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OPINION NO. 2025-04

AGREEMENTS; BOARDS &  
COMMISSIONS; EMPLOYEES; HOTELS;  
INSPECTION; LICENSES; PRIVATE  
INVESTIGATORS LICENSING BOARD;  
REGULATIONS: Nevada law defines  
“private investigator” and requires any  
person whose actions meet the definition to  
obtain a license, but relevant statutes and  
regulations exclude certain persons from  
licensure. Nevada law does not directly  
address whether a person (or a company  
employing a person) who inspects and  
publishes reviews of hotels, restaurants,  
spas, and other hospitality services is a  
“private investigator” under NRS 648.012.  
However, the plain language of the relevant  
statutes, as well as pertinent regulations  
and case law, dictate that a person engaged  
in such activities is not a “private  
investigator” and is not required to obtain a  
license pursuant to NRS Chapter 648.

Vincent Saladino, Executive Director  
Private Investigator’s Licensing Board  
3110 S. Durango Drive, Suite 203  
Las Vegas, NV 89117

Dear Executive Director Salandino,

Pursuant to NRS 228.150, you have requested an opinion from this office regarding the definition of NRS 648.012(1)(a) and whether it applies to a person or company who inspects and publishes reviews of Nevada hotels, restaurants, spas, and other hospitality services.

### **QUESTION**

Is a person or company who inspects and publishes reviews of hotels, restaurants, spas, and other hospitality services in Nevada a “private investigator” under NRS 648.012?

### **SHORT ANSWER**

No. A person (or company employing a person) who evaluates, assesses, or obtains information at any Nevada hospitality facility regarding the physical appearance, service, and efficiency of the facility is not a “private investigator” and is not required to be licensed in the State of Nevada pursuant to NRS Chapter 648.

### **ANALYSIS**

#### **Background**

The Nevada Private Investigators Licensing Board (PILB) became aware that an independent travel-guide-rating company was reviewing, rating, and publishing opinions about spas, hotels, restaurants, and other hospitality services in Nevada without a private investigator’s license. The PILB asserts the activities of the company’s professional evaluators align with the statutory definition of a private investigator and that it therefore must be licensed in Nevada.

The travel-guide-rating company at issue in this opinion is an independent company that reviews, rates, and publishes opinions about hospitality services globally as well as in Nevada. It trains its independent evaluators to inspect and assess hospitality facilities. The assessments are performed at the request of the Nevada facilities, and the reviews are published and include published “Star Ratings”. The company does not require any fees or commission from any of the properties rated. The Star Ratings are derived through anonymous evaluators who gather information about the physical appearance of the facilities as well as the service. The Star Ratings are earned through an objective, independent process based on scores – not the evaluator’s opinions. The Star Ratings reflect the physical appearance of the facilities as well as the service.

## **Definitions**

A “private investigator” is defined as: “any person who for any consideration engages in business or accepts employment to furnish, or agrees to make or makes any investigation for the purpose of obtaining information with reference to: (a) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person[.]” NRS 648.012(1)(a).<sup>1</sup>

The term “private investigator” does not include “[a]ny person who is accessing exclusively public records, public databases or any other public information[.]” NRS 648.012(2)(a).<sup>2</sup>

## **Statutory Analysis**

Nevada statutory law does not directly address whether a person (or company that employs a person) who evaluates, assesses, or obtains information at a Nevada hospitality facility requires licensure as a “private investigator.” The plain language of NRS 648.012, however, indicates that such persons do not fall within the definition of “private investigator” and thus do not require a license pursuant to NRS 648.060.

First, pursuant to NRS 648.012(1)(a), the subsection applicable here, private investigators must be gathering and investigating information

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<sup>1</sup> Additionally, though not directly relevant here, a “private investigator” is also a person who obtains information regarding “(b) The location, disposition, or recovery of lost or stolen property; (c) The cause or responsibility for fires, libels, losses, accidents, motor vehicle crashes or damage or injury to persons or to property; (d) A crime or tort that has been committed, attempted, threatened or suspected, except an expert witness or a consultant who is retained for litigation or a trial, or in anticipation of litigation or a trial, and who performs duties and tasks within his or her field of expertise that are necessary to form his or her opinion; (e) Securing evidence to be used before any court, board, officer or investigating committee; or (f) The prevention, detection and removal of surreptitiously installed devices for eavesdropping or observation.” NRS 648.012(1)(b)-(f).

<sup>2</sup> It also does not include “Any person who for any consideration engages in business or accepts employment to provide information security.” NRS 648.012(2)(b).

regarding “any person”, not any company or other commercial entity. The travel guide evaluators here are inspecting and evaluating hospitality facilities, not a “person”, as subsection (1)(a) requires.

