

*Minutes*  
**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION**  
1110 West Washington, Conference Room #240  
Phoenix, AZ 85007

**Tuesday, January 27, 2015**

9:00 a.m.

OPEN SESSION

**1. CALL TO ORDER – 9:06AM**

**2. ROLL CALL** – Board Members in attendance: Alejandro Angel, LeRoy Brady, Douglas Folk, Stuart Lane, Jason Madison, Edward Marley, Stephen Noel, and Robert Stanley. Absent: Neal Jones. Staff: Lorraine Brown, Melissa Cornelius, Michelle Johnson, Michael Martinez, Douglas Parlin, and Patrice Pritzl. Assistant Attorney General: Carrie Smith

**3. CALL TO THE PUBLIC** – Roe Olapour, Director of Engineering for SDC Engineering addressed the Board. Mr. Olapour voiced concerns over the requirements and the process of licensing for Professional Engineering. Mr. Olapour asked the Board to review the process.

**4. ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

A. Approve, modify and/or reject October 28, 2014 Executive session meeting minutes. Mr. Brady moved to approve October 28, 2014 9:26AM executive session minutes. Mr. Folk seconded the motion. Mr. Stanley abstained. No further discussion; motion carried.

Dr. Angel moved to approve October 28, 2014 12:00PM Executive Session minutes. Mr. Madison seconded the motion. Mr. Folk and Mr. Stanley abstained. No further discussion; motion carried.

Dr. Angel moved to approve October 28, 2014 1:13PM executive Session minutes. Mr. Noel seconded the motion. No further discussion; motion carried.

B. Approve, modify and/or reject December 16, 2014 Board meeting minutes. Mr. Stanley seconded the motion. Mr. Brady and Dr. Angel abstained. No further discussion; motion carried.

**5. FORMAL HEARINGS:**

A. Case No. M12-069-BTR, DAF Enterprises and Dennis Flahart, non-registrants – Roll

call taken; Board Members in attendance: Alejandro Angel, LeRoy Brady, Douglas Folk, Stuart Lane, Jason Madison, Edward Marley, Stephen Noel, and Robert Stanley. Absent: Neal Jones. State Assistant Attorney General, Anne Froedge, and Mr. Flahart came before the Board. Mr. Flahart appeared on his own behalf. Mr. Marley stated to Mr. Flahart that he had a right to have an attorney represent him. Mr. Flahart elected to continue without legal counsel.

Ms. Froedge made opening remarks, stating a complaint was received claiming Mr. Flahart was advertising as registered land surveyor. Mr. Flahart made opening remarks, holding that he never claimed to be a registered surveyor.

Ms. Froedge called Board investigator, Jeffrey Hunt, to testify. Mr. Marley swore in Mr. Hunt. Mr. Hunt explained state exhibits 1-10 to the Board. Ms. Froedge asked the Board to admit state exhibits 1-10 into evidence. Mr. Marley admitted the exhibits to be admitted into evidence. Mr. Flahart had no questions for Mr. Hunt. Board members had no questions for Mr. Hunt. The State rested its case.

Mr. Marley swore in Mr. Flahart. Mr. Flahart testified that he never represented himself to be a land surveyor but he did refer potential clients to surveying firms. Mr. Flahart asserted that the investigative team made assumptions without any substantiation. Ms. Froedge questioned Mr. Flahart. Mr. Flahart admitted to doing field work under supervision of a registered surveyor. The Board questioned Mr. Flahart. Mr. Flahart admitted that, when doing field work, a registered land surveyor was not usually in the field with him. Mr. Flahart rested his case.

Ms. Froedge made closing remarks, explaining that Mr. Flahart gave the public the impression that he was a licensed land surveyor and asserted that the Board should find that Mr. Flahart had been holding himself to be a registered professional. Mr. Flahart made closing remarks, stating again that in no case had he presented himself to be registered land surveyor. Mr. Flahart asserted that he simply made a mistake when filling out fictitious name report and explained that the name should have been DAF ENTERPRISES instead of DAF SURVEYING.

The Board deliberated.

