

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

**Wednesday, April 1, 2015**

9:00 a.m.

OPEN SESSION

1. **CALL TO ORDER** – 9:00am
2. **ROLL CALL** – Board Members in attendance: LeRoy Brady, Neal Jones, Stuart Lane, Jason Madison, Edward Marley, and Stephen Noel. Absent: Alejandro Angel, Douglas Folk, and Robert Stanley. Staff: Melissa Cornelius, Michelle Johnson, Douglas Parlin, and Patrice Pritzl. Assistant Attorney General: Michael Raine
3. **CALL TO THE PUBLIC** – Mr. Brian Kelly addressed the Board with regard to his lapsed Home Inspectors license. Mr. Robert Oikarinen addressed the Board and asked that the Board not close his application.

4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject February 24, 2015 Board meeting minutes – Mr. Brady moved to approve the February 24, 2015 Board minutes. Mr. Lane seconded the motion. No further discussion; motion carried.

5. **FORMAL HEARINGS**

6. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

- A. Complaints Proposed for Resolution by Dismissal or Closure:
  1. HI14-027, Jesse Ramirez, CHI #51755 (cancelled) and Sherlock Inspections, LLC, Firm Registration #16710 (expired) – Mr. Noel moved to dismiss complaint. Mr. Lane seconded the motion. No further discussion; motion carried.
  2. HI15-019, Craig Collier, CHI #43520 – Mr. Lane motioned to dismiss complaint. Mr. Jones seconded the motion. No further discussion; motion carried.

3. P14-090, David Vargulic, P.E. (Mechanical) #33672 – Mr. David Vargulic addressed the Board regarding the complaint against him. Mr. Noel and Mr. Marley asked if it was a revision drawing that he sealed. Mr. Vargulic stated that he didn't have the plans in front of him but he believed they were revisions because the plans were reissued numerous times. AAG Michael Raine explained that, according to the investigative findings, these plans were produced before Mr. Vargulic was even hired. Mr. Madison moved to dismiss the complaint. Mr. Noel seconded the motion. Mr. Jones asked Mr. Vargulic if he was registered at the time he responded to the Board in August of 2014. Mr. Vargulic answered that he was registered. Mr. Jones pointed out that his signature didn't include his engineering title of "PE" after his name. No further discussion; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI14-023, C.S.I. Home Inspections, LLC, Firm Registration #17411 – Mr. Lane moved to issue a Letter of Concern. Mr. Noel Seconded the motion. No further discussion; motion carried.
2. P14-032, Adow D. Albert, RLS #09428 – Mr. Lane moved to issue a Letter of Concern. Mr. Noel Seconded the motion. No further discussion; motion carried.
3. HI15-011, David Berry, CHI #38633 – Mr. Lane moved to issue a Letter of Concern. Mr. Noel Seconded the motion. No further discussion; motion carried.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. HI14-048, Joseph Purtell, CHI #41254 – Mr. Marley voiced concerns that the inspection software that Mr. Purtell was required to use by his employer may not meet standards in law. He directed staff to investigate that issue. Mr. Lane moved to accept the signed Consent Agreement that included a Letter of Reprimand, imposed an administrative penalty in the amount of \$1,000, and imposed the cost of investigation in the amount of \$963. Mr. Jones seconded the motion. No further discussion; motion carried.
2. HI14-051, David Sturgeon, CHI #40109 – Mr. Lane moved to accept the signed Consent Agreement that included a Letter of Reprimand, imposed an administrative penalty in amount of \$1,000, and imposed the cost of investigation in the amount of \$333. Mr. Noel seconded the motion. No further discussion; motion carried.
3. HI15-020, Gerald Hofmann, CHI #52799 (cancelled) – Mr. Gerald Hofmann addressed the Board regarding the complaint against him. Mr. Hofmann stated concerns about not receiving notice for his need to renew his application. Mr. Marley asked if Mr. Hofmann had reapplied for registration.

