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In the Matter of the  
**MEETING OF THE  
CIVILIAN COMPLAINT REVIEW BOARD**

-----x

**July 11, 2007  
10:00 a.m.**

**40 Rector Street, 2nd Floor  
New York, New York 10006**

**B E F O R E :**

**FRANKLIN H. STONE, ESQ.,** Chair  
**ERIC DORSCH,** Acting Executive Director

**A G E N D A:**

- 1. Call to Order
- 2. Adoption of Minutes
- 3. Report from the Chair
- 4. Report from the Executive Director
- 5. Committee Reports
- 6. Old Business
- 7. New Business
- 8. Public Comment

**Sabine Faustin,**  
Court Reporter

**AMEERAMAC REPORTING INC.  
168 Putnam Avenue 2<sup>nd</sup> Floor  
Brooklyn New York 11216**

1    **A P P E A R A N C E S :**

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**COMMISSIONERS :**

4

          TOSANO J. SIMONETTI

5

          YOUNGIK YOON, ESQ.

6

          SINGEE L. LAM

7

          WILLIAM F. KUNTZ II, ESQ.

8

          JULES A. MARTIN, ESQ.

9

          CAROL LEIBMAN, ESQ.

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          JAMES DONLON, ESQ.

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          DR. MOHAMMAD KHALID, ESQ.

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1                    CCRB Public Hearing - July 11, 2007

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                  P R O C E E D I N G S

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**THE CHAIR:** Good morning. I want to

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call the meeting of the CCRB to order. The

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first item on our agenda is the adoption of

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minutes which have been circulated to the

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board. Are there any comments or motions

13

with respect to the minutes?

14

(No response.)

15

**THE CHAIR:** No comments or

16

adoptions?

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**MR. SIMONETTI:** I make a Motion for

18

adoption.

19

MR. LAM: Second.

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**THE CHAIR:** All in favor.

21

(Board responds in the affirmative.)

22

**THE CHAIR:** All opposed?

23

(No response.)

24

**THE CHAIR:** Any abstentions?

25

(No response.)

1                   **CCRB Public Hearing - July 11, 2007**

2                   **THE CHAIR:** No opposition, no  
3                   abstentions. The second thing on our  
4                   agenda --

5                   **MR. SIMONETTI:** Oh, Madam Chair, I  
6                   just notice that on the second page of the  
7                   minutes they have a list of those of us who  
8                   were present and they also have also  
9                   present Christopher Dunn. My  
10                  recommendation is that that not be included  
11                  on that page.

12                  **MR. DORSCH:** I think the reason they  
13                  mentioned him is because he was the only  
14                  person that spoke at our meeting.

15                  **MR. SIMONETTI:** I make a  
16                  recommendation that that not be there.

17                  **MS. LIEBMAN:** I've never seen that  
18                  there.

19                  **THE CHAIR:** We may have had a  
20                  different Court Reporter last time. Will  
21                  you check on it?

22                  Shall we strike it on this set of  
23                  minutes and then do an investigation --

24                  **MR. SIMONETTI:** No, we don't need an  
25                  investigation as long as it's left off.

1                   **CCRB Public Hearing - July 11, 2007**

2                   **THE CHAIR:** Is everyone in agreement  
3 with that?

4                   (Board responds in the affirmative.)

5                   **THE CHAIR:** Any discussion?

6                   (No response.)

7                   **THE CHAIR:** Anyone opposed or have a  
8 comment to the contrary?

9                   (No response.)

10                  **THE CHAIR:** Okay, so the minutes are  
11 approved as to the deletion of Mr. Dunn's  
12 name from the "Also Present" on the second  
13 page.

14                  Now we'll turn to the report from  
15 the Executive Director -- report from the  
16 Chair, rather

17                  I have a very short report. The  
18 board is in the midst of a search for a new  
19 Executive Director. Our deadline for  
20 applications is tomorrow and we will be  
21 busy over the next few weeks or months  
22 reviewing applications and interviewing  
23 candidates.

24                  The second thing I have to say is --  
25 I guess the next two comments I have relate

1                   **CCRB Public Hearing - July 11, 2007**

2                   to statistical evidence or information that  
3                   will be addressed by our Executive  
4                   Director.

5                   The first is we have made  
6                   substantial progress in clearing a backlog  
7                   of cases that were pending board review so  
8                   our statistics look much better this month  
9                   in terms of closed cases, that is on the  
10                  positive side.

11                  On the negative side we continue to  
12                  have concern about the New York Police  
13                  Department's disposition of our  
14                  substantiated cases and we are in the  
15                  process of talking with the Police  
16                  Department about the disposition of our  
17                  cases; and that concludes my report.

