

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

Tuesday May 23, 2017
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL** – Jason Madison, Stephen Noel (left at 12:57pm), LeRoy Brady, Jason Foose, Neal Jones, Eugene Montgomery, Andrew Everroad, Dr. Alejandro Angel
Absent: 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 April 25, 2017 Board meeting minutes.

Dr. Angel moved and Mr. Brady seconded to accept the minutes and asked Staff to verify the accuracy of the resolution for agenda item 6c1; motion carried.

- B. Approve, modify and/or reject April 25, 2017 Executive Session meeting minutes.

Mr. Brady moved and Mr. Noel seconded to accept the minutes with minor corrections; motion carried. Mr. Foose abstained.

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

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

- A. Review, Discuss and Take Possible Action on Proposed Consent Agreement in Lieu of Hearing:

1. P15-073, Van McDonald, R.L.S. #05357

Scott Donald, A.A.G., appeared before the Board representing the State. Respondent did not appear before the Board. Marc Harris, A.A.G., appeared before the Board to advise the Board.

Scott Donald suggested that the Board accept the signed consent agreement.

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

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. AL17-018, Jacob Ellsworth, A.A. #59150

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

2. P17-024, Najib Monsif, P.E. (Civil) #47525

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

3. P17-080, Van McDonald, R.L.S. #05357

Mr. Foose moved and Dr. Angel seconded to administratively close the complaint; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P17-029, Charmagne Moran, P.E. (Mechanical) #39173

Respondent appeared before the Board without Counsel. Alleger, Karl Ivanoff, appeared before the Board.

Mr. Montgomery asked Respondent why she trusted the data given to her. Respondent stated that the data originated from another professional, which was legal to use under Arizona Statutes. Dr. Angel asked if the owner installed the sub pump. Respondent stated that to her knowledge yes. Alleger stated he purchased the pump relying upon the expertise of the professionals he had hired. After asking Respondent and Alleger questions regarding Respondent's decisions and actions, Dr. Angel opined that Respondent did not act within her due diligence or apply the appropriate technical knowledge and skill as a professional. Mr. Jones and Mr. Madison opined that because a fellow contracted licensed professional gave her the data she requested, she could trust and use the data. Mr. Montgomery opined that Respondent should have noted the origin of the data on her work.

Dr. Angel moved and Mr. Montgomery seconded to offer a consent agreement consisting of the following: Respondent shall be issued a Letter of Reprimand, pay a \$500 Administrative Penalty and costs of investigation, and if not signed in 30 days refer to formal hearing; motion failed. Dr. Angel voted Yay.

Mr. Montgomery moved and Mr. Everrroad seconded to issue a Letter of Concern; motion carried. Dr. Angel voted Nay.

2. HI16-028, Michael Schuette, C.H.I. #42290

Dr. Angel moved and Mr. Brady seconded to issue a Letter of Concern; motion carried.

3. HI17-021, Jesse Phinizy, C.H.I. #46930

Dr. Angel moved and Mr. Brady seconded to issue a Letter of Concern; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. P17-034, Jerry Webster, R.L.S. #33881

Respondent appeared before the Board.

Respondent expressed his belief that a biased member of the EAC meeting embellished the severity of Respondent's violations.

Mr. Foose moved and Dr. Angel seconded to issue a Letter of Concern; motion carried.

2. P17-056, Bradley T. Dixon, P.E. (Civil) #36637

Dr. Angel opined that the proposed consent agreement was too lenient since Respondent's actions indicated he knowingly violated rules and statutes. Dr. Angel asked Mr. Donald if language could be added to the consent agreement that allowed disciplinary action if further allegations were raised. Mr. Donald answered that the Board would need to investigate any new allegations separately.

Dr. Angel moved and Mr. Noel seconded to revise the signed consent agreement to include a 90 day suspension, one-year probation, eight hours of ethics courses, Letter of Reprimand, \$3000 administrative penalty and costs of investigation, and if not signed within 30 days proceed to formal hearing; motion carried.