Mr. Hoffman stated he had reapplied with the Board and was awaiting Board approval. Mr. Marley asked staff if Mr. Hofmann should have received a notice. Ms. Cornelius explained that, currently, the Board sends out renewal notices, but the Board policies may have been different then and she was unsure if Home Inspectors received a renewal notice at that time. Mr. Marley asked staff how they arrived at the \$2,000 civil penalty. Mr. Kraemer stated the number was based on how long it had been since Mr. Hofmann's license had expired and on the fact that Mr. Hofmann had conducted roughly 20 home inspections a month while his registration was expired. Mr. Lane moved to amend the Consent Agreement to include an Assurance of Discountenance until Mr. Hofmann is registered, remove the Civil Penalty, and assess the cost of investigation. Mr. Jones seconded the motion. No further discussion; motion carried.

4. HI15-012, Michael Denninger, CHI #43881 – Ms. Kimberly Davis addressed the Board regarding the complaint she filed against Mr. Denninger. Ms. Davis asked to Board to amend the Consent Agreement to include paying restitution in the amount of \$300 to cover the costs that she paid for the inspections performed by Mr. Denninger. Mr. Marley asked staff if the Board could issue that type of order. Ms. Cornelius confirmed that, in this case, the Board could order Mr. Denninger to pay restitution asked for by Ms. Davis. Mr. Denninger addressed the Board regarding the complaint against him. Mr. Noel asked Ms. Davis if the deficiencies would have stopped her from buying the home. Ms. Davis stated that she would not have bought the house had she known about the problems without the sellers fixing the problems before closing. Ms. Davis explained that the costs to fix the issues missed by Mr. Denninger amounted to \$4,700. Mr. Jones moved to offer an amended Consent Agreement that includes a Letter of Reprimand, imposing an administrative penalty for \$800, imposing the cost of investigation in the amount of \$1,201, and ordering Mr. Denninger to pay restitution in the amount of \$345. Mr. Lane seconded the motion. No further discussion; motion carried.

D. Complaints Proposed to Offer Consent Agreement:

1. P14-062, Evan Crane, Non-Registrant owner of Crane Concepts, Non-Registrant Firm – Mr. Crane appeared before the Board telephonically. Mr. Crane asked which Board members were in attendance. Ms. Johnson read off the roster of Board members in attendance. Mr. Crane asked the professions of the Board members in attendance. Mr. Marley listed the professions of the Board members in attendance. Mr. Crane asked if there were any attorneys present. Mr. Marley explained that the Board had an Assistant Attorney General, Michael Raine, in attendance to represent the Board. Mr. Crane addressed the Board regarding the complaint against him. Mr. Crane explained the exhibits he provided for the Board to review. Mr. Marley asked Mr. Crane if he was the employee of the registrant that sealed the plans. Mr. Crane stated that he hired the registrant to supervise the project and that he

was not an employee of the registrant. Mr. Marley voiced concerns that an out-of-state architect sealed plans by someone that was not a bona fide employee. Mr. Marley voiced concerns that the drafting of the plans constituted practicing Architecture and, since the plans also included electrical designs, it could also be seen as practicing Electrical Engineering. Mr. Lane stated that Mr. Crane's firm is clearly offering architectural services in violation of ARS § 32-101. AAG Michael Raine stated that he understood Mr. Crane's arguments, but he was inclined to agree with the Board's interpretation of the statutes. Mr. Brady voiced concerns that Mr. Crane continued to interrupt the Board while the Board was discussing the complaint. AAG Michael Raine offered technical revisions to the proposed Consent Agreement, including naming the firm as well as the individual so that both would be subject to the Assurance of Discontinuance. Mr. Lane moved to offer the Consent Agreement as modified by the AAG, including an Assurance of Discontinuance, imposing a civil penalty of \$1,000, and imposing the cost of investigation in the amount of \$1,138. In addition, Mr. Madison stated the matter would go to formal hearing of the Consent Agreement was not signed within 30 days. Mr. Jones seconded the motion. No further discussion; motion carried. Mr. Marley directed staff to open an investigation on the architect that sealed the plans for Mr. Crane.