18                  I believe it's time for the  
19                  Executive Director's report.

20                  **MR. DORSCH:** Before I talk about the  
21                  statistics there are two personnel issues  
22                  I'd like to discuss.

23                  Alex Menkin, our -- actually, I  
24                  don't remember what your previous title  
25                  was -- but was recently promoted to

1                   **CCRB Public Hearing - July 11, 2007**

2                   Associate LAN Administrator, Local Area  
3                   Network Administrator.

4                   MR. MENKIN: Yes.

5                   MR. DORSCH: And he has -- He's been  
6                   here almost a year -- well, in September  
7                   he'll be here a year. As everyone who  
8                   works here knows, he's a tremendous asset  
9                   to this agency. The most recent example I  
10                  could think of, while the investigators  
11                  might not think this is so wonderful, is on  
12                  Friday, last Friday Alex and Sarah  
13                  identified that there was a problem with  
14                  our entire network.

15                  We had to shut down the entire  
16                  network and then Alex volunteered to stay  
17                  so that he could fix it; that's the type of  
18                  commitment Alex always shows here. He's  
19                  really been a wonderful asset to this  
20                  agency. We want him to stay a long time  
21                  and continue to do wonderful things.  
22                  Congratulations.

23                  The other personnel news is we have  
24                  hired and effective August 6th we'll have  
25                  on board the first of the Assistant

1                   **CCRB Public Hearing - July 11, 2007**

2                   Executive Director of Investigators,  
3                   otherwise known as the lawyers, who were  
4                   recently approved in the latest budget  
5                   rounds. His name is Roger Smith.

6                   He currently works in the Department  
7                   of Corrections. He used to work as -- he  
8                   was basically the advocate of the office.  
9                   He used work in the Manhattan District  
10                  Attorney's office. I think he's a graduate  
11                  of the University of South Carolina.

12                  He'll be at the next board meeting  
13                  and you'll get to meet him. I've met him  
14                  and you'll meet him at the next board  
15                  meeting. So we continue to interview for  
16                  the other investigators.

17                  Turning to the statistics. Our  
18                  current authorized head count is 184. We  
19                  have either on staff or on payroll 183  
20                  people at this point. We received 659  
21                  total complaints in June of '07 which is  
22                  ten fewer than in June of '06. I believe  
23                  that is our third consecutive month where  
24                  we actually received fewer complaints than  
25                  in the prior year's month, April, May and

1                   **CCRB Public Hearing - July 11, 2007**

2                   June.

3                   Year to date 2007, we have received  
4                   3,903 complaints which is overall 29 more  
5                   than we received year to date 2006.

6                   In June of '07 the Board closed 720  
7                   cases of which 254 closed, 423 that were  
8                   truncated cases, five cases that were  
9                   mediated, 13 cases where mediation was  
10                  attempted and 25 cases that were closed in  
11                  other manners.

12                  At the end of the month our overall  
13                  open docket was 3,741, which as Franklin  
14                  referred to is an overall decrease of 61  
15                  cases and I think that is largely due to  
16                  the great work of our investigators and the  
17                  fact that our board has met a lot over --  
18                  in the recent past and closed a lot of  
19                  cases.

20                  Full cases -- full closures year to  
21                  date: We have closed -- we have  
22                  substantiated allegations -- one or more  
23                  allegations in 1,386 cases which is -- hmm,  
24                  that statistic looks incorrect.

25                  I don't know -- know our

1                   **CCRB Public Hearing - July 11, 2007**

2                   substantiation rate is 10.6. We have  
3                   substantiated allegations in one or more --  
4                   one or more allegations in ten cases --  
5                   year to date and 10.6 percent of the cases  
6                   in June of '07.

7                   We substantiated allegations in one  
8                   or more -- one or more allegations in 254  
9                   cases which is 10.2 percent of the time.  
10                  Those statistics I'm not 100 percent  
11                  confident about.

12                  Out of all allegations year to date  
13                  we've substantiated 6.1 percent of them;  
14                  unfounded 17.7 percent of them;  
15                  substantiated 39.6 percent of them;  
16                  unsubstantiated 35.7 of them; closed  
17                  officer unidentified 8.3 percent of the  
18                  time and 2.3 percent of the time we've  
19                  closed the case as miscellaneous. And that  
20                  completes my report.

21                  **THE CHAIR:** Okay, the next thing on  
22                  our agenda is the committee report. I've  
23                  already reported on the Search Committee  
24                  which is meeting with the other members of  
25                  the board who reviewed Executive Director

1                   **CCRB Public Hearing - July 11, 2007**

2                   applications.

