

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

**Tuesday April 24, 2018**  
9:00 a.m.  
OPEN SESSION

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL - Present:** Dr. Alejandro Angel was present but left at 11:44am. Stephen Noel, Jason Foose, Neal Jones, Eugene Montgomery, Andrew Everroad, Jason Madison, Jack Gilmore, Edward Marley  
**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, March 27, 2018 Board meeting minutes.

Mr. Marley moved and Mr. Noel seconded to approve the minutes; motion carried. Dr. Angel abstained.

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

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes; motion carried. Dr. Angel abstained.

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 on Motion for Rehearing Consideration

1. P17-045, Christopher DePrima, Case Number 17F-P14-045-BTR-RES

Applicant did not appear before the Board and was not represented by legal counsel. Scott Donald, A.G., appeared before the Board on behalf of the State. Seth Hargraves,

A.G., appeared before the Board to provide legal advice to the Board.

Mr. Donald argued that Applicant had set forth no grounds upon which a rehearing should be granted and he asked the Board to deny Respondent's request for rehearing.

Mr. Foose moved and Mr. Jones seconded to deny rehearing; motion carried.

**B. Formal Administrative Hearing and/or Review, Discuss and Take Possible Action on Motion to Deem**

**1. P17-018, Michael Sanchez, Non-Registrant**

Respondent did not appear before the Board and was not represented by legal counsel. Scott Donald, A.G., appeared before the Board on behalf of the State. Seth Hargraves, A.G., appeared before the Board to provide legal advice to the Board.

In his opening statement, Mr. Donald argued that the Board attempted service through certified mail and personal service but failed to contact Respondent. He therefore asked the Board to grant the State's motion to deem.

Mr. Marley moved and Mr. Foose seconded to grant the State's motion and deem the allegations in the Complaint and Notice of Hearing as admitted.

Mr. Everroad moved and Mr. Gilmore seconded to adopt the Factual Allegation and the Alleged Violations from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law; motion carried.

In his closing argument, Mr. Donald argued that Respondent violated Board rules and statutes when he practiced a Board regulated profession in Arizona without registration and asked the Board to impose the maximum fine possible.

Mr. Marley moved and Mr. Foose seconded to issue the following Order: Respondent shall pay a civil penalty in the amount of \$14,000, cost of investigation, and legal costs; motion carried.

Board directed staff to inform California of the Board's decision.

**6. ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

**A. Complaints Proposed for Resolution by Dismissal or Closure:**

**1. P17-062, Peter Proffit, P.E. (Civil) #39516 (Companion Case with P17-063)**

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

2. P17-063, Jaimini Upadhyaya, P.E. (Civil) #51369 (Companion Case with P17-062)

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

3. P17-065, Jay Schoneman, Non-Registrant

Dr. Angel asked if Respondent's firm was registered. Investigator Hunt answered 'yes'.

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

B. Complaints Proposed to Offer Consent Agreement:

1. HI18-011, Robert Bauer, C.H.I. #60983

Respondent appeared before the Board. Alleger, John David, appeared telephonically.

Respondent indicated that Mr. David filed a claim with his insurance, which the insurance company denied, and took him to small claims court, which ruled in Respondent's favor. He asked the Board to remove the restitution payment to Alleger from the proposed consent agreement.

Mr. Gilmore asked why Respondent's home inspection had so many violations. Respondent stated that he did not have an example of a completed home inspection report and therefore had to create his own from scratch and the computer program he used had an error, which he subsequently corrected. He also stated that he did not know he was doing anything wrong. Dr. Angel stated that it was a registrant's responsibility to know the rules of his profession and he opined that the restitution remain in the proposed consent agreement. Mr. Marley disagreed. Mr. Montgomery asked if restitution included damages. Board members answered 'no'. Mr. David indicated that he spent money to fix issues with his home, the small claims court did not rule in his favor, and that he asked to drop the case against Respondent. Mr. Donald asked Mr. David if he had asked for the home inspection fee in small claims court. Mr. David answered 'yes'. Mr. Donald informed the Board that since the small claims court judge ruled that Respondent did not owe Mr. David the inspection fee, the Board could not overturn that ruling.

