

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

Tuesday February 28, 2017
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:03am

2. **ROLL CALL** – Jason Madison, Stephen Noel, LeRoy Brady, Jason Foose, Neal Jones, Eugene Montgomery, Andrew Everroad. **Absent:** Dr. Alejandro Angel, Edward Marley. **Staff:** Melissa Cornelius, Patrice Pritzl, Michelle Fleming, Douglas Parlin, Kurt Winter

3. **CALL TO THE PUBLIC**

No one appeared before the board.

4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

A. Approve, modify and/or reject January 24, 2017 Board meeting minutes.

Mr. Noel moved and Mr. Brady seconded to accept the minutes; motion carried.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

Formal Hearings or Related Proceedings will begin at 9:30 a.m.

A. Formal Administrative Hearing and/or Review, or Discuss and Take Possible Action to Accept Respondent's Counter-Offer Consent Agreement:

1. P15-011 - John Anthony & John Anthony Drafting & Design, Non-Registrant

The Board considered Respondent's Motion to Continue this matter to the March meeting.

Mr. Madison asked Mr. Donald, A.A.G, if there were any objections to approving the motion. Mr. Donald indicated he had no objections.

Mr. Brady moved and Mr. Jones seconded to approve the motion to continue the hearing; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI17-003, John Haag, C.H.I. #50226 (Delinquent)

Mr. Jones moved and Mr. Foose seconded to dismiss the complaint; motion carried.

B. Complaints Proposed for Resolution with Signed Consent Agreements:

1. HI17-013, Dwayne Franklin, C.H.I. #39204

Mr. Foose indicated that Respondent's unreported discipline had been issued by this Board and for this reason asked if a non-disciplinary option existed for this matter. Ms. Cornelius explained that the findings of fact in both the recent case Mr. Foose mentioned and the case before the Board sets the formal record that Respondent was disciplined and failed to indicate that fact on his renewal.

Mr. Noel moved and Mr. Jones seconded to accept the signed consent agreement; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. P16-066, Steve O'Brien, P.E. (Mechanical) #35209

Respondent and Respondent's counsel, John Condrey appeared before the Board.

Mr. Madison explained that the Board received Mr. Condrey's response to the complaint letter, however, due to the letter's length and the timeliness of its delivery, Mr. Madison opined that it would be difficult to fully comprehend and discuss the letter at that time.

Mr. Montgomery asked why the letter's details were not discussed at the enforcement advisory committee (EAC) meeting. Mr. Condrey stated they had been discussed but without help of counsel. Mr. Condrey indicated that if counsel had been present Respondent would have presented a better defense. Mr. Condrey also indicated that Allegor failed to divulge key information at the EAC meeting.

Mr. Montgomery explained that the details of the case were too complex for the Board to consider at that time and opined sending the matter back to EAC. Mr. Jones asked if a subcontractor was involved in this matter. Mr. Condrey indicated there was. Mr. Montgomery stated he was concerned about the existence of two identical rev level signed documents containing different information. Mr. Jones asked if a commissioning agent was involved. Mr. Condrey indicated there was.

Mr. Montgomery moved and Mr. Jones seconded to have this issue reviewed by an EAC committee comprised of the members who sat for the first meeting with the exception of a new public member; motion carried.

2. AL17-013, Paul Sargenti, Alarm Controlling Person #57792, and Security Alarm Financing Enterprise, Alarm Business #18658

Scott Thompson, representative of Paul Sargenti, appeared before the Board.

Mr. Madison asked if the firm was now registered. Mr. Thompson indicated that SafeSecurity was registered. Mr. Foose asked if all the promises for reconciliation indicated within SafeSecurity's letter had been acted upon. Mr. Thompson stated that they had been and the investigator confirmed.

Mr. Foose moved and Mr. Everroad seconded to offer the proposed consent agreement; motion carried.

3. P17-053, Charles Anderson, R.L.A. #63436

Respondent appeared before the Board to address the issue of his practicing prior to receiving registration.

Respondent opined that the application process for those who were previously registered in Arizona is cumbersome. Respondent further stated that, as a sole practitioner, he found it burdensome to find a supervisor reference. He stated he was required to speak in person with licensing staff and have the matter brought before the Board.

Ms. Cornelius asked Respondent if he was licensed in another state at the time of applying. Respondent indicated he was licensed in California. Ms. Fleming stated that the length of time it took California and Washington to verify Respondent's registration in good standing is what prolonged the Board's application process. Ms. Cornelius explained that an applicant cannot be registered without meeting the statutory requirements and the Board is required by law to verify licensee is in good standing prior to granting registration in Arizona.

Mr. Foose moved and Mr. Jones seconded to dismiss the case; motion carried. Mr. Brady voted nay.

4. P17-060, Joseph M. McCabe, P.E. (Mechanical) #40668, and Energy Inspectors, Firm #19293

Mr. Noel moved and Mr. Jones seconded to offer the proposed consent agreement; motion carried.