3                   Are there any other committee  
4                   reports?

5                   (No response.)

6                   **THE CHAIR:** Seeing that there are  
7                   none we will move on to old business -- I'm  
8                   not sure what is on our agenda for old  
9                   business. Do we have --

10                  **MS. LIEBMAN:** We talked about the  
11                  Operations Committee looking at the  
12                  question, I think of truncated cases and  
13                  whether or not everyone has to be in  
14                  attendance at calendar meetings or whether  
15                  we can attend by phone.

16                  **THE CHAIR:** I'm not sure whether we  
17                  made any progress the last month. Do you  
18                  recall where we left off last month?

19                  **MR. DORSCH:** From reading the  
20                  minutes it appears that the issue was how  
21                  to handle truncated cases and whether or  
22                  not people can call into panel member  
23                  sessions.

24                  It was put over to this board  
25                  meeting for further information to be

1                   **CCRB Public Hearing - July 11, 2007**

2                   provided by the full board. I can provide  
3                   what further information I've obtained if  
4                   the Chair would like.

5                   **THE CHAIR:** Why don't you do that?

6                   **MR. DORSCH:** I contacted the Law  
7                   Department to see if we received a legal  
8                   opinion as to whether or not panel members  
9                   can telephone into meetings and not appear  
10                  in person.

11                  I spoke to Steven Gould and he  
12                  affirmed that he believes the Law  
13                  Department has not provided a legal opinion  
14                  on that issue in the past, however they  
15                  would be happy to.

16                  I checked through all of our old  
17                  legal opinions that we have received from  
18                  the department and was unable to find  
19                  anything regarding that.

20                  **THE CHAIR:** Setting that aside for a  
21                  moment, the disposition of truncated cases,  
22                  did we develop any additional information  
23                  on that in last month, on whether or not we  
24                  can do anything in that area?

25                  **MR. DORSCH:** No, I believe that was

1                   **CCRB Public Hearing - July 11, 2007**

2                   referred to Corp. Counsel.

3                   **MS. LIEBMAN:** We spent a lot of time  
4                   talking about the question of whether we  
5                   have to be here or not. It might be useful  
6                   just to know what the legal status is and  
7                   get a legal opinion as to whether or not  
8                   it's possible to have panel meetings by  
9                   telephone.

10                  I would have reservations of having  
11                  that be the normal course but at least  
12                  knowing what our legal position is we can  
13                  decide what we want the policy to be.

14                  If the legal position is there's no  
15                  way let's not talk about it anymore but if  
16                  the opinion is that it would be legal to  
17                  have some people attend the panel meetings  
18                  by phone I would like to know that.

19                  So I guess I would move that we ask  
20                  for a legal opinion on whether or not panel  
21                  members can attend by telephone.

22                  **MR. SIMONETTI:** I would second.

23                  **THE CHAIR:** I would suggest that we  
24                  slightly broaden that. I believe that the  
25                  law would be that a meeting that is subject

1                   **CCRB Public Hearing - July 11, 2007**

2                   to the Open Meetings Law could not be held  
3                   by telephone, although perhaps that is a  
4                   question we would want to confirm.

5                   But I think a question we would want  
6                   to ask is not just about panel meetings but  
7                   all meetings, those not just subject to the  
8                   Open Meetings Law, instead of just panel  
9                   meetings. Maybe we can frame it in a  
10                  broader way, as to what meetings can or  
11                  cannot be held back.

12                  **MS. LIEBMAN:** We might want to lay  
13                  out a request for panel meetings,  
14                  personnel --

15                  **MR. SIMONETTI:** What other meetings  
16                  do we have that would not be applicable to  
17                  the Open Meetings Law?

18                  **THE CHAIR:** Well, personnel  
19                  meetings. I would think that the Search  
20                  Committee might want to have --

21                  **MR. SIMONETTI:** Isn't -- aren't all  
22                  standing committees subject to the Open  
23                  Meetings Law?

24                  **THE CHAIR:** Not when -- there are  
25                  exceptions to that.

1                   **CCRB Public Hearing - July 11, 2007**

2                   **MR. KUNTZ:** They're all subject to  
3 the Open Meetings Law the question is  
4 whether or not they can be conducted  
5 pursuant to executive session.

6                   So actually when we have our panel  
7 meetings we are subject to the Open  
8 Meetings Law but we're able to do it in  
9 executive session.

