

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

Tuesday March 27, 2018
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER - 9:02am**
2. **ROLL CALL - Present**, Stephen Noel, Jason Foose, Neal Jones, Eugene Montgomery, Andrew Everroad, Jason Madison, Jack Gilmore. Edward Marley appeared at 11:12am
Not Present: Dr. Alejandro Angel
Staff: Melissa Cornelius, Patrice Pritzl, Robert Stam, 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, February 27, 2018 Board meeting minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes; motion carried. Mr. Everroad and Mr. Montgomery abstained.

- B. Approve, modify and/or reject, February 27, 2018 Board meeting executive session minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes; motion carried. Mr. Everroad and Mr. Montgomery abstained.

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

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

- A. Action on the Recommended Decision and Order from the Office of Administrative Hearings in the Matter of the Application for Professional Engineer Registration of Christopher DePrima, Case Number 17F-P14-045-BTR-RES.

Scott Donald AAG appeared before the Board representing the State. Seth Hargraves AAG appeared before the Board for legal advice. Applicant appeared before the Board and he was not represented by legal counsel.

Mr. Donald argued that the Board could not regulate Applicant citing Applicant's self-introduction as an engineer, the language found in the numerous motions Applicant submitted to the ALJ, and Applicant's voluntary surrender of his registration. Mr. Donald asked that the Board adopt the ALJ's decision with a minor change to Page 5 line 7 to correct a typographical error.

Applicant stated that he would do whatever he could to regain licensure, that he was qualified to practice engineering, that he did not understand what he did wrong, that he disagreed with the consent agreement, and that he signed said agreement under duress.

Mr. Donald stated that Applicant testified before the ALJ that the Board did not have jurisdiction over engineers, that Applicant failed to prove that he could be regulated, and that Applicant fully understood the result of signing the consent agreement. Mr. Donald again asked that the Board adopt the ALJ's decision with the recommended minor change.

Mr. Montgomery moved and Mr. Jones seconded to adopt the Findings of Fact, the Conclusions of Law with the recommended change and the ALJs recommended decision; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P18-029, Sherman Cawley, R.A. #14774

Respondent appeared before the Board with attorney, James Brown.

Mr. Madison moved and Mr. Everroad seconded to dismiss the complaint; motion carried.

2. P17-086, Joel Thomas, P.L.A. #49699

Mr. Jones and Mr. Gilmore recused themselves. The Board maintained a quorum.

Mr. Madison moved and Mr. Noel seconded to dismiss the complaint; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P18-030, Harold Baldwin, R.L.S. #19810

Mr. Madison moved and Mr. Everroad seconded to dismiss the case; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. P18-018, Ricardo Aguilera, Non-Registrant and Global Engineering Services, Inc, Non-Registrant Firm

Respondent appeared before the Board. Mr. Everroad recused himself. The Board maintained a quorum.

Respondent stated that his company was before the Board in 2004 for a similar matter and asked that the Board allow him to continue using the term 'engineer' in his firm title.

Mr. Montgomery stated that he agreed with the case assessors that the word 'engineering' in the firm title was misleading. Mr. Madison agreed, stating that Respondent firm's website was also misleading.

Respondent asked to keep Respondent firm name unchanged for contractual reasons. Board members made suggestions for changes to Respondent firm's title and website.

Mr. Montgomery moved and Jones seconded the proposed consent agreement but to lower the civil penalty to \$250, add an assurance of discontinuance within 60 days, and if not signed in 30 days move to hearing; motion carried.

2. HI18-013, Paul Stokle, C.H.I. #54338

Respondent signed an amended consent agreement prior to the meeting date.

Mr. Foose asked the investigator if the staff recommendation had changed since Respondent signed the amended consent agreement. Investigator Thacker answered 'no'.

Mr. Madison moved and Mr. Gilmore seconded to accept signed consent agreement; motion carried.

3. P18-025, Joshua Drake, Non-Registrant and JP Drake Enterprises, LLC, Non-Registrant Firm

Respondent appeared before the Board.

Respondent stated that he was under the false impression that he could advertise himself and perform engineering work as long as a registrant stamped said work. He also asked that the Board reduce the proposed fine.

Mr. Noel asked Respondent if he was currently a PE. Respondent answered 'no', stating he was no longer pursuing registration. Mr. Gilmore noted that Respondent referred to himself as a mechanical engineer in his correspondence with the investigator and asked Respondent if he was a mechanical engineer. Respondent answered 'yes', he was a mechanical engineer in the military. Mr. Gilmore stated that the State of Arizona did not consider him a mechanical engineer since he was not registered.

Mr. Madison moved and Mr. Montgomery seconded to offer the proposed consent agreement but to reduce the administrative penalty to \$1000; motion carried.

The Board directed staff to open a case against Mr. Rodgers for possible aiding and abetting.

D. Complaints Requiring Board Guidance:

1. P18-039, Gerold Pratt, P.E. (Civil) #26873

The Board considered the evidence in this case that the Utah Board disciplined Respondent and he lost his structural PE license.

Mr. Madison moved and Mr. Noel seconded to issue a Letter of Concern; motion rescinded.

Mr. Montgomery opined that the Board should find a solution that takes into account the Utah Board's findings. Mr. Gilmore asked for clarification regarding the Utah Board's findings. Staff explained that different Boards have different rules and laws; in Utah's case, it appeared that the Utah Board revoked Respondent's structural license but also granted Respondent a PE license.