Mr. Foose moved and Mr. Marley seconded to offer the consent agreement but remove item five regarding restitution and, if not signed within 30 days, forward to formal hearing; motion carried.

2. P18-034, Michael Glancy, Non-Registrant

Mr. Marley opined that the proposed civil penalty was too low.

Mr. Marley moved and Mr. Noel seconded to offer the consent agreement but raise the Civil Penalty to \$2000; motion carried.

3. HI17-035, Robert Walsh, C.H.I. #62775

Dr. Angel expressed concern that staff reevaluated the EAC severity rating for this matter. Ms. Pritzl explained that the EAC meeting for this matter occurred during a transitional phase where staff was updating severity rating and EAC procedures, which led to a lower severity rating than was warranted in this matter.

Mr. Everroad moved and Mr. Gilmore seconded to offer the consent agreement and, if not signed within 30 days, move to formal hearing; motion carried.

4. P18-032, Don Weston Jolley, R.A. #30779

Allegers, Sue Ridenhour and Kevin Smith, appeared before the Board. Respondent appeared before the Board.

Ms. Ridenhour explained that Respondent was not cooperative or communicative and did not do the work. Respondent disagreed with Allegers allegations. Dr. Angel asked Respondent to clarify why he did not respond to the Board's subpoena. Respondent stated that he prepared an answer and thought he had sent it, but forgot. Mr. Jones asked for investigator Thacker's opinion. Mr. Thacker stated that he believed Respondent only became cooperative once he reviewed the proposed consent agreement and found the penalty fees excessive. Mr. Jones asked Mr. Smith whether Respondent informed him that he was working on three projects ahead of his project. Mr. Smith answered 'no'. Respondent stated that Mr. Smith kept changing the work order and thereby prevented Respondent from being able to work on the project. Dr. Angel asked if Respondent sent any documentation of work completed to Allegers. Allegers' answered 'only the single site plan'. Mr. Jones commented that Respondent should have been more proactive. Dr. Angel asked if Mr. Smith signed an agreement with Respondent. Mr. Smith did not recall. Respondent indicated that he presented three different agreements to Mr. Smith but Mr. Smith did not sign them since he changed the work order each time. Investigator Thacker stated that no signed agreement existed.

Dr. Angel expressed his concern that Respondent's failure to respond to investigator Thacker's requests for documentation and the Board's subpoena suggested that the Board could not regulate him. Dr. Angel asked Respondent to clarify to the Board how the Board could regulate him. Respondent stated that at the time of the investigation he no longer wished to deal with Alleger and thought he had sent an answer to the subpoena.

Mr. Madison moved and Mr. Marley seconded to offer a consent agreement encompassing the following; Letter of Reprimand, Stayed Suspension and Probation, Administrative Penalty in the amount of \$2000, Cost of Investigation in the amount of \$655.00 and restitution to client in the amount of \$500; motion carried. Dr. Angel and Mr. Jones voted Nay.

Break at 10:26am. Returned at 10:31am.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. HI18-001, Larry Swanson, C.H.I. #50101

Respondent appeared before the Board.

Mr. Marley moved and Mr. Foose seconded to accept the signed consent agreement; motion carried.

2. HI18-002, Steven Gillespie, C.H.I. #47256

Mr. Foose moved and Mr. Marley seconded to accept the signed consent agreement; motion carried.

D. Compliance Monitoring Investigations:

1. P15-034, P15-072, P17-075, Victor Fontes, Non-Registrant

Ms. Pritzl and Ms. Cornelius suggested that the Board seek an injunction in this matter. Dr. Angel asked if Respondent fulfilled his obligations in his previous consent agreements besides the assurance of discontinuance. Investigator Hunt answered 'yes'.

Mr. Foose moved and Mr. Noel seconded to seek an injunction; motion carried.

E. Reconsideration of Prior Board Action.

1. P17-096, Bret Thorne, Non-Registrant

Respondent appeared before the Board with counsel, Spencer Proffitt. Alleger's counsel, John Cline, appeared before the Board.

