. Bank Stadium.

1. Employment and Criminal history of select Monterrey employees.

Monterrey’s practice is to hire employees with criminal backgrounds that would disqualify them as protective agents under Minnesota law. Monterrey has an internal offense list which describes offenses for which it is not to hire employees even for the “event services” role. Said offenses include the following:

- Battery, abuse or assault
- Home invasion
- Theft, hijacking, possession of stolen goods/property, burglary or robbery
- Fleeing police, resisting arrest/police
- Any weapons charge
- Terrorism

(Ex. 33, Monterrey List of Disqualifying Offenses.) Yet Monterrey has employed and continues to employ numerous people with these and other serious criminal convictions, all of them in a security capacity. The history of just some of these individuals is as follows:²

a. A. J.

A. J. was arrested for felony robbery June 17, 2016. He was hired by Monterrey on October 6, 2016. Monterrey lists A. J.'s "active start date" as October 9, 2016. A. J. was then convicted of felony robbery on November 10, 2016. (*See* Ex. 31, A. J. BCA Background Check Results). Monterrey received the failed BCA background check on November 30, 2016. Monterrey continued to employ A. J. through January 2017 before he was listed as "terminated" in January 2017. Specifically, A. J. worked ten events at the Stadium *before* Monterrey learned that he *failed* his BCA background check on November 30, 2016. He then continued to work an *additional five events* and was not terminated until January 2, 2017. (Ex. 59, Monterrey Invoices for A. J.)

b. J. H.

J. H. has numerous violent assault convictions, yet was allowed to work at Monterrey from November 2016 through January 2017. Monterrey received J. H.'s BCA background check report on November 30, 2016. (*See* Ex. 34, J. H. BCA Background Check Results.) That report referenced the following convictions: (1) 2011 Domestic Assault; (2) 2013 Domestic Assault; (3) 2014 Domestic Assault; (4) 2014 Terroristic threats-Felony conviction; (5) 2014 Fleeing a police officer; and (6) 2016 Domestic abuse. J. H. is currently on probation. Despite receiving the above information in November 2016, Monterrey continued to employ J. H. until January 2017. (Ex. 63, Monterrey Invoices for J. H.)

c. T. W.

Monterrey purportedly hired T. W. on June 22, 2016 and he was terminated on January 22, 2017.³ Monterrey received the results of T. W.'s background check on July 21, 2016. (Ex. 35, T. W. BCA Background Check Results.) T. W.'s criminal history includes the following offenses: In September 2013, T. W. was charged with and convicted of theft, and was given a 90-day suspended sentence. (*See* Ex. 36, T. W. Public Records Search.) For a December 2,

² In its June 9 Letter to the Board, Monterrey identified two additional employees it designated as protective agents, D. B. and C. R., who should have been disqualified from that position due to their criminal records. (Ex. 17 at 3.) Monterrey has not produced the BCA background check reports for D. B. and C. R., however, so their criminal histories have not been verified as part of this investigation.

³ Monterrey's hire date does not appear to be accurate for T. W. or for numerous other employees. T. W. went through training at Monterrey each day from June 14-16, 2016, yet Monterrey lists his "hire" date as June 22, 2016, and T. W. actually allegedly began performing protective services, even by Monterrey's admission, on June 18, 2016. (Ex. 64, "Audit Additional Names" Spreadsheet attached to June 9 Letter.)

2013 Receipt of Stolen Property charge, T. W. was sentenced to 90 days in prison and served 14 days in an adult corrections workhouse. T. W. was then charged in December 2015 with possessing a pistol without a permit. (*Id.*) He was sentenced to a year in prison for this offense. The sentence was imposed on April 22, 2017. T. W. has three other theft convictions from 2010 to the present (*Id.*) He also has a prior drug conviction. T. W. spent time in custody for each of these offenses. (*Id.*) It appears that each of the convictions described above would, by itself, prevent T. W. from working as a protective agent and would ostensibly be a prohibited offense under Monterrey's internal rules.

Monterrey admits in its Board submissions that T. W. was considered a "protective agent." In Monterrey's disclosures to the Board since May, its counsel stated that T. W. allegedly performed protective agent services between June 18, 2016 and October 16, 2016, and then was transferred allegedly to a role as a "tour guide" until he was terminated at the end of the NFL season, and specifically on January 16, 2017. (Ex. 22, July 5 Letter, at 10.) Yet Monterrey's own records and the invoices in which they charged SMG for T. W.'s services appear to describe work as a protective agent and in a security capacity long after October 16, 2016. For example, Monterrey's records from December 2016 indicate that T. W. worked numerous full days in security at the 24/7 station. One such shift occurred on December 18, 2016, during which T. W. billed 11.75 hours at the same rate as all of the 6 other "Security Officers" including time worked from 5:15 am to 5:00 pm. (*See* Ex. 37, Monterrey Invoices for T. W.) It is implausible that T. W. was giving public tours at 5:15 am while at the same time allegedly working, as Monterrey now alleges, a non-security job. T.W. also worked 8.0 hours each day between December 26, 2016-December 30, 2016 for a total of 40 hours. Each such entry was for his work as a "Tours Coverage-Security Officer" and he again charged the same rate as all other security officers working in the 24/7 area. (*Id.*) Moreover, this description of T. W.'s work is identical to the invoices describing T. W.'s work in August 2016, during the time period when Monterrey admits T. W. was performing a protective agent function.

The only logical conclusion is that T. W. continued to work as a security guard and protective agent long past the time Monterrey has represented to the Board. And T. W. continued this employ despite his numerous disqualifying convictions, up to and including a gun offense he was sentenced for two months before starting work at Monterrey. T. W. is currently on probation.

d. D. L.

D. L. was purportedly hired by Monterrey on July 18, 2016. Monterrey received D. L.'s BCA background check on July 27, 2016. It indicated that he has the following convictions: 1988 Burglary and First Degree Assault; 2001 Theft; numerous DWI convictions; and 2005 Felony Damage to Property Conviction. (*See* Ex. 38, D. L. BCA Background Check Results.) He continues to work at the stadium to this day. (Ex. 19, "Master Agents v Event Staff" Spreadsheet.)

e. D. M.