5. P17-019, Terry Yarborough, R.L.S. #49098

Mr. Noel asked staff to direct Respondent to ethics courses. Mr. Foose asked why the administrative penalty fee was an odd number (\$7,000). Staff indicated that due to the

different findings of the case and the fines associated with them, resulted in the amount of the fine.

Mr. Everroad moved and Mr. Jones seconded to offer the proposed consent agreement; motion carried.

6. HI16-027, David Berry, C.H.I. #38633, and DJ's Horizon Home Inspectors, LLC, Firm #12302

Mr. Foose moved and Mr. Brady seconded to offer the proposed consent agreement; motion carried.

7. AL17-010, Simplisafe, Inc., Non-Registrant Alarm Business

Mr. Brady moved and Mr. Everroad seconded to offer the proposed consent agreement; motion carried.

8. P17-045, Christopher DePrima, P.E. (Civil) #48220

The Board asked if staff had presented the consent agreement to Mr. DePrima. Ms. Pritzl explained that staff has had a difficult time speaking with Mr. DePrima. He has made allegations against investigation staff and told them not to contact him. He asked to have this matter postponed for a Settlement Agreement the Thursday before the Board Meeting, but was told that it would remain on the agenda due to the late request. He was encouraged to appear before the Board to present his information and made his request for dismissal. Mr. Donald suggested omitting language in the motion regarding moving the case to an administrative law judge if not signed within a certain time frame to give Respondent time to hire counsel. Mr. Madison asked if there would be any issues if that language was left out. Mr. Donald stated there would be no issues.

Mr. Foose moved and Mr. Jones seconded to offer the proposed consent agreement with an expiration of 30 days; motion carried.

9. P17-032, Daniel Surber, R.A. #27509, and Daniel Surber Architect, Firm #20158

Alleger, Richard Spillman, appeared telephonically.

Mr. Jones opined that this issue appeared to be a contractor issue, not an architect issue. Mr. Everroad asked Mr. Spillman if he discussed reducing the costs with Respondent. Mr. Spillman indicated he had. Mr. Jones asked if Respondent had reduced the costs by revising his plans. Mr. Spillman indicated that he had, though not enough to stay within budget. Mr. Jones explained to Mr. Spillman that it is the contractor's duty to keep the project within budget. Mr. Spillman stated the Registrar of Contractors told him that this matter wasn't within their jurisdiction. Mr. Everroad asked if Mr. Spillman sold the lot. Mr. Spillman indicated he had. Mr. Everroad

opined that this is a contractual issue and that the Board doesn't have jurisdiction over the contractual issues in this matter. The Board did find that Mr. Spillman failed to register his firm.

Mr. Everroad moved and Mr. Jones seconded to accept the signed consent agreement; motion carried.

D. Complaints Requiring Board Guidance:

1. P17-052, Scott E. Ritchie, Non-Registrant

Paul Porell and Respondent appeared before the Board. Ms. Cornelius presented a letter written by Dr. Angel favoring dismissal.

Mr. Foose moved and Mr. Everroad seconded to dismiss this matter; motion carried.

7. **LICENSING MATTERS**

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Exam Authorization after Full Board Review

A. Davis, Joshua Mechanical Engineer Application #162926

Mr. Brady moved and Mr. Foose seconded to grant exam authorization; motion carried.

B. Eakins, Kandon Electrical Engineer Application #170006

Mr. Brady moved and Mr. Foose seconded to grant exam authorization; motion carried.

Whether to Grant or Deny Request for Extension of Licensing Timeframes

C. Apostol, Fernando Civil Engineer Application #162433

Mr. Brady moved and Mr. Noel seconded to grant timeframe extension to June 30, 2017; motion carried.

D. Chu, Ronnie Civil Engineer Application #170118

Mr. Brady moved and Mr. Jones seconded to grant timeframe extension to July 31, 2017; motion carried.

E. Fernandez, Camila Civil Engineer Application #161626

Mr. Brady moved and Mr. Jones seconded to grant timeframe extension to October 31, 2017; motion carried.

F. Marincas, Wilhelm Architect Application #152379

Mr. Jones moved and Mr. Brady seconded to grant timeframe extension of 90 days; motion carried.

G. Quijada, Martin Architect Application #162596

Mr. Brady moved and Mr. Noel seconded to grant timeframe extension to June 30, 2017; motion carried.

Whether to Reopen Application for Reevaluation

H. Nieri, Lucas Architect Application #161175

Applicant appeared before the Board.

Ms. Fleming explained that Architect Member, Edward Marley, evaluated Mr. Nieri's application and deemed it insufficient to meet requirements in law. Mr. Noel asked how long his registration has been canceled. Ms. Fleming answered since 2012. Mr. Jones asked Mr. Nieri what he does now. Mr. Nieri replied he does drafting, consulting, and works with an interior designer. Ms. Fleming explained that Mr. Nieri supplied documentation of his work but Mr. Marley found it insufficient. Mr. Nieri explained that he supplied the documentation and will gladly supply more if requested. Mr. Madison asked Mr. Jones if he would reevaluate Mr. Nieri's application. Mr. Jones stated he would.

Mr. Brady moved and Mr. Noel seconded to reopen application and re-review it; motion carried.