Mr. Proffitt stated that if the Board accepted the counter proposed consent agreement Respondent would sign that day. Mr. Cline asked the Board to not accept the counter consent agreement. Mr. Proffitt explained that the counter agreement detailed Respondent's conduct in a manner that would not prevent Respondent from performing his function as a consultant but retained language stating that he violated statutes.

Mr. Marley moved and Mr. Everroad seconded to offer a revised Consent Agreement, based off of the original consent agreement the Board offered, encompassing the following: removal of the first sentence of paragraph 7 of the Findings of Fact; assurance of discontinuance, Civil Penalty in the amount of \$4000, cost of investigation, and move to formal hearing if not signed in 30 days; motion carried. Mr. Foose voted Nay.

F. Review and Approval of Appointment for EAC Membership:

1. Anthony Cucci, C.H.I. #62736

Mr. Foose moved and Mr. Jones seconded to approve appointment; motion carried.

**7. LICENSING MATTERS**

Discussion, Consideration and Vote on the following:

*Whether to Grant or Deny Registration after Full Board Review*

- A. Haywood, Adam- Application to sit for PS Exam #180671

Applicant appeared before the Board.

Mr. Marley moved and Mr. Foose seconded to allow Applicant to sit in for the PS exam.

**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. Jones moved and Mr. Marley 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. Holding a Strategic Planning Meeting and Continuing Community Outreach.

Ms. Cornelius asked Board Members whether they wished to continue with the current plan. Board Members answered 'yes'. Board Members indicated they wished to be more involved with professional organizations that cater to the registrant population and would like to see staff participate in Strategic Planning Meetings.

- B. Approval to publish Spring 2018 edition of the Newsletter.

Mr. Marley moved and Mr. Gilmore seconded to approve publication of the Newsletter.

- C. Home Inspector Temporary Resource for Evaluation of Home Inspector Applications/Inspection Reports.

Ms. Pritzl and Mr. Madison explained that during certain times of the year, when home inspectors were busiest, home inspector applications could back up and hiring a temporary worker to evaluate applications and reports could alleviate this issue. No action required.

- D. Home Inspector Enforcement Advisory Committee Investigation Severity Rating Guidelines (no action required).

Ms. Cornelius explained that the new rating system was for guidance only and a new policy statement was not needed. She stated that a meeting with home inspector EAC members would occur in the near future to discuss the new guidelines.

- E. Financial Issues regarding Computer Needs. (Executive Session may be necessary.)

Ms. Cornelius reported that the business relationship between the Board and GL solutions had ended.

Dr. Angel moved and Mr. Marley seconded to enter executive session to discuss a confidential matter at 11:27am. The Board reentered public session at 11:44am.

## 10. DIRECTOR'S REPORT

- A. Budget Update – Nothing discussed
- B. Previous Meeting Follow-Up, specifically regarding the Computer System (GL System Breach, Staff leaving employment, National Council News)

The GL system issued was discussed under agenda item 9e.

- C. Legislative Update (HB2207, HB2238, HB2523, SB1273, SB1436)

Ms. Pritzl reported that SB1273, SB1436, HB2207, and HB2238 would become law.

- D. Statistics Review – Nothing discussed

## 11. BOARD CHAIR'S REPORT – Nothing to Consider

**12. STANDING COMMITTEE REPORTS**

- A. Legislation and Rules Committee – Ms. Cornelius suggested the L&R committee discuss, draft, and/or review a registrant compact endorsement statute.
- B. Home Inspector Rules and Standards Committee – Report on April 18, 2018 HIRSC Meeting.

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

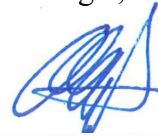
- A. ASBOG – Annual meeting in Monterrey, California.
- B. CLARB – Annual meeting Toronto, Canada in September 2018.
- C. NCARB – Annual meeting in Detroit, Michigan in June 2018.
- D. NCEES – Mr. Foose reported on the Western Zone meeting in Honolulu Hawaii. Annual meeting in Scottsdale, AZ in August.

**14. FUTURE BOARD MEETINGS – May 22, 2018**

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

**16. MEETING ADJOURNMENT – 12:31pm**

Dr. Alejandro Angel, Board Chairman



Melissa Cornelius, Executive Director