D. M. was allegedly hired by Monterrey on November 3, 2016. Monterrey received D. M.'s BCA background check on November 30, 2016. It indicated that he has the following convictions: 2015 Domestic Assault and 2016 Felony conviction related to Domestic Assault. D.

M. is on probation for 5 years following the 2016 felony assault conviction (until 2021). (Ex. 32, D. M. BCA Background Check Results.) Monterrey employed D. M. until January 2017. With respect to his employment history, D. M. proceeded to work events on November 17, 18, 20, 25, and 30, 2016, prior to Monterrey receiving the results of his background check. After *failing* the BCA background check on November 30, D. M. continued to work for Monterrey at an additional four events, until being terminated on January 2, 2017. (Ex. 62, Monterrey Invoices for D. M.)

f. T. M.

Monterrey's BCA background fail sheet describes T. M. as having a hire date of September 28, 2016, an active start date of October 23, 2016 and a badge issue date of September 28, 2016.⁴ T. M. has no listed MN criminal convictions. But his BCA check has a notation which likely resulted in his BCA failure: "Fugitive of Justice from Other State." (See Ex. 39, T. M. BCA Background Check Results.) An invoice listing people who worked for Monterrey at an event on October 6, 2016 lists T. M. as one of the employees who worked at that event. (Ex. 40, Monterrey Invoice for October 6, 2016 Event.) On that same date, an individual bearing the same name and age, and whose appearance is identical to T. M.'s Monterrey ID card, was pictured and described in an article published by a major newspaper as a fugitive charged with a burglary which took place in June 2016.⁵

Yet T. M. remained employed and worked at events for Monterrey through December 2016. One reason for Monterrey's hiring and failure to terminate T. M. was that he started working at a minimum almost two months before his background check came back. Monterrey's "active start date" of October 23, 2016 for T. M. is also incorrect—he was working events weeks earlier, including at the October 6, 2016 event. (Ex. 64, "Audit Additional Names" Spreadsheet.)

g. A. C.

Monterrey purportedly hired A. C. on June 20, 2016 and he worked at the company until January 6, 2017. Monterrey admits that A. C. worked in a protective agent capacity. (Ex. 22, July 5 Letter.) Monterrey received A. C.'s BCA background check results on October 27, 2016. A. C. has a 2002 felony drug conviction and at least one other 1999 drug conviction. (Ex. 41, A. C. BCA Background Check Results.) Per its July 5 Letter to the Board, Monterrey employed A. C. as a protective agent throughout his entire employment period, from June 24, 2016 to January 6, 2017. (Ex. 22 at 10.) According to payment records, A. C. began working at the Stadium by August 13, 2016 at the latest, over two months before Monterrey obtained the results of his BCA background check. (Ex. 42, Monterrey Invoice for Week of August 13, 2016.)

⁴ T. M.'s contact information provided to Monterrey includes an email address starting with the prefix **Redacted**

⁵ A citation to the newspaper article referencing T. M. has been omitted from this version of the report due to privacy concerns.

2. Monterrey purported to avoid state law by classifying such employees as “Event Staff.”

A license holder may not employ an unlicensed employee who performs the tasks or duties of a protective agent unless that employee satisfies a BCA background check. Minn. R. 7506.0150, subp. 4.

Despite the fact that Monterrey executives and other full-time employees admit that its Event Staff perform the same security functions described in Minnesota’s protective agent statute, and the same function as those employees they designate as protective agents (searching bags, wandng guests, determining access to the Stadium), Monterrey’s guiding philosophy is to hire people with disqualifying criminal convictions to fill many of their Event Staff positions. Monterrey continued to employ individuals for months after learning of their disqualifying backgrounds.

3. Monterrey continues to employ individuals with disqualifying criminal backgrounds.

At the time of its Board submissions, Monterrey employed 22 individuals who failed a BCA background check and were therefore ineligible to perform the duties of protective agent. For example, D. L., whose criminal history is detailed above, is listed as a current Monterrey employee. And this is nothing to say of the majority of Monterrey’s workforce who have never taken a BCA fingerprint background check. It is likely that many of these employees are similarly ineligible to perform protective agent duties.

D. Monterrey Has Failed To Properly Train Its Employees in Accordance with State Law.

1. Monterrey admitted that fifty-six of Monterrey’s protective agents failed to complete training.

As of the time of its responses and production of documents to the Board, Monterrey admitted to lapses with respect to training of those people it described as serving in a “protective agent” capacity. For example, 56 of its protective agents did not complete Monterrey’s 20-hour certified training course, and therefore were not in compliance with state-mandated training requirements during the entire 2016-17 NFL season and for security staffing for other Stadium events during that period.

2. Monterrey cannot demonstrate that its employees satisfied the hourly requirements of Monterrey’s certified training course.

A person employed as a protective agent must receive 12 hours of certified training within the first 21 days of employment, and six hours of yearly continuing training thereafter. Minn. Stat. § 326.3361, subd. 2(1), (3); Minn. R. 7506.2600-.2700. Monterrey’s certified training course required 20 hours of instruction. However, the attendance records produced by Monterrey do not support the notion that *any* Monterrey employee received that level of training. (See Ex. 43, Protective Agent Training Sign-In Sheets attached to July 5 Letter.) According to those records, of the 200 employees who received a “Certificate of Achievement,” only six attended as many as

16 hours of training. Twenty-eight employees who “completed” the course were documented to have finished 10-15 hours of training. Only these 34 employees purportedly attended 12 hours of preassignment training, however there is no indication that these selective 12 hours out of the 20-hour approved Monterrey training course satisfied the training requirements under Minnesota law. *See* Minn. Stat. § 326.3361, subd. 2(1).

Another 68 employees attended only 4-9 hours of training. And for 98 people who earned a “Certificate of Achievement,” there exists insufficient data to determine what amount, if any, training they received. It is clear, however, that based on the dates and timeclock information provided for these 98 individuals, it is unlikely that any completed the full 20-hour course. In fact, many attended only one day of training. Thus, even the employees who ostensibly attended training failed to complete Monterrey’s 20-hour certified training course.

