

centerforconstitutionalrights

September 21, 2017

Sent via email and delivered in person

Louisiana State Board
of Private Security Examiners
15703 Old Hammond Hwy.
Baton Rouge, LA 70816
Email: TipLine@LSBPSE.com

Re: TigerSwan, LLC, Appeal of License Denial

To Whom It May Concern:

We write to express our grave concern as you consider the appeal by TigerSwan, LLC, of the denial of a license to operate in Louisiana and strongly urge you to affirm the Board's initial decision. We also note with concern that on August 1, 2017 – less than two weeks after this Board denied its application for a license – TigerSwan registered in Louisiana to undertake executive branch lobbying, and now has five registered lobbyists.¹ Licensing decisions such as those made by this board appear to fall within the category of “executive branch actions” that lobbyists may seek to influence.²

As a legal organization that has worked for more than 50 years to protect and advance the rights guaranteed by the U.S. Constitution, state constitutions and the Universal Declaration of Human Rights, we echo the concerns expressed by the Louisiana organizations and advocates who submitted comments to the board on July 14, 2017.³ Their letter referenced credible reports and sources alleging that TigerSwan operated illegally in North Dakota⁴ and, while doing so, engaged in counterinsurgency style surveillance of First Amendment-protected protest in opposition to the Dakota Access pipeline, as

¹ See *List of Registered Lobbyists and the Companies They Represent*, Louisiana Ethics Administration Program, available at <http://ethics.la.gov/LobbyistLists.aspx>.

² La. R.S. 49:71-73.

³ Letter to Mr. Fabian P. Blache, III, Executive Director and Chief Administrative Officer, La. State Board of Private Security Examiners, from Misha L. Mitchell, Staff Attorney, Atchafalaya Basinkeeper, on behalf of, Gulf Restoration Network, Louisiana Bucket Brigade, Bold Louisiana, Louisiana Crawfish Producers Association, Waterkeeper Alliance, Inc., Louisiana Chapter of the National Lawyers Guild, July 14, 2017, available at <http://labucketbrigade.org/sites/default/files/7-14-17%20ABK%20et%20al.%20Letter%20to%20LSBPSE%20%281%29.pdf>.

⁴ The North Dakota Board of Private Investigations denied TigerSwan's application for a license and has since sued to enjoin it from further activities in the state, alleging it had engaged in extensive operations without a license. See, e.g., *North Dakota Private investigative and Security Board v. TigerSwan, LLC*, Verified Complaint and Request for Injunction, June 12, 2017, available at <https://theintercept.com/document/2017/06/28/tigerswan-complaint/>. See also, Alleen Brown, Will Parrish, Alice Speri, *Part 5: TigerSwan Faces Lawsuit Over Unlicensed Security Operations in North Dakota*, The Intercept, June 28, 2017, <https://theintercept.com/2017/06/28/tigerswan-faces-lawsuit-over-unlicensed-security-operations-in-north-dakota/>.

well as a series of “public relations” campaigns to cast opponents in a negative light and build support for the pipeline.⁵

In addition to the serious concerns identified in their letter, we are alarmed by reports which suggest that TigerSwan may *already* be operating in Louisiana, including:

- A TV news report that TigerSwan’s “counter-messaging” efforts, which it had deployed in North Dakota, are “already [] underway in Acadiana.”⁶ The report noted that James “Spider” Marks, who serves as the Chair of the Advisory Board of TigerSwan,⁷ published a piece in a Lafayette newspaper on February 8, 2017, castigating local opponents of the Bayou Bridge project, suggesting that most are “not native Louisianans” and urging state agencies to expedite approval of the project.⁸

Marks notably failed to disclose his affiliation with TigerSwan and the company’s financial interest in the project’s approval, in addition to the fact that he himself does not live in Louisiana and is not a “native Louisianan.”⁹

- A report that on the same day, Marks addressed a public hearing conducted by the Louisiana Department of Natural Resources, where he urged support for the pipeline and again failed to disclose his affiliation with TigerSwan.¹⁰