2. AL15-002, Jake Murray, Alarm Controlling Person #57078 and Alliance Security, Inc. Alarm Firm #18520 – Ms. Louise Marcus, attorney for Alliance Security, Inc., addressed the Board regarding the complaint against her client. Mr. Madison moved to offer an amended consent agreement including a Letter of Reprimand, a Stayed Suspension/Probation, imposing an administrative penalty in the amount of \$500, and imposing the cost of investigation in the amount of \$859. The amended agreement also included administrative changes offered by AAG Michael Raine. Failure to sign the Consent Agreement within 30 days will result in a formal hearing. Mr. Lane seconded the motion. No further discussion; motion carried.

E. Complaints Requiring Board Guidance:

1. P15-003, Dustin Curtis, Architect #23470 – Mr. Dustin Curtis addressed the Board regarding the disciplinary action taken against him by Nevada and the resulting actions taken against him by Mississippi and Missouri. Mr. Jones asked if Mr. Curtis paid the fines to Nevada and Mississippi. Mr. Curtis stated he had paid the fines levied against him. Mr. Jones voiced concerns about Mr. Curtis failing to disclose the investigations into his practice on his application in Mississippi. Mr. Lane moved to dismiss the complaint. Mr. Brady seconded the motion. No further discussion; motion carried.
2. P15-012, Charles C. Kelley, RLS #37039 – Ms. Cornelius explained that Staff had been unsuccessful in their numerous attempts to gain a response from Mr. Kelley on the issue. Mr. Lane moved to offer a Consent Agreement including a Letter of Reprimand, imposing an administrative penalty of \$1,000,

imposing the cost of investigation, and a Stayed Suspension. Failure to sign the Consent Agreement within 30 days will result in a Formal Hearing. Mr. Noel seconded the motion. The Board directed staff to send Consent Agreement via certified mail. No further discussion; motion carried.

3. P15-014, Robert V. Nangia, P.E. (Structural) #48411 – Mr. Madison moved to issue a Letter of Concern stating that Mr. Nangia will need to follow the laws and rules of the State of Arizona. Mr. Noel seconded the motion. No further discussion; motion carried.
4. AL15-007, Gregory A. Rice, Non-Registrant owner of Young Alarm, Inc., Non-Registrant Firm – Ms. Cornelius stated that it appeared that Mr. Rice was well aware of the statutes requiring alarm firms to be regulated by the Board but that Mr. Rice had refused to comply. Mr. Madison moved to proceed to a Formal Hearing. Mr. Jones seconded the motion. No further discussion; motion carried.

## 7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

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

1. Osman, Ibrahim, Structural Engineer Application # 150022 – Mr. Madison stated that Mr. Osman was a Civil Engineer that was disciplined by the Board for practicing Structural Engineering and had taken and failed the SE exam nine times. Mr. Madison also stated that it appeared the experience documented Mr. Osman seemed inadequate. AAG Michael Raine stated that, since he had a Consent Agreement with the Board already, the Board could deny his application for Civil Engineering based on this previous unprofessional conduct. Mr. Madison moved to authorize Mr. Osman to take and pass the NCEES Structural Engineer exam before being issued a Structural Engineer registration in Arizona. Mr. Lane seconded the motion. No further discussion; motion carried.
2. Zhao, Yun, Civil Engineer Application # 140531 – Ms. Cornelius explained that this case was the reason why the Board would later discuss honoring the “Canadian Accord.” Ms. Cornelius explained that Mr. Zhao was awarded a license in Canada but the Canadian exam doesn’t test for too many of the things that the NCEES exam tests for and he doesn’t technically qualify for the experience waiver because he hasn’t been licensed long enough. Mr. Madison asked if there needed to be a Board action in this case. Ms. Cornelius explained that the Board could authorize Mr. Zhao to take the NCEES exam to prove he has the knowledge needed to be a registrant in Arizona. Mr. Brady moved to authorize Mr. Zhao to take the exams through

NCEES. Mr. Lane seconded the motion. No further discussion; motion carried.