Moreover, Monterrey consistently failed to provide training within the first 21 days of employment. *See* Minn. R. 7506.2600, subp. 1. For example, E. S., S. S., J. H., S. N., F. B., and K. L. were all hired during Summer 2016 and all worked events during the 2016-17 NFL season, yet do not appear on training records until February 21, 2017. Another group including R. A., G. O., and M. W. were similarly hired prior to the 2016 NFL season yet were not trained until April 2017, and even then they apparently received only eight hours of training.⁶ (Ex. 43, Protective Agent Sign-In Sheets.) In sum, many if not most of Monterrey’s employees worked an entire NFL season before receiving certified training, if they received training at all.

3. Monterrey’s training necessarily excluded subject areas that are mandated by Minnesota law.

Under Minnesota law, protective agent training must include the following subject areas: security overview, legal authority and liability issues, communications, ethics, incident/situation assessment and emergency response, and Minnesota private detective and protective agent statutes and administrative rules. Minn. R. 7506.2600, subp. 3.

Monterrey certified a 20-hour training course that includes twelve units of instruction: introduction to asset protection and security; human and public relations; report writing; communications; controls and fixed posts; physical security and crime prevention; fire protection and life safety; criminal law and criminal liability; civil law and civil liability; ethics, department, and professional conduct; investigations; and emergency situations. (Ex. 44, Monterrey Training Course Board Submission.) As described above, however, even among the minority of employees who attended training, no employee attended a complete 20-hour course. Moreover, if Monterrey’s 20-hour course included twelve instructional units, it stands to reason that a shorter course would have insufficient time to address each unit, including potentially subject areas that are required under Minnesota law. In any event, Monterrey’s deficient training

⁶ Other employees purportedly attended training before they were even hired. For example, Monterrey’s records reflect that T. W. attended training from June 14-16, 2016, despite not being hired until June 22. (*See* Ex. 43, Protective Agent Sign-In Sheets; Ex. 64, “Audit Additional Names” Spreadsheet.)

records cannot justify whether the topics included in any partial training session were sufficient to satisfy Minnesota law.

It is of no consequence that Monterrey's course goes "above and beyond" the statutory 12-hour requirement. First, only a small fraction of employees attended for even 12 hours; the majority received training that fell well short of the statutory minimum. Second, the Board certified Monterrey's 20-hour course, not a 12-hour course, and therefore it has no way of knowing whether Monterrey's "shortened" course satisfies the strict statutory and regulatory requirements.

4. The instructors identified in Monterrey's certified training course have never taught in Minnesota.

An application to certify a training course before the Board must include in pertinent part:

- the names and addresses of all persons who will be involved in conducting the training;
- names and resumes outlining the education experience and qualifications of all course instructors; and
- the signature of the person submitting the application, verifying that the information in the application is true.

Minn. R. 7506.2200, subp. 1. "Any change in the certified training program curriculum, the instructors, the location, the evaluation policies, or the dates of training must be reported to the board in advance of the changes being made, if possible, or within ten working days after a change is made if prior notice is not possible." *Id.*, subp. 3.

Here, Monterrey's certified 20-hour course identified Edward Konstanty and Francis Marrocco as the certified course instructors and included their resumes and a description of their credentials to teach the course. (Ex. 44, Training Provider Course Narrative Description.) However, neither Konstanty nor Marrocco taught a class in Minnesota. Despite using non-approved instructors since May 2016, at no point did Monterrey notify the Board of this change to its certified course so that the Board could determine whether the actual instructors were qualified to teach it.

5. One instructor who taught Monterrey's 2016-2017 training courses was never approved by the Board, and the other was not approved until August 2017.

Instead of using Board-approved instructors, Monterrey's courses since May 2016 have been taught by Joey Lash and Anthony De La Casa. (Ex. 25, "PreAssign.Refresher Training Dates" Spreadsheet.) Lash's and De La Casa's qualifications were not presented to the Board when Monterrey's course was certified. Lash was eventually approved as an instructor by the Board in

August 2017, over a year after he began to conduct Monterrey's trainings.⁷ De La Casa has never been Board-approved as an instructor.

6. The instructor approved by the Board in August 2017, Joey Lash, likely should not have been approved due to his past proven misconduct, including fraudulent overbilling of a government agency.

In August 2017, the Board approved Joey Lash as an instructor for Monterrey's 20-hour certified course. The approval process did not discuss Lash's 2008 conviction for fraudulently billing the Minneapolis Park Police for hours that he was actually teaching at Metropolitan State University and Minneapolis Community and Technical College. (Ex. 45, *Minneapolis park police officer gets one year for misconduct*, Star Trib. (July 16, 2008).) Although Lash was convicted at trial and sentenced to one year in jail, the conviction was later overturned when the court of appeals concluded that Lash's violation of a city ordinance cannot serve as the evidentiary basis for a police misconduct criminal charge. (Ex. 46, *State v. Lash*, No. A08-1785 (Minn. Ct. App. Oct. 6, 2009).) The court of appeals affirmed the Minneapolis Civil Service Commission's termination of Lash's employment, however, because it was "implausible that any person could consistently work the kind of intensely rigorous 18- and 19-hour workdays that would be required to make the [time records] accurate, unless the teaching hours were double-counted." (Ex. 47, *In re Lash*, No. A11-0628, at 3 (Minn. Ct. App. Feb. 12, 2012).)

Moreover, Lash has never been subjected to a BCA background check, as evidenced by his presence on the "Event Staff Only" spreadsheet attached to Monterrey's July 5 Letter to the Board. (Ex. 23.)

7. Monterrey has employed over 100 people at recent Stadium concert events without Minnesota sanctioned training or background checks.

Despite purporting to now hire employees with "protective agent" procedures, Monterrey admittedly employed over 100 personnel at recent concerts (Guns 'N Roses and Coldplay) who had been bused in from Chicago and for whom no Minnesota background check or training procedure could have been performed. SMG has no knowledge of the names, positions or anything else related to these individuals. It stands to reason that none have ever been subjected to a BCA background check or any approved Minnesota training program, despite the fact that each assumedly performed security functions at both concert events.

⁷ According to Monterrey's records, Lash himself did not complete Monterrey's training course and receive his Certificate of Achievement until December 30, 2016, despite purportedly having *taught* the course since July 2016. He also worked events for Monterrey on September 18 and October 3 and 9, 2016, even though he had not yet completed a training course. Lash purportedly taught the course in December 2016 for which he also apparently received a "Certificate of Achievement" (Ex. 48, Joey Lash Certificate of Achievement; Ex. 25, "PreAssign.Refreshers Training Dates" Spreadsheet.)