10                  So as to how to phrase the question,  
11 I believe Corporation Counsel is going to  
12 say we understand all of our meetings are  
13 subject to Open Meetings Law but in some  
14 instances we're allowed to convene in  
15 executive session.

16                  So the question is with regard to  
17 executive sessions, meaning the panel  
18 meetings, I think it's appropriate to ask  
19 whether those can be done telephonically or  
20 by some other means of teleconference.

21                  If you look at the statute there are  
22 some complaints with regard to meetings law  
23 not teleconferences but my recollection may  
24 be wrong.

25                  We did ask for a review with respect

1                   **CCRB Public Hearing - July 11, 2007**

2                   to phone meetings and the answer we got  
3                   referred back to that somewhat complex, all  
4                   embracing teleconferencing structure.

5                   As I indicated at the last meeting,  
6                   that was a number of years ago. It may be  
7                   different with email and voice mail and  
8                   better conferencing so perhaps we'll get an  
9                   opinion that says we can do it.

10                  I think it's important, as the  
11                  professor indicated, to have that opinion  
12                  because if we have votes where the panel is  
13                  not present and there's any question about  
14                  legality we'll have challenges from the  
15                  citizens and the PBA and then we'll have  
16                  the happy prospect of having to redo entire  
17                  panels if one member, in good -- in  
18                  sufficient good faith phoned in.

19                  The last thing we need is to think  
20                  that we've cleared 175 cases from a panel  
21                  meeting only to find out that they've all  
22                  come back because, oops we can't do it by  
23                  phone.

24                  So I really suggest that we get that  
25                  opinion and have it clearly stated that at

1                   **CCRB Public Hearing - July 11, 2007**

2                   our panel meetings we can have one or more  
3                   commissioners participating by phone. If  
4                   we have that, I'm comfortable going forward  
5                   but if we don't, we run the risk of having  
6                   to eat the same lunch twice. Not  
7                   appetizing.

8                   **THE CHAIR:** Not appetizing, I agree.  
9                   Any further comments, discussion?

10                   (No response.)

11                   **THE CHAIR:** Shall we have a vote on  
12                   Carol's Motion as -- with it's friendly  
13                   amendments?

14                   **MR. SIMONETTI:** Second.

15                   **THE CHAIR:** Are you seconding, Tony?

16                   **MR. SIMONETTI:** Yes.

17                   **THE CHAIR:** All in favor?

18                   (Board responds in the

19                   affirmative.)

20                   **THE CHAIR:** Any opposed?

21                   (No response.)

22                   **THE CHAIR:** No opposition. Any  
23                   abstentions?

24                   (No response.)

25                   **THE CHAIR:** No abstentions. The

1                   **CCRB Public Hearing - July 11, 2007**

2                   Motion carries.

3                   I suggest that logistically we put  
4                   together a letter seeking that advice from  
5                   Corp. Counsel. We'll circulate it around  
6                   the board by email for comments and we'll  
7                   try to get that out in the meantime.

8                   New business, any new business?

9                   (No response.)

10                  **THE CHAIR:** No new business. Time  
11                  for public comment. Do we have -- has  
12                  anyone signed up for public comment?

13                  (No response.)

14                  **THE CHAIR:** No one has signed up.  
15                  Is there anyone present who would like to  
16                  speak?

17                  Yes, sir, could you state your name  
18                  for the record please?

19                  MR. DONLON: James O'Grady. I'm  
20                  here because of the Plumbing O'Grady matter  
21                  involving Martin J. O'Grady. You recognize  
22                  that Mr. Gonzalez said that I should not be  
23                  speaking because my case was assigned?

24                  **MR. KUNTZ:** Yes, your case has been  
25                  assigned and there's no need for you to

1                   **CCRB Public Hearing - July 11, 2007**

2                   speak publicly about that.

3                   **THE CHAIR:** Any other comments?

4                   (No response.)

5                   **THE CHAIR:** All right, we're going  
6                   to retire now into executive session to  
7                   review cases and to discuss personnel  
8                   matters.

9

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12                   (Whereupon, at this point in the  
13                   proceedings the meeting adjourned into  
14                   executive session and the record was  
15                   closed.)

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18                   **(Time Noted: 10:30 a.m.)**

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**C E R T I F I C A T E**

**STATE OF NEW YORK        )**  
**)  ss.:**  
**COUNTY OF NEW YORK     )**

I, **SABINE FAUSTIN**, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That I reported the proceedings in the within-entitled matter, and that the within transcript is a true record of such proceedings.

I further certify that I am not related, by blood or marriage, to any of the parties in this matter and that I am in no way interested in the outcome of this matter.

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
**SABINE FAUSTIN**