Mr. Lane moved to adopt all of the State's proposed Findings of Fact. Dr. Angel seconded the motion. No further discussion; motion passed. Mr. Folk moved to adopt the State's alleged violations 1-5 as Conclusions of Law with a modification that would reference to the Board's authority to require Mr. Flahart to abide by statute and rules regarding unauthorized practice and the Board may authorize the Executive Director to seek an injunction with the Superior Court, if needed, and to impose the cost of the investigation. Mr. Lane seconded the motion. No further discussion; motion carried. Mr. Folk moved to assess a civil penalty of \$2000, admonish Mr. Flahart to comply with professional practice statute and law, authorize the Executive Director to seek an injunction, and impose the cost of the investigation. No further discussion; a roll call vote was taken and the motion passed.

## 6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

### A. Complaints Proposed for Resolution by Dismissal:

1. M13-033, Carlos Padilla, RLS #46474 – Mr. Lane moved to consider this agenda item with agenda item 6.E.1. Mr. Folk seconded the motion. No further discussion; motion carried.
2. AL15-001, Michael Melton, Non-Registrant – Dr. Angel moved to dismiss this complaint. Mr. Stanley seconded the motion. No further discussion; motion carried.
3. P15-015, David Murrey, RLS #13013(Retired) – Dr. Angel moved to dismiss this complaint. Mr. Stanley seconded the motion. No further discussion; motion carried. Mr. Lane requested to discuss an issue with the case. Dr. Angel agreed to amend previous motion. Mr. Marley reopened the discussion. Mr. Lane expressed concern over a surveying report conducted by Mr. Murrey in which he improperly included a statement that the area was in dispute, ultimately causing the property title to be clouded. Mr. Lane made a motion to issue a Letter of Concern. Mr. Folk seconded the motion. No further discussion; motion carried.
4. P15-033, Brian R. McGlaughlin, Non-Registrant, Graphic CADD Productions, Inc., Non-Registrant firm – Dr. Angel moved to dismiss this complaint. Mr. Stanley seconded the motion. No further discussion; motion carried.

### B. Complaints Proposed for Resolution by Letters of Concern:

1. M13-002, Carlos Padilla, RLS #46474 – Mr. Lane moved to consider this agenda item with agenda item 6.E.1. Mr. Folk seconded the motion. No further discussion; motion carried.
2. P15-023, Arturo Chavarria, P.E. (Civil) #52605 – Mr. Folk moved to issue a letter of concern. Mr. Noel seconded the motion. Mr. Folk withdrew the motion. Mr. Madison moved to administratively close this complaint. Mr. Stanley seconded the motion. No further discussion; motion carried.

### C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P15-028, Klindt Breckenridge, Architect #17605, The Breckenridge Group, Firm Registration #11482 – Mr. Folk recused himself from the discussion. Mr. Marley reported that he and Mr. Breckenridge practiced in the same community and they sometimes bid on the same projects. Mr. Marley also reported that the Respondent was in his community, as well, but that he could remain fair and objective in the adjudication of this case. Mr. Breckenridge addressed the Board. Mr. Stanley moved to accept the Consent Agreement as signed with a Letter of Reprimand, a Stayed Suspension/Probation, order of payment to collaborating professionals in the amount of \$51,039.72 within six months from the effective date of the consent agreement, including written proof that such payments were made within 10 days of payment, administrative penalties in the amount of \$6000, impose costs of investigation in the amount of \$526 and any costs of compliance with the consent agreement. Mr. Brady seconded the motion. No further discussion; motion carried.
  
2. P14-039, P15-018, Scott Ritchie, Non-Registrant – Dr. Angel and Mr. Brady recused themselves from the discussion. Mr. Marley stated that regardless of action on consent agreement, this situation is worth monitoring. Mr. Folk voiced concerns over timeframes offered by Mr. Ritchie. Mr. Folk also expressed concerns over words in the Finding regarding Mr. Ritchie’s perception of responsibility. Mr. Lane moved to accept the consent agreement. Mr. Noel seconded the motion. No further discussion; motion carried with Mr. Folk voting no.

D. Complaints Proposed to Offer Consent Agreement:

1. HI10-030, Bradley W. Isaly, Non-Registrant – Dr. Angel moved to resend the Consent Agreement via Certified Mail and, if not signed within 30 days, proceed to a formal hearing. Mr. Folk seconded the motion. No further discussion; motion carried.
  