E. Monterrey Has Poorly Managed Compliance with Those Regulations Even It Believes Apply.

1. Juan Gaytan failed to fulfill the statutory requirements of Monterrey’s “qualified representative” and “Minnesota manager.”

If the applicant for a protective agent license is a corporation, one member of that corporation must be a “qualified representative” who meets all licensing requirements. Minn. Stat. § 326.3381, subd. 4. If the applicant’s home office is out of state, the applicant must identify a “Minnesota manager” who meets the licensing requirements. *Id.*, subd. 5. Both the qualified representative and the Minnesota manager “must be actively involved in the day to day management and supervision of the licensed activity in the Minnesota office.” Minn. Stat. § 326.32, subds. 10a, 12.

Mr. Gaytan was not involved in the day to day management of Monterrey’s Minnesota operations. For example, Mr. Gaytan purports to have never been told prior to May 2017 about the protective agents who failed BCA background checks on or before October 2016 and whom Monterrey continued to employ until January 2017. Monterrey had a responsibility to keep Mr. Gaytan informed of its obligations under Minnesota law, or to name a different employee to serve in that capacity.

2. Monterrey failed to maintain adequate training registration and attendance records.

A certified training program must maintain for a minimum of 3 years records of registration and attendance at training programs, and records of all students who have successfully completed a certified training program and the number of training hours completed. Minn. R. 7506.2300, subp. 2. The attendance records must be signed by the instructor conducting the course. *Id.* Records must be made available to the board immediately upon request, and students must be provided access to their attendance and course completion records. *Id.*

As described above, Monterrey’s training records provide little or no insight into the instruction received by the small percentage of employees who attended training. Most attendees are missing sign-in times, sign-out times, or both. Some attendance sheets are undated. At least two students have also filed a complaint with the Board asserting that Monterrey failed to provide proof of attendance and course completion.

Monterrey also refused to grant undersigned counsel access to un-redacted training records for several weeks, citing confidentiality concerns. Monterrey had an obligation to provide these materials upon request, under its Agreements with SMG as well as the protective agent regulations. See Minn. R. 7506.1050, subps. 2-3 (providing that a licensee must respond within a reasonable time to all Board communications, as well as communications with the licensee’s clients).

3. The instructors who taught Monterrey’s training failed to authenticate attendance records.

The attendance records must be signed by the instructor conducting the course. Minn. R. 7506.2300, subp. 2. Mr. Lash’s signature appears on only one series of training sign-in sheets—the sheets for what Monterrey purports was the event at which he himself was trained and which he purportedly also taught the training. (Ex. 25, “PreAssign.Refreshers Training Dates” Spreadsheet.) Messrs. Konstanty and Marrocco’s names do not appear on any sign in sheet because neither of these approved instructors performed trainings in Minnesota.

F. Monterrey Made Misrepresentations in Support of Its Application for a License to the Board in 2015.

1. Juan Gaytan misrepresented his disciplinary record with the Chicago Police Department.

Mr. Gaytan stated to the Board that he had been exonerated for every single issue at the Chicago Police Department, including a 1994 incident and a 1995 incident. (Ex. 49, June 30, 2015 Board Meeting Minutes at 5-6.) He further stated that the records of the 1995 incident had been “expunged” because the facts were disproven and he was exonerated. (Ex. 50, Audio of June 30, 2015 Board Meeting, at 30:01.)

In response to our FOIA request, the Chicago Police Board produced numerous responsive documents. Those documents paint a different picture than that described by Mr. Gaytan. According to the July 3, 1997 findings and decision of the Chicago Police Board, Mr. Gaytan was found guilty of disrespect and maltreatment of a person related to the 1995 incident, for striking two individuals with a flashlight. (Ex. 10, Chicago Police Board Findings and Decision at 6.) He was suspended for three months. (*Id.* at 7.)

In 2001, Mr. Gaytan was charged with misconduct, making a false report, and unlawful display of a weapon related to the 1994 incident. (Ex. 8, Chicago Police Board Charges (Dec. 2001).) The CPD Superintendent recommended that Mr. Gaytan be separated from CPD. (*Id.*) On August 6, 2002, Mr. Gaytan’s attorney indicated during a hearing that Mr. Gaytan planned to resign from CPD. (Ex. 51, Aug. 6, 2002 Hearing Transcript at 2.) Mr. Gaytan did in fact resign on August 31, 2002, and CPD voluntarily dismissed its charges without prejudice after learning of the resignation. (Ex. 11, Sept. 4, 2002 Hearing Transcript, at 2.) There is no indication that Mr. Gaytan was “exonerated” for either the 1994 or the 1995 incident. To the contrary, Mr. Gaytan was found guilty of some charges related to the 1995 incident, and the charges related to the 1994 incident were never disproven because Mr. Gaytan resigned prior to the hearing.

2. Juan Gaytan overstated his experience with the Chicago Police Department.

Mr. Gaytan stated to the Board that he was a Chicago Police Officer for 12 years. (Ex. 49 at 4.) He later clarified that he only served for 10 years due to a leave of absence. (Id. at 5.)

Mr. Gaytan was hired by the Chicago Police Department (“CPD”) in November 1993 and resigned in August 2002, before his scheduled hearing before the Chicago Police Board

regarding the 1994 incident. He was therefore employed with CPD for less than 9 years, which includes significant periods of leave and suspension.

3. Juan Gaytan misrepresented his role with the Bridgeview, IL Police Department.

Mr. Gaytan stated to the Board that he currently served as a police detective for the Village of Bridgeview, IL on a part-time basis to help “clear cases.” (Ex. 49 at 4-5.) He stated that he had experience with gang crimes and working with “certain different ethnicities,” and was asked by the chief of police to assist with clearing certain “sensitive” cases. (Ex. 50, Audio of June 30, 2015 Board Meeting, at 19:58.) He also stated that at the time he presented to the Board he had weekly discussions with Bridgeview and “went in monthly to help them out.” (Ex. 49 at 4-5.) In Monterrey’s initial written license application, Mr. Gaytan listed his only employer as “Bridgeview Police Department” with an employment timeframe from “March 2011-Present.” (Ex. 56, Monterrey’s Application for Protective Agent License, 2015.)