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

(10-minute break between 10:57am and 11:07am))

Respondent appeared before the Board with Counsel, John Condrey. Alleger appeared before the Board telephonically.

Mr. Condrey argued that the second EAC meeting members ignored the evidence Respondent provided, were incorrect in their findings, and embellished the severity of Respondent's violations.

After lengthy discussion, it became apparent that the Board members held a difference of opinion regarding this matter than did Respondent and counsel. Mr. Madison opined proceeding to a motion so a consent agreement or, more likely, a formal hearing could settle the matter.

Mr. Montgomery moved and Mr. Foose seconded to offer the signed consent agreement and if not signed within 30 days proceed to formal hearing; motion carried.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P17-077, Site Works, LLC, Non-Registrant Firm

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

2. P17-059, Jamie Richards, Non-Registrant

Alleger, Brian Fracasse, appeared before the Board.

Dr. Angel asked the investigator, Mr. Kraemer, if there was any new information. Mr. Kraemer answered no. Dr. Angel opined that the penalty fee was too low.

Mr. Jones moved and Mr. Foose seconded to accept the signed consent agreement; motion carried. Dr. Angel and Mr. Everroad voted Nay.

3. P17-023 and P17-070, Craig Smith, Non-Registrant

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

4. HI17-022, Martin Rosso, C.H.I. #50623

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

5. HI17-024, Digital Home Inspections, LLC, Firm #20313

Dr. Angel was concerned that Respondent firm's website could contain false advertising and asked if the firm practiced during the years prior to registration. The investigator, Mr. Kraemer, stated the investigation did not focus on that time period and therefore no information was available. Mr. Donald suggested further investigation. Mr. Noel asked whether Respondent firm's staff were registered. Dr. Angel indicated possibly not.

Dr. Angel moved and Mr. Everroad seconded to reject the signed consent agreement and send the case back for further investigation; motion carried.

E. Complaint Monitoring Investigations:

1. P17-014, William Carnell, R.A. #26986

Respondent appeared before the Board.

The investigator, Mr. Kraemer, stated to the Board that Respondent had complied with all the terms of his consent agreement. Mr. Madison asked Respondent why he complied only recently. Respondent stated it was a cash flow issue and he did not have a good excuse as to why he failed to finish his ethics training sooner.

Mr. Foose moved and Mr. Jones seconded to terminate the Order; motion carried.

F. Complaints Requiring Board Guidance:

1. P17-079, Steve Lambert, Non-Registrant

Mr. Jones opined that he found the Respondent's work below standards and his communication with Staff unprofessional, but he did not see any indication that Respondent had made himself out to be an architect.

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

2. P17-057, David Klein, R.L.S. #42137

Respondent appeared before the Board. Alleger, Jerry Webster, appeared before the Board.

Mr. Foose opined that this was a boundary dispute. Dr. Angel asked why an EAC did not meet to discuss this case when the two evaluators came to opposite conclusions. The investigator, Jeff Hunt, stated that the Board dismissed an identical case at the last Board Meeting.

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

G. Review and Approval of Appointment for EAC Membership:

1. R.L. Lawrence, R.L.S. #27246

Dr. Angel stated he knew Applicant but could be fair and impartial.

Mr. Brady moved and Mr. Foose seconded to approve EAC Membership; motion carried.

7. **LICENSING MATTERS**

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Request for Extension of Licensing Timeframes

A. Brian Crawford, Sit for ARE. Application # 152654

Mr. Jones moved and Mr. Foose seconded to grant timeframe extension of six months; motion carried.

Whether to Authorize Exams or Deny Application

Criminal History

B. Carlton, Jonathan, Land Surveyor Application #162924

Mr. Foose moved and Mr. Everroad seconded to authorize Applicant to sit for the State specific exam, motion carried.