- B. Review, Consideration and Action to Accept, Modify or Reject the Administrative Law Judge's Recommendation – There were no ALJ recommendations at this meeting.
- C. Applicants that Fail to Disclose Criminal History on Their Applications:
  - 1. Sherwood, David, Alarm Agent Application #142289 – Ms. Cornelius read a letter Mr. Sherwood wrote in response to the Board. In the letter, Mr. Sherwood stated differences between California's classifications of crimes compared to infractions. Mr. Sherwood's letter stated that he was convicted of infractions. AAG Michael Raine stated that Mr. Sherwood's statement isn't necessarily incorrect, but it is possible that the charge was pled down. Ms. Cornelius stated that the County of Los Angeles sent a letter stating that the records for Mr. Sherwood's case were purged. Mr. Marley stated the issue is whether these prior convictions would put the public at risk. Mr. Madison moved to grant certification to Mr. Sherwood. Mr. Brady seconded the motion. No further discussion; motion carried with Mr. Noel voting against the motion.
  - 2. Garcia, Gilbert, Alarm Agent Application #142279 – Mr. Madison asked if Mr. Garcia had been contacted by Staff after the second conviction was found to allow Mr. Garcia to explain why he didn't disclose the conviction. Ms. Cornelius stated that Staff had obtained a response about the conviction Mr. Garcia had disclosed, but had no explanation from Mr. Garcia about the conviction he did not disclose. Mr. Noel moved to defer the application until the applicant has a chance to respond to why he didn't disclose the conviction. Mr. Madison seconded the motion. No further discussion; motion carried.
- D. Rescind EIT Registration Granted in Error and Applicant to Sit for the FE
  - 1. Canez, Isaac, EIT # 011885, Civil Application #150101 – Mr. Lane moved to rescind the registrant's EIT designation and to allow Mr. Canez to sit for the FE. Mr. Brady 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.

Ms. Cornelius asked the Board to pull Mr. Jeffery Turville (Civil Engineer Application #140980) and Mr. Marley asked to pull Mr. Robert Oikarinen (Civil Engineer application #140428) from the consent agenda.

Mr. Lane moved to approve the April 1, 2015 consent agenda items 8.A.1-8.A.8 with the exception of Mr. Vaughn and Mr. Darvauex. Mr. Lane seconded the motion. No further discussion; motion carried.

## 9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

- A. Whether the Board can Honor the "Canadian Accord" – Ms. Cornelius explained that in September of 2008, members of the Board traveled to Canada and determined that Canadian registrants were equally qualified to Board registrants and asked the Board if they wanted to honor this accord or continue to review applications on a case-by-case basis. Mr. Madison asked if the Board even had the authority to enter into an agreement with Canada. AAG Michael Raine explained that what really matters is if the requirements in Canada are "substantially identical" to Arizona's requirements or not and, if not, the Board shouldn't honor an accord. Mr. Madison stated it might be a good idea to contact NCEES to see if they have taken any new standpoints on if the Canadian exams are equivalent to theirs. The Board directed staff to continue to review these applicants on a case-by-case basis.

- B. Possible Locations for the Board's Strategic Planning Meeting – Mr. Brady asked if Staff had contacted the City of Flagstaff to see if the city's town hall would be available. Ms. Cornelius stated that staff would look into reserving the town hall. The Board directed staff to look at venues for a Friday in early July and get firm costs.

## 10. DIRECTOR'S REPORT

- A. Budget Update – Ms. Cornelius reported that with 67% of the FY15 budget year elapsed, the Board has spent 58% of the Board's appropriation and 93% of the Board's revenue.
- B. Staff Update – Ms. Cornelius reported that the Board's Licensing Manager position is now open and that the Board will be looking to fill that position. Ms. Cornelius introduced Michael Raine, who is now the Board's assigned Assistant Attorney General.
- C. Previous Meeting Follow-Up – Ms. Cornelius reported that she sent out letters to approximately 95 current Engineer EAC members regarding an application review committee and that she had received 40 responses. Ms. Cornelius stated she scheduled an orientation meeting on April 17<sup>th</sup>.