The Village of Bridgeview, IL made two letter submissions in response to undersigned counsel’s FOIA request about information related to Mr. Gaytan’s alleged employment as a detective or officer and duties performed there. Specifically, by FOIA request dated September 6, 2017, undersigned counsel asked Bridgeview about any police reports authored by Mr. Gaytan, Bridgeview documents referencing Mr. Gaytan, cases worked on by him and any information related to the nature of his alleged employment with the Village of Bridgeview. (Ex. 65, FOIA Request to Village of Bridgeview (Sept. 6, 2017).) Bridgeview’s submission in response made clear that Mr. Gaytan never performed any law enforcement work for the Village of Bridgeview:

In response to your request: The Village of Bridgeview conducted a very thorough search for anything pertaining to Mr. Gaytan. Our records show that Mr. Gaytan was in training with the Bridgeview Police Department. Therefore, we have no knowledge of any cases or police reports that were handled, worked or closed by Mr. Gaytan.

(Ex. 52, Letter from the Village of Bridgeview to David Suchar (Sept. 13, 2017).) The Village of Bridgeview also produced backup records in response to our FOIA request. Such records demonstrate that Mr. Gaytan has spent a total of 122.5 hours, apparently “in training” at the Village of Bridgeview from May 1, 2013 to the present. (Ex. 53, Documents produced by Village of Bridgeview (Sept. 5, 2017).) The vast majority of those hours (116.8) occurred from May–August 2013, with only 5.7 hours occurring on a single date thereafter, on July 21, 2014. Despite his statements made at the June 30, 2015 Board meeting regarding the consistency of his then-allegedly-current work for the Village of Bridgeview, Mr. Gaytan never worked for Bridgeview. He also had not been “in training” there, at the time of his presentation to the Board in late June 2015, for approximately 11 months—since July 2014. According to his payroll records, Mr. Gaytan has never been paid by Bridgeview. (Ex. 53.) Given Bridgeview’s clear response to our request, it is unlikely Mr. Gaytan had “weekly” discussions with Bridgeview, and Bridgeview flatly denies that he “handled, worked or closed” cases, much less that he did so allegedly on a regular basis.

Mr. Gaytan's misrepresentations about his alleged Bridgeview service exacerbate omissions about his law enforcement history. Notably, Mr. Gaytan did not provide the Board with any official statement from the Chicago Police Department. In response to a FOIA request, the Chicago Police Board quickly responded to requests from undersigned counsel, including producing charging documents, records of Mr. Gaytan's adjudication of guilt before the Chicago Police Board and over 600 pages of additional records related to the 1994 and 1995 incidents for which Mr. Gaytan was charged.

Additionally, pursuant to Minn. Stat. § 326.3382, subd. 2(c), Mr. Gaytan was required to submit as part of Monterrey's license application an affidavit from an employer stating he had worked as a police officer for 6,000 hours. Mr. Gaytan submitted an affidavit from Bridgeview despite having only been "in training" there, and only for 122.5 hours.

G. Monterrey Lacks Transparency and Has Not Made Timely Disclosures Either to SMG or the Board.

1. Monterrey continues to operate in violation of state law.

Monterrey has not implemented new policies despite its statements to the contrary in correspondence with the Board. In its submissions to the Board, Monterrey acknowledges it has made mistakes in the past but alleges it has implemented new policies to ensure compliance with Minnesota law. Monterrey's actions, however, tell a different story. Monterrey's management agrees, and site visits by undersigned counsel confirmed, that all Monterrey employees still perform the functions of protective agents at Stadium events, despite the fact that many of them have not passed a BCA background check or attended statutorily mandated training. Indeed, in July 2017 Monterrey bused in over one hundred workers from Chicago to staff a Guns 'N Roses and/or a Coldplay concert. These individuals were not background checked or trained as required under Minnesota law prior to their arrival. And although Monterrey alleges it now performs BCA background checks on and provides 20 hours of training for all employees, Monterrey has not provided evidence that this is in fact the case.

Furthermore, at the time of its submissions to the Board, Monterrey employed 22 individuals who failed a BCA background check. And untold numbers of Monterrey's "Event Staff" would fail a BCA background check if subjected to one. Although Monterrey prides itself on being a "second-chance employer," it is actively violating state law by employing those individuals in a protective agent function.

Additionally, Mr. Gaytan has remained the Minnesota manager of Monterrey, despite the fact that he has no involvement in Monterrey's day-to-day activities in Minnesota. One purpose of identifying a Minnesota manager is to ensure that a person is responsible for complying with the strict statutory and regulatory requirements that Monterrey has consistently violated. Mr. Gaytan cannot accomplish this from Chicago, yet Monterrey has not provided an alternative.

2. Monterrey effectively silenced an important witness through a threatening "cease and desist" letter.

After Monterrey's former general manager filed a whistleblower complaint with the Board, Monterrey sent him a cease and desist letter that threatened legal action if he, among other

things, made further reports regarding Monterrey's conduct or breached a purported confidentiality agreement. Monterrey agreed during the investigation to waive the confidentiality provision in this person's employment agreement. However, the general manager has been reluctant to speak with undersigned counsel and has not agreed to a formal interview, due to fear of retaliation from Monterrey if he cooperates with this investigation. This individual managed Monterrey's Minnesota operations and is in the best position to describe Monterrey's hiring and security practices, yet he has provided little input into this investigation allegedly due to Monterrey's threats of legal action.

3. Monterrey failed to timely and adequately respond to inquiries from the Board and SMG.

A license holder must respond within a reasonable time to all Board communications, as well as communications with the licensee's clients. Minn. R. 7506.1050, subps. 2-3. Instead of providing the Board and SMG with the requested materials, Monterrey painted an idealized version of their business practices that downplayed its violations of Minnesota law. Materials that were provided were often piecemeal and shrouded in legalese, necessitating the Board and undersigned counsel to request additional materials from Monterrey on numerous occasions.