After further discussion, the Board directed staff to continue the investigation.

2. HI18-020, Rodney Harrison, C.H.I. #58074

Board members asked if Respondent served his jail time. Staff answered 'yes'. Mr. Everroad stated that the criminal system was dealing with the criminal aspect of this matter and it was possible that the Board did not need to take any action.

Mr. Everroad moved and Mr. Jones seconded to issue a Letter of Concern; motion rescinded.

Mr. Everroad moved and Mr. Noel seconded to offer Respondent consent agreement encompassing the following; the Board shall issue an issue a letter of reprimand and Respondent shall agree to be placed on probation which would run concurrently with his criminal probation so it would terminate at the end of the criminal probation period and, if he fails in that, would come before the Board for possible future action; motion carried.

Mr. Donald asked for clarification, asking whether the Board made the motion to monitor Respondent to benefit the public. Mr. Foose answered 'yes'.

3. P18-038, Essam Lobnan, P.E. (Civil) #52284

Respondent appeared before the Board.

Mr. Madison opined that this issue was a contractor issue, not an engineer issue.

Mr. Madison moved and Mr. Jones seconded to dismiss the case; motion carried.

The Board took a break at 10:53am and returned to open session at 11:01am.

E. Complaints Proposed to Forward to Hearing:

1. P18-031, Thomas Romeo, Non-Registrant and Landmark Environmental, LLC, Non-Registrant Firm

Ms. Cornelius asked Mr. Donald if the Board could merge this case with case P17-087 which the Board already forwarded to hearing. Mr. Donald answered 'yes'.

Mr. Noel moved and Mr. Everroad seconded to forward this case to hearing, to be combined with the previously forwarded case P17-087, and be forwarded to the AG's office for an injunction and criminal prosecution; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration after Full Board Review

- A. Williams, Walter -Application for Waiver of PE and for Engineer Registration #180279

Mr. Montgomery expressed his belief that Applicant did not have, or prove to have, enough electrical engineering experience for licensure and needed to submit additional experience references from electrical engineers. After reviewing the Practice Act, Mr. Donald stated that the rules interpret 'category' with regard to experience in the broad sense of engineering practice, not as a particular branch. Mr. Montgomery expressed his concern that evaluators could only consider experience when evaluating a Canadian application and believed that the standards should be more restrictive.

Mr. Jones moved and Mr. Gilmore seconded to grant registration and waive the exam; motion carried. Mr. Montgomery and Mr. Marley abstained.

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. Marley moved and Mr. Everroad seconded to cancel registrations and certifications that had been 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. The American Institute of Professional Geologists' (AIPG) plan to create a new membership category, tentatively titled "Nationally Accredited Professional Geologist" (NAPG).

Board members discussed the NAPG designation and communicated their concerns that this may harm the Geologist practice and registration in Arizona.

The Board directed staff to draft a letter to AIPG communicating its concerns.

- B. The Contract with GL Solutions, Legal Issues, and their Potential Resolution.

Ms. Cornelius reported on the issues involving GL Solutions.

Mr. Marely moved and Mr. Noel seconded to enter executive session at 11:53am to discuss possible future litigation matters. The Board returned to open meeting at 12:20pm.

- C. Board Training on Rolling Quorums and Exparte Issues.

Mr. Donald explained what rolling quorums and exparte issues were to the Board members for training purposes.

- D. Draft Newsletter.

The Board members reviewed the draft of the next edition of the AZBTR Newsletter.

10. DIRECTOR'S REPORT

- A. Budget Update

Ms. Cornelius reported her hope that the State would approve the Board's proposed budget.

- B. Computer System Update (billing issues, penetration test, and data migration)

Discussed under agenda 9b.

- C. Rules (staff drafting EIS)

Ms. Cornelius reported that staff submitted the Notice of Final Rulemaking and Economic Impact Statement to GRRC on March 22, 2018.

D. Legislation Updates (SB1045, SB 1184 and HB2579)

Ms. Cornelius reported that the Governor signed SB1045.

E. Staff (new employee)

Ms. Cornelius introduced Orlene Loera as the new investigator for BTR.

F. Statistics Review (licensing and enforcement numbers)

Nothing discussed.

11. BOARD CHAIR'S REPORT – Nothing to consider

12. STANDING COMMITTEE REPORTS

A. Legislation and Rules Committee – Nothing to Consider

B. Home Inspector Rules and Standards Committee – Report on February 11, 2018 meeting, pended at the February 27, 2018 meeting.

Mr. Madison reported that the Committee discussed the fingerprint bill, a new EAC severity rating, and the feasibility of hiring a temporary employee to review applications.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. ASBOG – FG and PG exam in March

B. CLARB – Nothing to consider

C. NCARB – Report on March 8-10 meeting in Wichita, KS. Mr. Marley reported that NCARB was rewriting its bi-laws and that his colleagues voted him to become the new WCARB chairperson.

D. NCEES – Western Zone meeting in April 2018

14. **FUTURE BOARD MEETINGS** –April 24, 2018

15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**

Discuss letter to ABET

16. **MEETING ADJOURNMENT** – 12:52am

Dr. Alejandro Angel, Board Chairman



Melissa Cornelias, Executive Director