Ms. Cornelius reported that the Board's RFP closes April 21<sup>st</sup> and she was impressed by some of the vendors making proposals.

- D. Director's Meetings – Ms. Cornelius reported that she and Doug Parlin met with representatives from APLS on February 27, 2015, and discussed many issues, including their desire to raise the requirements for Land Surveyor registration to 96 months.

Ms. Cornelius reported that she attended NCARB's Regional Meeting in Long Beach, CA from March 11 to March 15, 2015. At the meeting, as Chair of the MBE Committee, she welcomed everyone, reviewed committee charges, facilitated roundtable discussions, and presented a 90 minute session on the new member Board Member Orientation Manual she has been helping to draft.

Ms. Cornelius reported that she attended a national association meeting representing the membership of CLARB on March 20, 2015, in Washington, D.C. and that the Board has been invited to join a pilot program. Ms. Cornelius reported that Ms. Pritzl presented a lecture to engineers attending the LEAP conference in Phoenix on March 20, 2015 in Ms. Cornelius' place.

- E. Legislative Update – Ms. Cornelius advised that HB 2127, which would allow the Board to delegate power to the Executive Director to approve certain applications, passed through the legislature and was awaiting signature from the Governor.

Ms. Cornelius advised that the Alarm Industry bill, HB 2504, died in Caucus in the House but that ACEC and AIA would help the Board try to pass legislation next year to transfer regulatory authority of the alarm industry to DPS. Ms. Cornelius also advised that drug lab bill, SB 1062, died in the legislature but that ADEQ is willing to work with the Board over the summer to draft legislation to transfer regulatory authority next session.

11. **BOARD CHAIR'S REPORT** – Mr. Marley reported that he and Mr. Brady attended the NCARB meeting in Long Beach. Mr. Marley shared that NCARB seems to be facing some push-back from the Broadly Experience Architect (BEA) program. Ms. Cornelius stated that Mr. Marley was elected to serve as Secretary Treasurer for WCARB.

## 12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – Mr. Marley reported that L&R sent a SPS back to the Board. Mr. Lane reported that L&R had a discussion based on a magazine article on whether or not discovery reports should be considered practicing surveying.
- B. Home Inspector Rules and Standards Committee – Mr. Madison reported that the committee was discussing the changes to the severity ranges used by the EAC committee. Mr. Madison also reported that the committee voted to make some grammatical changes to the standards of practice for home inspectors.
- C. Environmental Remediation Rules and Standards Committee – Nothing new to report.

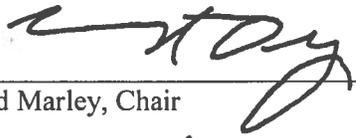
## 13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. National Council of Examiners for Engineering and Surveying (“NCEES”) – Mr. Madison reported there would be a NCEES meeting in Scottsdale in May.
- B. National Council of Architectural Registration Boards (“NCARB”) – Mr. Marley reported that the NCARB Annual Meeting in New Orleans on June 17-20, 2015.
- C. Council of Landscape Architectural Registration Boards (“CLARB”) – Ms. Cornelius reported that the Board would be visited by a representative in May about the pilot program.
- D. National Association of State Boards of Geology (“ASBOG”) – Nothing new to report.
- E. Public Member News/Information – Mr. Folk being absent, there was nothing new to report.

14. **FUTURE BOARD MEETINGS** – Tuesday, April 28, 2015 at 9:00 a.m.

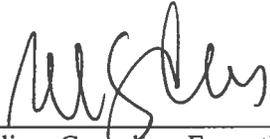
15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS** – Mr. Madison asked to have a discussion on what constitutes a “bona fide employee.” Mr. Marley stated he would like to have the L&R Committee to have a detailed discussion about some of the ambiguities in some of the Board’s laws and rules. Mr. Jones asked to have the Board discuss whether record drawings need to be sealed and on architect supplement instructions. Mr. Marley asked to have the proposed NCARB resolutions to be added to the Board’s May agenda.

16. **MEETING ADJOURNMENT** – 1:05 p.m.



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Ed Marley, Chair



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Melissa Cornelius, Executive Director