H. Monterrey Has Employed Highly Questionable Billing Practices.

On September 8, 2017, SMG sent Monterrey a cease-and-desist letter to prohibit A. C. from working at the Stadium because he was convicted of a felony for failing to register as a sex offender and time entries on recent Monterrey invoices demonstrated that he continued to work at the Stadium.⁸ (Ex. 54, Letter from SMG to Monterrey (Sept. 8, 2017).) In response, Monterrey's counsel stated that A. C. had been terminated and any appearance on recent bills was a mistake. Undersigned counsel subsequently performed a review of billing for two events in July and August 2017, namely the Guns 'N Roses and Coldplay concerts at the Stadium.

That review revealed what appears to be large swaths of what are at a minimum mistaken billing entries and what may involve severe incidences of overbilling which would constitute fraud and/or criminal activity. Out of [Redacted] employees listed as having worked at the Guns 'N Roses concert, 200 are employees that Monterrey has listed as "terminated" on its submissions to the Board, yet they appeared on the Guns 'N Roses event roster as having billed time. Moreover, 49 apparent current Monterrey employees appeared twice or, in one case, three times, on the Guns 'N Roses event roster. Some of the duplicated employees purportedly worked more than 24 hours in a single day. These duplicated and terminated employees represented approximately one-third of the total time entries for the event. And, there is no way to tell whether non-terminated employees actually provided services at the event, so any potential overbilling could be more wide ranging than the 249 entries associated with (a) terminated employees or (b) duplicate time for employees who are purportedly current Monterrey employees.

⁸ This employee passed a BCA background check because his conviction occurred after he was hired by Monterrey.

I. Monterrey Has Not Been Forthright in Responding to this Investigation.

Despite the fact that Monterrey's Agreements with SMG require it to "give SMG and its designated representatives . . . access to the Records . . . upon request," Monterrey has not fully cooperated with this investigation. Monterrey often failed to provide requested information in a timely manner. For example, it withheld access to un-redacted employee records for several weeks, citing data practices concerns that are applicable only to governmental agencies. *See* Minn. Stat. ch. 13. When it did produce records or responses to inquiries from undersigned counsel, these responses were often difficult to understand or contradicted prior responses. Moreover, Monterrey never volunteered information or additional documents; such disclosure was always pursuant to a direct request.

On August 25, 2017, SMG sent Monterrey a letter outlining in broad terms the various concerns raised by the investigation at that point. Specifically, that Event Services staff were performing the duties of protective agents without having been properly background checked or educationally qualified; that Monterrey hired and retained staff with disqualifying criminal convictions; that Monterrey had failed to notify SMG when it was advised that it had employees with adverse criminal backgrounds; and that Monterrey had failed to adequately cooperate with this investigation. Citing its concern for the safety and security of U.S. Bank Stadium, SMG demanded that Monterrey take immediate corrective action and invited Monterrey to respond.

To date, Monterrey has not provided a satisfactory response to the concerns that SMG raised in its August 25 letter.

Three issues that are central to this investigation provide a prime illustration of Monterrey's evasive responses to inquiries: Monterrey's failure to submit all employees to BCA background checks, billing discrepancies, and busing of employees from Chicago.

1. Responses regarding employee background checks.

In its June 9, 2017 Letter to the Board, Monterrey stated in a footnote that it employed "169 employees as 'event staff,'" and that these employees had not undergone a fingerprint background check. (Ex. 17, at 2 n.1.) Monterrey did not provide the names of these employees or any information regarding why they had not been subjected to a fingerprint background check, or whether the employees had taken an Oracle background check. Monterrey stated only that it "would be happy to provide information regarding these individuals upon request from the Board." (*Id.*)

In response to undersigned counsel's inquiry into the status of these employees at Juan Gaytan's July 19, 2017 interview, Mr. Gaytan and his counsel stated that the 169 individuals referenced in the June 9 Letter had *failed* an Oracle background check for undisclosed reasons. Monterrey did not explain what it means to "fail" an Oracle check (since Oracle does not make subjective "pass" or "fail" designations).

When undersigned counsel requested a list of the 169 employees who failed the Oracle background check as well as their failed Oracle reports, Monterrey responded in an email dated September 15, 2017 (the "September 15 Email") that those employees were referred to as "Legacy employees" (a term of art not previously used, and of no impact on, this investigation),

and that “only a fraction of those employees actually have a disqualifying event on their background check.” (Ex. 55, September 15 Email.) The September 15 Email also stated that some of the 169 employees had failed a BCA background check, failed to submit a fingerprint card or submitted an invalid card, or were not submitted to the BCA check “for some other reason.” (*Id.*)

Monterrey makes no effort to explain the factual inconsistencies between the three responses. The June 9 Letter takes no position on the results of 169 employees’ Oracle checks. The statements made at Mr. Gaytan’s interview make clear that the employees had failed the Oracle check. But the September 15 Email states that the 169 employees were not subjected to a BCA check for any number of reasons. And, to the extent the September 15 Email implies that the 169 employees are a subset of the 301 employees listed on the “Event Staff Only” spreadsheet, that is inconsistent with Monterrey’s statement in the July 5 Letter that all employees on that spreadsheet *passed* an Oracle check. (Ex. 22, July 5 Letter, at 4.) Monterrey’s statements cannot be reconciled. Finally, at the time of this writing, Monterrey still had not produced a list of these 169 employees.

2. Responses regarding billing anomalies.

After the Coldplay and Guns ‘N Roses concerts in July and August 2017, Monterrey submitted invoices to SMG for payment. One of those invoices contained the name of an employee who had a felony conviction for failure to register of a sex offender.⁹ After receiving a cease-and-desist letter on September 8, 2017, Monterrey responded the same day to state that the employee had been terminated and did not work at the event in question. Monterrey did not indicate that the invoices contained any additional incorrect information.

Upon further review of the July and August 2017 invoices pursuant to our own initiative, undersigned counsel found that the invoices contained the names of 200 “terminated” employees, as well as 49 employees who were listed twice on the same date, some of whom worked for more than 24 hours in a single day.