In addition, NRS 648.012 explicitly excludes certain individuals from the definition of “private investigator.” As relevant here, these exclusions include persons who access “exclusively public records, public databases or any other public information.”<sup>3</sup> *Id.*

Furthermore, NAC 648.115 provides additional exclusions, specifically for gaming licensees. The Gaming Board interprets the term “private investigator” to exclude gaming licensees who maintain an employer-employee relationship with individuals acting as customers or clients “to evaluate the service provided by the gaming licensee’s employees, operational procedures, cleanliness of the property, and the quality, availability, and prices of goods and services.” *Id.* Here, travel guide evaluators, who assess the quality, availability, and prices of goods and services, as well as operational procedures and cleanliness, are performing evaluative tasks similar to those excluded under NAC 648.115.

When interpreting statutes, the Supreme Court of Nevada follows established rules of statutory construction. If the statutory language is clear, the court gives that language its plain meaning. *State ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev.754, 770 (2001). Here, the travel guide evaluators gather information through visiting properties and thereafter write and publish reviews about the service and physical appearance of the facilities. Similar to those persons excluded pursuant to NAC 648.115, the evaluators act as customers, in other words, as members of the public—assessing the cleanliness of the property, quality, and services of the hospitality facilities. The travel guide’s ratings identify superior quality and service of hospitality facilities and are not used to enforce company rules, policies or violations of law. The activities of the evaluators thus do not fall under the detailed investigative functions outlined in NRS 648.012. By extension, the activities of the evaluators are not investigatory in nature and are therefore excluded from NRS Chapter 648 licensure.

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<sup>3</sup> Also excluded are those who engage in business or accept employment to provide information security. NRS 648.012(2)(a). Similarly, NRS 648.012(1)(d) excludes expert witnesses or consultants who perform duties and tasks that are necessary to form his or her opinion. *Id.*

### **Supreme Court Ruling**

The Nevada Supreme Court has not directly addressed the question posed here, but it has examined NRS 648.012 in a different context and found that the persons at issue there were not “private investigators” subject to NRS Chapter 648 licensure. *See State v. Tatalovich*, 129 Nev. 588, 590, 309 P.3d 43, 44 (2013). The Court’s analysis of NRS 648.012 closely adheres to the statute’s plain language, excluding persons whose activities are not specifically described NRS 648.012(1)(a)-(f).

In *Tatalovich*, the Nevada Supreme Court held that Nevada’s licensing requirement for private investigators does not apply to experts employed to give an opinion in a legal case, where the expert witness performs duties and tasks within his or her field to verify or obtain information necessary to form the basis for the opinion testimony. *Id.* at 590; 44. The Court opined that NRS Chapter 648 “regulates those who solicit and accept employment for the purpose of providing the professional services named, not just anyone who incidentally undertakes activities also commonly performed by those professionals en route to providing a different service.” *Id.* at 591; 45. In other words, not all investigative activities necessitate a private investigator’s license, particularly when the activities are incidental to another professional role. *Id.* at 591; 45. *Tatalovich* thus supports the conclusion that travel guide evaluators, who perform inspections of hospitality facilities as part of a professional evaluation, are not required to obtain a private investigator’s license. *Tatalovich* supports this interpretation—distinguishing between expert evaluations and private investigatory work.

### **Previous Attorney General Advisory Letters**

In its request, PILB references a September 26, 1989, confidential unpublished advisory letter to PILB from the Attorney General’s Office addressing “mystery shopping.” On May 11, 1993, in another confidential unpublished advisory letter, the Attorney General’s Office revised the 1989 advisory letter.<sup>4</sup>

Using the guidance of the May 11, 1993, advisory letter, PILB has licensed numerous private investigator companies that provide “mystery

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<sup>4</sup> The September 26, 1989, and the May 11, 1993, documents are unpublished confidential client advisory letters and are noted only because they are referenced in PILB’s formal request for this Attorney General Opinion.

shopping” as a form of investigative report. Mystery shopping involves employment of individuals to pose as customers for client businesses which are typically retail establishments. The individuals evaluate customer service, which includes, among other things, the habits, conduct, honesty, integrity, knowledge, trustworthiness, efficiency, loyalty, activity, movement, and transactions or acts of the client’s employees. The results of the evaluation are ultimately reported to the client business, which typically uses the information to improve its customer service. Unlike mystery shoppers, the activities of the travel guide evaluators – reviewing the physical appearances, rating the services, and publishing opinions about Nevada hospitality services - do not fall under the detailed investigative functions outlined in the May 11, 1993, advisory letter.

### CONCLUSION

Any company or person that employs a person to evaluate, assess, or obtain information at any Nevada hospitality property regarding the physical appearance, service, and efficiency of the hospitality facility, is not a “private investigator” and is not required to be licensed in the State of Nevada pursuant to NRS Chapter 648.

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By:   
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