Criminal History

I. Bromwell, Stefann Alarm Agent Application #162142

Mr. Foose moved and Mr. Brady seconded to grant a 30-day extension; motion carried.

J. Jackson, Delbert Alarm Agent Application #162213

Mr. Foose moved and Mr. Noel seconded to grant a 90-day extension; motion carried.

K. Shirley, Hunter Alarm Agent Application #162430

Mr. Brady moved and Mr. Jones seconded to grant application; motion carried.

L. View, Schuyler Alarm Agent Application #162233

Mr. Foose moved and Mr. Everroad seconded to grant a 90-day extension; motion carried.

M. Warner, James Alarm Agent Application #162778

Mr. Brady moved and Mr. Foose seconded to grant; motion carried.

8. LICENSING CONSENT AGENDA

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

1. Cancellation of registrations and certifications that have been expired for one full renewal period;

Mr. Foose moved and Mr. Brady seconded to cancel registrations and certifications that have expired for one full renewal period; motion carried.

2. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05, 32-122.06, and A.R.S. § 32-123.

List available for public review upon request.

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

A. Pending Legislation - Ms. Cornelius reported bills HB 2508 and HB 2509 did not proceed through the legislature; SB 1437, the right to work bill, has passed through the Senate; SB 1188, procurement vendors bill, may be dead; SB1186, alarm fingerprinting bill, has passed through the Senate. Ms. Pritzl reported HB 2372 waiving license fees failed to define licensing fee on financial impact. Bill narrowly passed the house.

B. Authorizing the NCEES “Auto-Approval” Process for Applicants to Take the PE.

No action taken. Postponed for next meeting.

C. NCEES foreign education equivalence verification on NCEES Council Records.

Board directed staff to send a letter to NCEES regarding the clarification of education equivalency reports.

D. Procedure to lifting stays of disciplinary action.

Mr. Donald suggested that matters of this nature are best delegated to Board members for final decisions. The Board directed staff to bring consideration of lifting stays to the Board for decisions. The Board also directed staff to include language in orders that allow staff to close a case when the terms of an order have been met.

E. NCARB draft resolution regarding NCARB Membership Requirements: Required membership in WCARB.

Ms. Cornelius opined that membership in WCARB should be voluntary. Board directed staff to write a letter to WCARB asking that membership be voluntary.

F. American Society of Plumbing Engineers' Professional Engineer Working Group Proposal to place a Plumbing Option within the Mechanical Engineering Principles and Practices Exam as developed by NCEES.

Mr. Lohr appeared before the Board. Mr. Lohr explained to the Board the merits of including a plumbing option of NCEES's Mechanical Engineer discipline exam, asking for the Board to send a letter of consideration to NCEES.

Board directed staff to send a Letter of Consideration to NCEES.

10. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius reported the Padilla case is going back to hearing and will be paid for using enforcement funds.

B. Previous Meeting Follow-Up

Ms. Cornelius reported that the computer system is scheduled to go live July 17, 2017. Staff indicated that the new computer system will be tested prior to going live. Ms. Cornelius introduced Adrianna Soto as the new enforcement assistant.

C. Director's Meetings

Ms. Cornelius reported that the ADOA move has been stressful for the health regulatory Boards.

D. Statistics Review

11. BOARD CHAIR'S REPORT – Nothing to report

12. STANDING COMMITTEE REPORTS

A. Legislation and Rules Committee

Ms. Cornelius reported that the L&R met the previous week for the third time to discuss rule changes. Those rule changes are scheduled to be reviewed at next month's Board Meeting.

B. Home Inspector Rules and Standards Committee

Ms. Cornelius reported that the HIRSC met February 14, 2017 to discuss rule changes. These changes were reviewed a week later at the L&R Meeting.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Exam meeting in Flagstaff, May.
- B. CLARB – Mr. Brady reported that Ms. Wheat, the first woman chairman for the AZBTR, passed away in February. Ms. Cornelius reported that she learned at the Board of Directors Meeting that CLARB was revising its governance structure.
- C. NCARB – Letter regarding WCARB. Ms. Cornelius and Mr. Marley plan to attend meeting in Jersey City in March.
- D. NCEES – Mr. Foose and Ms. Pritzl attended a meeting in Atlanta. Mr. Foose reported that NCEES financed a promotional film. The regional meeting will be held in Denver in May.

14. FUTURE BOARD MEETINGS – March 28, 2017

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

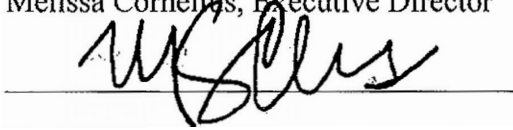
Review proposed rule changes. Discuss NCEES education Auto-approval. Review letter to NCEES. Review foreign equivalence letter.

16. MEETING ADJOURNMENT – 12:45

Jason Madison Chairman

Handwritten signature of Jason Madison in black ink, written over a horizontal line.

Melissa Cornelius, Executive Director

Handwritten signature of Melissa Cornelius in black ink, written over a horizontal line.