Monterrey responded to inquiries regarding some of these billing discrepancies in its September 15 Email. Monterrey stated, “For reasons that Monterrey is still trying to determine, its software appears to have populated the report with the names of several employees who did not work at those events and, in fact, no longer work for Monterrey.” (Ex. 55.) The response also stated that the *number* of workers on each invoice was correct, even though the names were inaccurate. (*Id.*) But Monterrey submitted no evidence to support its assertion that it had billed SMG for the correct amount, nor did it state how this conclusion was reached or any substantive context for the alleged “software glitch.” Moreover, the response provided no information regarding the 49 or more employees whose names were duplicated on the invoices. Monterrey later produced modified rosters for the two concerts. After a preliminary analysis, these rosters still conflict with Monterrey’s pay records in ways that remain extremely concerning. Numerous current employees, for example, were paid by Monterrey for less time worked during the entire two

⁹ See footnote 8.

week period ending August 4, 2017 than was billed by Monterrey for their alleged time in duplicate entries on the July 30, 2017 Guns ‘N Roses concert invoice. It remains unsupported how such a discrepancy could be attributed to a software malfunction.

3. Response regarding employees bused from Chicago.

SMG learned several weeks ago that Monterrey had employed over 100 people at the Coldplay and/or Guns ‘N Roses concerts who had been bused in from Chicago. The September 15 Email confirmed for the first time that Chicago employees were present at both concerts, but stated that it could not produce the pay records of the Chicago employees because they are “paid through a different Monterrey entity.” (Ex. 55.) Monterrey has not agreed to produce these records pursuant to this investigation. It also has not explained why the Chicago employees did not appear on the original event roster, nor why Monterrey failed to inform undersigned counsel of their presence either before the concerts or when first presented with billing inconsistencies at these concerts. Even Monterrey’s September 19, 2017 submission to undersigned counsel of allegedly corrected names for hundreds of people who were mistakenly listed as having billed time at the concerts made no attempt to delineate “Chicago” Monterrey employees from Monterrey’s Minnesota employees. Monterrey’s recently uncovered billing discrepancies are at a minimum grounds for additional investigation and audit.

VI. EVIDENCE REVIEWED

Agreement for Twenty-Four (24) Hour Security Services (U.S. Bank Stadium) between SMG and Monterrey Security Consultants, Inc. dated as of March 7, 2016
Agreement for Crowd Management Services (U.S. Bank Stadium) between SMG and Monterrey Security Consultants, Inc. dated as of March 7, 2016
U.S. Bank Stadium Operations Manual
U.S. Bank Stadium Joint Operations Center Policies & Procedures Manual and Position Description Sheets
Management and Pre-Opening Services Agreement between Minnesota Sports Facilities Authority and SMG dated as of August 22, 2014
Board of Private Detective and Protective Agent Services Meeting Minutes dated June 30, 2015
Audio Recording of Board of Private Detective and Protective Agent Services Meeting of June 30, 2015
Board of Private Detective and Protective Agent Services Meeting Minutes dated July 25, 2017
Letter from Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services, to Juan Gaytan, Monterrey Security Consultants, Inc., dated May 10, 2017

Letter, with attachments, from David M. Aafedt, Winthrop & Weinstine, P.A., to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services, with copies to Amy Tripp-Steiner, Assistant Attorney General and Juan Gaytan, Jr., dated June 9, 2017 (redacted)
Letter, with attachments, from David M. Aafedt, Winthrop & Weinstine, P.A., to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services, with copies to Amy Tripp-Steiner, Assistant Attorney General and Juan Gaytan, Jr., dated June 20, 2017 (redacted)
Letter, with attachments, from David M. Aafedt, Winthrop & Weinstine, P.A., to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services, with copies to Amy Tripp-Steiner, Assistant Attorney General and Juan Gaytan, Jr., dated July 5, 2017 (redacted)
Oracle Screening Services, Inc. Background Screening Report submitted to Monterrey Security Consultants, Inc., dated May 25, 2016 submitted with June 20, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Monterrey Security Consultants, Inc. Training Records (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Monterrey Security Consultants, Inc. Protective Agent Training Sign-In Sheets (redacted)
Certificates of Achievement issued by Monterrey Security Consultants, Inc. (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Spreadsheet: Audit Additional Names (submitted with June 9, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Spreadsheet: Failed BCA Report – Hired (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Spreadsheet: Event Staff Only – Not Sent to BCA (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Spreadsheet: All BCA Background Checks (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services) (redacted)
Email chain between Patricia Gaytan Perez, Sarah Solper and Vivian Ogo Subject: RE: MNPDB: Complaint & Audit Notification Dated May, 2017
Monterrey Security Consultants, Inc. Provider Course Narrative Description, with attachments, submitted to the Board of Private Detective and Protective Agent Services

Email from Juan Gaytan forwarding email notification dated April 26, 2016 that training materials and instructors (Marrocco and Konstanty) were approved by the Board of Private Detective and Protective Agent Services.
Monterrey Security Consultants, Inc. Hiring and Training Processes
Monterrey Security Consultants, Inc. Minnesota Event Staff Job Description
Monterrey Security Consultants, Inc. List of Disqualifying Offenses
Invoices from Monterrey Security Consultants, Inc. to SMG
Monterrey Security Consultants, Inc. Amended Coldplay and Guns 'n Roses Concert Rosters
Audio Recording of Interview of Juan Gaytan, Jr. conducted by Steven Schleicher, David Suchar, David Aafedt, Gerald Fornwald on July 21, 2017
Audio Recording of Interviews of Kevin Boles, Matthew Dutton, Daniel Ramos conducted by Steven Schleicher, David Suchar, David Aafedt on July 19, 2017
Audio Recording of Interview of Sarah Solper conducted by Steven Schleicher, David Suchar, David Aafedt, Gerald Fornwald on July 17, 2017
Letter from David M. Aafedt, Winthrop & Weinstine, P.A., to Steven L. Schleicher, Maslon LLP, dated August 8, 2017
Spreadsheet: PreAssign.Refresher Training Dates (submitted with August 24, 2017 letter from David M. Aafedt, Winthrop & Weinstine, P.A., to Steven L. Schleicher, Maslon LLP) (redacted)
Spreadsheet: Master Agents v Event Staff (produced September 5, 2017 via email from Winthrop & Weinstine, P.A. to Maslon LLP)
Letter from Steven L. Schleicher, Maslon LLP, to David M. Aafedt and Gerald Fornwald, Winthrop & Weinstine, P.A., and Juan Gaytan, Monterrey Security Consultants, Inc., dated September 8, 2017 (redacted)
Email from Gerald Fornwald, Winthrop & Weinstine, P.A., to David Suchar, Maslon LLP, dated September 15, 2017 (redacted)
Documents provided by counsel for Monterrey Security Consultants, Inc., Winthrop & Weinstine, P.A., in response to requests from Maslon LLP
Documents produced by the Chicago Police Board in response to a Freedom of Information Act Request dated August 11, 2017
Documents produced by the Board of Private Detective and Protective Agent Services in response to a Data Practices Act Request dated August 23, 2017