2. HI11-001, Frank H. Long, Non-Registrant – Mr. Long addressed the Board, explaining this was the first chance he had to relay his side of the story. Mr. Long disputed the facts of investigation, stated that he would not be willing to sign a consent agreement, and asked for a formal hearing. Mr. Folk moved to send the case to a formal hearing. Mr. Brady seconded the motion. No further discussion; motion carried.
  
3. HI15-005, Iain C. Findlay, CHI #43627 – Mr. Findlay addressed the Board explaining his concern over this complaint. The complainant, Mr. William Easton addressed the Board explaining why he made the complaint. Ms. Jamie Opic addressed the Board as a witness for the complainant. Dr. Angel moved to offer a consent agreement with a Letter of Reprimand, a Stayed Suspension with remedial education, impose an administrative penalty of

\$1000, and impose the cost of investigation in the amount of \$800. Failure to sign the consent agreement within 30 days will result in a formal hearing. Mr. Folk seconded the motion. No further discussion; motion carried.

E. Complaints Requiring Board Guidance:

1. A13-015, A13-018, P14-082, Carlos Padilla, RLS #46474 – Mr. Lane moved to consider agenda items 6.A.1. and 6.B.1. with agenda item 6.E.1. Mr. Folk seconded the motion. No further discussion; motion carried. Respondent was not present due to hospitalization, Stephen Gonzalez, the lawyer for the Respondent, addressed the Board on behalf of Mr. Padilla, stating his concerns. Dr. Angel moved to go into Executive Session. Mr. Folk seconded the motion. No further discussion; motion carried.

The Board went into Executive Session at 11:04AM.

The Board resumed regular session at 11:16AM. Thomas Patteruti addressed the Board explaining his complaint against Mr. Padilla. Mr. Lane motioned to offer a consent agreement to Respondent, including a Letter of Reprimand, assessment of administrative penalty of \$4000, Probation until successful completion of peer review, and impose the cost of investigation in the amount of \$4944. Failure to sign the agreement within 30 days will result in a formal hearing. Mr. Lane seconded the motion. No further discussion; motion carried.

2. HI15-015, Dale Thomas Carroll, Non-Registrant – Mr. Carroll addressed the Board stating that he has not been inspecting homes, however he had done a favor for his daughter's boyfriend and created a report of issues regarding the house. Dr. Angel moved to issue a Consent Agreement with a civil penalty of \$500 and assurance of discontinuation. Mr. Folk seconded the motion. No further discussion; motion carried.
3. P15-024, Brandon Potts, P.E. (Civil) #33654 – Mr. Potts addressed the Board regarding his application and answered questions regarding his criminal background. Mr. Madison made a motion to grant the application. Mr. Brady seconded the motion. Mr. Marley thanked Mr. Potts for his honesty during the investigative process. No further discussion; motion carried.
4. HI15-013, Robert J. Jeglum, CHI #42690 – Mr. Jeglum addressed the Board explaining he had been complying with a previous consent agreement. Mr. Jeglum presented the Board with a list of 55 home inspections that he performed while his license was lapsed. Mr. Folk moved to offer him another consent agreement with an additional administrative penalty of \$1000 for

performing 55 home inspections while his license was lapsed. Mr. Stanley seconded the motion. No further discussion; motion carried.

Mr. Stanley excused himself from the Board meeting at 1:20PM

F. Review and Approval of Appointment for EAC Membership:

1. Brian M. Andersen, Architect #48867 – Mr. Marley moved to approve and appoint Mr. Andersen to the Enforcement Advisory Committee. Mr. Lane seconded the motion. No further discussion; motion carried.

G. Compliance Monitoring Investigations:

1. P14-077, Alan E. Money, P.E. (Civil) #30895 – Mr. Madison moved to approve the three Professional Engineers provided by Mr. Money to act as the Peer Reviewers required in his Consent Agreement. Dr. Angel seconded the motion. No further discussion; motion carried.

H. Review, Consideration and Action on Respondent's Counter-Offer of Consent:

1. P14-035, Ahmad N. Zarifi, P.E. (Structural) #32008, P.E. (Civil) #41872 – Staff informed the Board that Mr. Zarifi's attorney had asked for an opportunity to present a counter-offer to the Board's proposed consent agreement. However, the only document provided by Mr. Zarifi was a letter written by his expert witness. The Board reviewed the letter and determined that the matter should proceed to hearing, per a previous vote.