C. Perkins, Thomas Sit for PE Exam Application #162943

Dr. Angel moved and Mr. Foose seconded to authorize Applicant to sit for the PE Exam; 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;

Dr. Angel moved and Mr. Jones seconded to cancel registrations and certifications that have 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. Legislative Update

SB 2372: Initial application fee waiver – Ms. Cornelius reported applicants who fall below 200% of the federal poverty line will not have to pay an initial application fee. However, she did not know what were determined to be initial applications under the Bill; what determined an applicant's financial status; and whose burden it was to prove the applicant's financial status. Mr. Donald stated that the AGs office was looking into it. Mr. Stam reported that this could mean a considerable loss in revenue at the BTR.

SB 1186: Alarm Fingerprint Card – Ms. Cornelius reported that alarm agents will renew every three years instead of every two years and will submit clearance cards rather than fingerprint cards. Mr. Stam reported that this would result in loss of revenue but a large reduction in overhead at the BTR.

B. Draft Response to Executive Order 2017-03

Board members discussed the draft and made recommended changes. The Board directed staff to make the changes for review at the next meeting.

C. Boundary Surveys and the Board's Jurisdiction

Stan Dickey R.L.S. and Michael Fondren R.L.S. appeared before the Board to participate in the discussion.

Through discussion, Board members and the professional surveyors in the audience concluded that a difference of opinion regarding boundary disputes does not fall under the jurisdiction of the Board and should be resolved through civil proceedings. However, the group did identify the following exceptions: (1) when a boundary survey does not meet the boundary survey minimum standards, or, (2) the surveyor conducting the survey did not apply the technical knowledge and skill that would be applied by other qualified registrants who practice the same profession in the same area and at the same time. If either exception were true, the Board agreed they had jurisdiction over the boundary survey(s) in question and could make a determination as to which survey, if any, was to be relied upon.

D. Board Member Training

Board members discussed allocating time for Board member training during Board meetings. They decided to allocate an hour a quarter to member training.

- E. HB 2372: Whether to request a Formal Attorney General Opinion and whether to request a Waiver of the Rules Moratorium and Discussion about Licensing Fees

Mr. Donald suggested waiting to make a request since the AG office was already looking into the matter.

Dr. Angel moved and Mr. Everroad seconded to agendize for next Board Meeting; motion carried.

- F. Authorizing attending Architect Board members to vote for officers and on resolutions based upon available evidence and as they see fit at Annual NCARB meeting in June 2017.

Everroad moved and Noel seconded to authorize Architect Board members to vote for officers and on resolutions based upon available evidence and as they see fit at Annual NCARB meeting in June 2017.

10. DIRECTOR'S REPORT

- A. Budget Update – Ms. Cornelius reported that with 83% of the budget year elapsed, the BTR has spent 62% of its appropriation and 88% of our its revenue; the State Budget passed on May 2, 2017; and the BTR's budget for FY18 is \$2,204,400.
- B. Previous Meeting Follow-Up – Ms. Cornelius reported that it was doubtful that GL Solutions would be able to deliver a finished product to the AZBTR before the end of the fiscal year. The appropriated funds to pay GL would therefore revert and the AZBTR would be unable to pay GL. Staff have discussed solutions with GL and DOA.

11. BOARD CHAIR'S REPORT – Nothing to report

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – Nothing to report
- B. Home Inspector Rules and Standards Committee – Meeting June 6, 2017

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Nothing to report
- B. CLARB – Nothing to report
- C. NCARB – Nothing to report
- D. NCEES – Ms. Pritzl, Mr. Montgomery, and Mr. Foose attended the zone meeting in Denver in May. The annual meeting will take place in Miami in August.

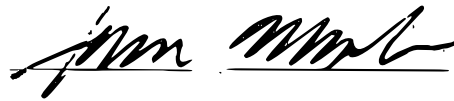
14. **FUTURE BOARD MEETINGS** –June 27, 2017

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

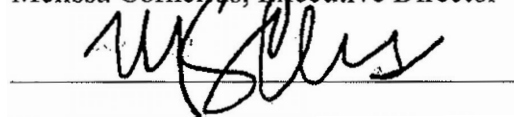
9e. GL Solutions update

16. **MEETING ADJOURNMENT** – 1:15pm

Jason Madison Chairman

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

Melissa Cornelias, Executive Director

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