Documents produced by the Illinois Law Enforcement Training & Standards Board in response to a Freedom of Information Act Request dated September 6, 2017
Documents produced by the Village of Bridgeview, Illinois in response to Requests for Public Records dated August 22, 2017 and September 6, 2017
Letter, with attachments, from the Village of Bridgeview to David Suchar dated Sept. 5, 2017
Letter from the Village of Bridgeview to David Suchar dated Sept. 13, 2017
Charges filed against Officer Juan Gaytan, Star No. 9792, for 1995 Incident
Findings and Decision, In The Matter of Charges Filed Against Police Officer Juan Gaytan, Jr., Star No. 9792, Department of Police, City of Chicago, Respondent, Before the Police Board of the City of Chicago, Case No. 95-2157, C.R. No. 216670/217004, dated July 3, 1997
Notice and Charges filed against Police Officer Juan Gaytan, Star No. 9792, before the Police Board of the City of Chicago by the Superintendent of Police, Terry G. Hillard, dated Dec. 13, 2001
Transcript of a hearing In The Matter of Charges Filed Against Police Officer Juan Gaytan, Police Officer of the Chicago Police Department, Before the City of Chicago Police Board, Case No. 01-2480, dated August 6, 2002
Personnel Action Request/Resignation submitted by Police Officer Juan Gaytan, Star No. 9792, on August 15, 2002 with an effective date of August 31, 2002
Transcript of a hearing In The Matter of Charges Filed Against Police Officer Juan Gaytan, Police Officer of the Chicago Police Department, Before the City of Chicago Police Board, Case No. 01-2480, dated Sept. 4, 2002
T. W. Criminal History Report dated Sept. 13, 2013 (redacted)
T. W. BCA Background Check Results dated July 21, 2016 (redacted)
T. W. Monterrey Security Consultants, Inc. Invoices dated Dec. 23, 2016 and Dec. 30, 2016 (redacted)
A. J. BCA Background Check Results dated Nov. 30, 2016 (redacted)
A. J. Monterrey Security Consultants, Inc. Invoices (redacted)
T. M. BCA Background Check Results dated Nov. 23, 2016 (redacted)
T. M. Monterrey Security Consultants, Inc. Invoice dated Oct. 6, 2016 (redacted)
A. C. BCA Background Check Results Nov. 27, 2016 (redacted)

A. C. Monterrey Security Consultants, Inc. Invoice dated Aug. 19, 2016 (redacted)
J. H. BCA Background Check Results dated Nov. 30, 2016 (redacted)
J. H. Monterrey Security Consultants, Inc. Invoices (redacted)
D. L. BCA Background Check Results dated July 27, 2016 (redacted)
D. M. BCA Background Check Results dated Nov. 30, 2016 (redacted)
D. M. Monterrey Security Consultants, Inc. Invoices (redacted)
Mary Lynn Smith, <i>Minneapolis park police officer gets one year for misconduct</i> , STAR TRIBUNE, dated July 16, 2008
Minnesota Court of Appeals decision in the matter entitled <i>State of Minnesota v. Joey Lamarr Lash</i> , file number A08-1785, filed Oct. 6, 2009
Minnesota Court of Appeals decision in the <i>Matter of the Recommendation for the Discharge of Joey Lash</i> , file number A11-628, filed Feb. 12, 2012
Joey Lash Certificate of Achievement issued by Monterrey Security Consultants, Inc. (submitted with July 5, 2017 letter to Greg Cook, Executive Director, Board of Private Detective and Protective Agent Services)
Gary Washburn and Laurie Cohen, <i>City pact violates ethics law</i> , CHICAGO TRIBUNE, June 13, 2002
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Danny Ecker, <i>Soldier Field's gate keepers are out to stop you, smuggling fans</i> , Crain's CHICAGO BUSINESS, dated Sept. 7, 2013
<i>Monterrey Security scores big with Cubs</i> , NEGOCIOS NOW, March 20, 2015
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Dan Mihalopoulos, <i>The Watchdogs: Insecurity at Soldier Field</i> , CHICAGO SUN TIMES, April 16, 2016
Rochelle Olson, <i>You're Hired: U.S. Bank Stadium begins to fill 2,500 jobs</i> , STAR TRIBUNE, April 26, 2016

Jay Kolls, Major Investigation of Possible Security Issues at US Bank Stadium, KSTP 5 EYEWITNESS NEWS EVENING, June 8, 2017
Rochelle Olson, <i>State investigating U.S. Bank Stadium's security company</i> , STAR TRIBUNE, June 8, 2017
Gary Washburn and Laurie Cohen, <i>City pact violates ethics law</i> , CHICAGO TRIBUNE, June 13, 2002
Minnesota Statutes 2016, sections 326.32 – 326.339
Minnesota Rules Chapter, 7506: Private Detectives and Protective Agents / Board of Private Detective and Protective Agent Services Minnesota Statutes 2016, sections 326.32 – 326.339

VII. LIST OF WITNESSES INTERVIEWED

Juan Gaytan, Jr., Monterrey Security Consultants, Inc. - Owner, President and CEO, interviewed July 21, 2017
Patricia Gaytan Perez, Monterrey Security Consultants, Inc. - Executive Vice President of Administration, interviewed July 18, 2017
Daniel Ramos, Monterrey Security Consultants, Inc. - Vice President of Operations, interviewed July 19, 2017
Matthew Dutton, Monterrey Security Consultants, Inc. - Director of Stadium Event Services, interviewed July 19, 2017
Kevin Boles, Monterrey Security Consultants, Inc. - Event Services Project Manager, interviewed July 19, 2017
Sarah Solper, Monterrey Security Consultants, Inc. - Administrative Office Manager (Minnesota), interviewed July 17, 2017