## 7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

**A. Discussion, Consideration, and Vote to Grant or Deny Registration**

1. Factor, Bradley, Electrical Engineer Application # 142079 – Dr. Angel moved to grant this application. Mr. Madison seconded the motion. No further discussion; motion carried.
2. Pekas, Bradley, Geologist Application # 141830 – Mr. Noel moved to grant this application pursuant to A.R.S. § 32-126(A)(3). Dr. Angel seconded the motion. No further discussion; motion carried.
3. Romstad, Keith, Geologist Application # 140713 – Mr. Noel moved to allow the applicant to take the PG exam or applicant can withdraw application and

reapply in two years. Mr. Madison seconded the motion. No further discussion; motion carried.

4. Kraus, David, Geologist Application 142324 – Mr. Noel moved to grant this application. Dr. Angel seconded the motion. No further discussion; motion carried.

**B. Review, Consideration and Allow or Deny Registrant to Renew Registration that is Scheduled to be Cancelled:**

1. Bruce Jordan, Architect Registration # 34220 – Mr. Marley moved to grant the renewal application pending a sworn affidavit that Mr. Jordan hasn't sealed and signed any professional documents in Arizona while his license was lapsed, and payment of all late fees within 30 days. Mr. Lane seconded the motion. No further discussion; motion carried.

**8. LICENSING CONSENT AGENDA**

**A. Review, Consideration, and Action on the Evaluation Committee and Staff Recommendations for the following:**

*Lists of names available at the Board's office for public review*

1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. §§ 32-122.01, 32-123;
2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122;
3. Granting professional registrations to those applicants possessing NCARB Blue Cover or NCEES Model Law Engineer certifications, pursuant to A.R.S. § 32-122.01, and § 32-123;
4. Granting professional registrations, certifications or in-training designations or authorizations to test to those applicants who disclosed minor criminal history that has no reasonable relationship to the applicant's proposed area of practice or who disclosed lesser disciplinary action taken against their registrations in other jurisdictions, pursuant to A.R.S. §§32-122, 32-122.01 and § 32-123;
5. Administratively closing professional or in-training applications pursuant to A.R.S. §§ 32-122, 32-122.01(A); A.A.C. R4-30-204(E);
6. Re-Open Files of Alarm Agents Closed in Error
7. Cancellation of registrations and certifications that have been expired for one full renewal period;
8. List of Alarm firm and Alarm Agent certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05 and A.R.S. § 32-122.06.

Mr. Stanley moved to approve the January 27, 2015 consent agenda items 8.A.1-8.A.8. Mr. Brady seconded the motion. No further discussion; motion carried.

## 9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

- A. Potential Legislation this Session – Ms. Cornelius advised the Board about legislative bills HB 2127, HB 2336, HB 2504, and SB1062, which are going through the legislature this session.
- B. Whether to Modify SPS #15: the Definition of “Practice” – Mr. Brady moved to accept modification to policy statement #15 to broaden the definition of “practice” to include all professions. Dr. Angel seconded the motion. No further discussion; motion carried.
- C. Whether to Remove the Three (3) Minute Limit during Call to the Public – Mr. Folk stated concerns about limiting public comment to three minutes. The Board took no action.
- D. Board Training: Alarm Industry Scams—*For Information Only* – Ms. Pritzl addressed the Board explaining the collection of documentation on apparent new alarm industry scam targeting elderly communities.
- E. Whether to Modify SPS #3, and if so, how; and Determine whether Flow Tests should be conducted by PEs only, and whether conducting Flow Tests constitutes the practice of Engineering – Ms. Cornelius updated the Board on research done regarding how Fire Protection engineers view this subject. The Board took no action at this time.