It is profoundly disturbing and deeply troubling that the company’s methods and track record already appear to be having a chilling effect on Louisiana residents and advocates. One Louisiana media outlet reported that “locals opposed to the Bayou Bridge project” were so “spooked” that “none agreed to an on-camera interview to prevent security operatives from identifying their faces.”¹¹

Recently in North Dakota, one local report based on interviews with defense lawyers representing people charged in relation to the protests of the pipeline indicates that a number of cases against pipeline opponents, some of whom had been “handcuffed, forced to strip, locked in dog cages, and

⁵ Alleen Brown, Will Parrish, Alice Speri, *Part 1: Leaked Documents Reveal Counterterrorism Tactics Used at Standing Rock to ‘Defeat Pipeline Insurgencies,’* The Intercept, May 27, 2017, <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/> and *Part 2: Standing Rock Documents Expose Inner Workings of ‘Surveillance Industrial Complex,’* The Intercept, June 3, 2017, <https://theintercept.com/2017/06/03/standing-rock-documents-expose-inner-workings-of-surveillance-industrial-complex/>.

⁶ *Private Security Firm That Surveilled DAPL Protests Denied Louisiana License,* KATC.com, July 19, 2017, available at <http://www.katc.com/story/35902508/private-security-firm-that-surveilled-dapl-protests-seeks-louisiana-license>.

⁷ James “Spider” Marks, *Advisory Board Chair,* <http://www.tigerswan.com/meet-team/board-advisors/james-spider-marks/>.

⁸ James “Spider” Marks, *Bayou Bridge Pipeline: Bringing Safety and Security to Louisiana,* The Daily Advertiser, Feb. 8, 2017, available at <http://www.theadvertiser.com/story/opinion/2017/02/08/bayou-bridge-pipeline-bringing-safety-and-security-louisiana/97571802/>.

⁹ See, *What This Outsider With Hidden Conflicts of Interest Can Learn From a Local About the Bayou Bridge Pipeline,* Desmog, Feb. 15, 2017, <https://www.desmogblog.com/2017/02/15/what-outsider-hidden-conflicts-interest-can-learn-local-about-bayou-bridge-pipeline>.

¹⁰ *Supra* n. 9.

¹¹ *Supra* n. 6.

hauled to jails across the state,” are being dropped “because of evidence the camps were infiltrated by TigerSwan operatives, who were on a mission to ‘find, fix, and eliminate’ pipeline opposition.”¹²

The law creating and governing this Board was intended to help ensure the “safety, health, and welfare of the people of Louisiana.”¹³ Given the foregoing and serious concerns about TigerSwan, there are a number of grounds upon which the Board should affirm the decision to deny the license, including, but not limited to, those set out in:

- La. R.S. 37:3289(4) and (7) concerning “efforts to deceive or defraud the public” and “refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice in that state,” respectively; and
- La. R.S. 37:3276.1(B)(1)(b) mandating that a license shall not be issued unless an applicant is deemed suitable, which includes insuring that the applicant’s “prior activities, arrest, or criminal record if any, reputation, habits, and associations do not pose a threat to the public interest of [the state of Louisiana] or to the effective regulation of private security companies, and do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations in the activities authorized by this Chapter and financial arrangements incidental thereto.”

There is a wealth of credible evidence demonstrating that TigerSwan should not receive a license to operate as a private security firm in Louisiana. Its prior activities and associations pose a serious threat to the public interest – particularly to Louisiana residents opposed to the proposed pipeline – and enhance the dangers of unsuitable, unfair methods and operations in the private security sector.

We strongly urge the Board to uphold its denial of a license to TigerSwan, and appreciate your urgent and careful attention to this matter.

Sincerely,



Vince Warren
Executive Director

¹² See C.S. Hagen, *DAPL Cases Dropped by State in Record Numbers: Defense Lawyers: TigerSwan Infiltration and Police Entrapment Should be Recognized by Courts*, C.S.News, July 20, 2017, <http://www.cshagen.com/tag/tigerswan/>.

¹³ La. R.S. 37:3270(A) and (B). See also, *Michelet v. Scheuring Sec. Servs.*, 680 So.2d 140 (4th Cir. 1996) (Board added as defendant in tort case for “failure to investigate and prevent [tortfeasor] from working as a private security guard”).