## 10. DIRECTOR’S REPORT

- A. Budget Update – Ms. Cornelius stated that 50% of the FY15 budget year had lapsed and that 43% of our appropriation and 95% of our revenue had been expended.
- B. Staff Update – Ms. Cornelius reported that Sarah Selzer, the Board’s Assistant Attorney General, left her position at the Attorney General’s office. Ms. Cornelius and Ms. Pritzl met with Ms. Selzer before she left to discuss pending legal matters to help with the transition to the Board’s new Assistant Attorney General. Ms. Cornelius introduced Michael Martinez who was hired to fill the Communications Officer position in the Board Operations Unit.
- C. Previous Meeting Follow-Up – Ms. Cornelius reported that the RFP for the Board’s new computer system is being reviewed by ADOA/ASET and, once approved, a “kick-off” meeting will be scheduled to initiate the procurement process.

D. Director's Meetings – Ms. Cornelius reported that on December 17, 2014, Ms. Pritzl and herself met with the Executive Directors of AIA-Arizona, ACEC, and the Lobbyist for the Engineering Association to discuss legislation regarding the alarm industry. On the same day, Ms. Cornelius met with Rep. Darin Mitchell after he came to the Board's office to discuss his ideas on legislation. Ms. Cornelius also reported that on January 7, 2015, Ms. Pritzl and the Board's lobbyist met with Rep. Mitchell to discuss the draft of the alarm industry legislation. Ms. Cornelius reported that she presented a PowerPoint presentation at the FARB conference in Tucson on January 23, 2015 and that she hosted a representative from CLARB during the conference. Ms. Cornelius reported that she and Mr. Marley represented the Board with the NCARB representative at the University of Arizona on January 26, 2015. Ms. Cornelius reported that Ms. Pritzl and Mr. Marley will attend the NCEES President's Assembly in Atlanta, GA on February 7, 2015.

**11. BOARD CHAIR'S REPORT** – Mr. Marley reported that he signed six Consent Agreements that had been previously approved by the Board and that he received correspondence from NCARB including a survey regarding the streamlining of IDP and the RFP NCARB has out for the registration upon graduation program, and that he would

## **12. STANDING COMMITTEE REPORTS**

- A. Legislation and Rules Committee – Mr. Folk reported that the L&R committee met, considered, and decided not to act on a proposed table that would define criteria for categorization of offenses for discipline and to have staff notify that they would be checking records for reported violations. The committee also looked at and supported the proposed NCARB decision to shorten the required 96 months of experience for required for registration and recommended that the Board should come up with common standards for all professions regulated by the Board. The committee discussed whether the Board should have state specific jurisprudence exam, and whether a registrant needs to seal or stamp as built plans if the contractor has noted the modification on those drawings.
- B. Home Inspector Rules and Standards Committee – Next meeting is February 3, 2015 at 9:30AM.
- C. Environmental Remediation Rules and Standards Committee – No meeting.

## **13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES**

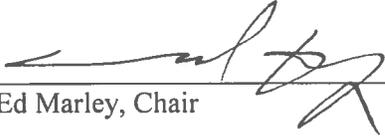
- A. National Council of Examiners for Engineering and Surveying (“NCEES”) – Dr. Angel reported that NCEES will roll out a computer based exam for the professional land surveyor examination and it made progress doing the same for the professional engineering exam. Additionally, NCEES plans to make exams available at all times of the year.

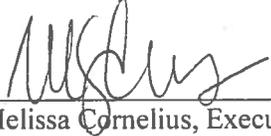
- B. National Council of Architectural Registration Boards (“NCARB”) – NCARB will be having its regional summit in March, in Long Beach, CA.
- C. Council of Landscape Architectural Registration Boards (“CLARB”) – Mr. Brady reported that CLARB has been giving their professional exam on computers for the last year and is happy with the computer based exam. Mr. Brady also reported that he sat in on a webinar on registration across the country.
- D. National Association of State Boards of Geology (“ASBOG”) – Mr. Noel had no new news. Ms. Pritzl reported that ASBOG has appointed an Interim Director and they were looking to involve member boards more than they have in the past.
- E. Public Member News/Information – Mr. Folk had nothing to report.

14. **FUTURE BOARD MEETINGS** – Tuesday, February 24, 2015 at 9:00 a.m.

15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS** – Ms. Cornelius will report on agricultural engineering in regards to the PE exam that NCEES is offering.

16. **MEETING ADJOURNMENT** – 3:22PM

  
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Ed Marley, Chair

  
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Melissa Cornelius, Executive Director