

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

Tuesday August 29, 2017
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL** – **Present:** Jason Madison, Stephen Noel, Jack Gilmore, Jason Foose, Neal Jones, Eugene Montgomery, Andrew Everroad,
Not Present: Edward Marley, 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 July 25, 2017 Board meeting minutes.

Mr. Noel moved and Mr. Gilmore 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. Review, Discuss and Take Possible Action on Proposed Consent Agreement in Lieu of Hearing:

1. P17-045, Christopher Deprima, P.E. (Civil) #48220

Respondent appeared before the Board. Scott Donald, A.A.G, appeared before the Board representing the State. Seth Hargraves, A.A.G., appeared before the Board to provide legal guidance.

Respondent stated that even though he signed the consent agreement before the Board, he wished to keep his registration and sign the previously offered consent agreement. Mr. Donald explained that the Board offered Respondent a consent agreement that would have allowed him to remain registered, but that consent agreement had since expired. Further, Mr. Donald stated that Respondent, by law, could not rescind acceptance of the

consent agreement after signing it, regardless of whether the Board had had a chance to review and accept it. Mr. Donald asked the Board to accept the signed consent agreement.

Respondent asked if he could reapply for registration after voluntarily surrendering his registration. The Board answered yes.

Mr. Hargraves asked the Board to include language vacating the Respondent's pending hearing in the motion.

Mr. Foose moved and Mr. Everroad seconded to accept the signed consent agreement and vacate the pending hearing; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P16-074, Carlos Padilla, R.L.S. #46474

Mr. Foose recused himself.

Mr. Jones moved and Mr. Everroad seconded to administratively close without prejudice the complaint; motion carried.

2. P17-012, Carlos Padilla, R.L.S. #46474

Mr. Foose recused himself.

Mr. Jones moved and Mr. Everroad seconded to administratively close without prejudice the complaint; motion carried.

3. P17-035, Carlos Padilla, R.L.S. #46474

Mr. Foose recused himself.

Mr. Jones moved and Mr. Everroad seconded to administratively close without prejudice the complaint; motion carried.

4. P17-037, Carlos Padilla, R.L.S. #46474

Mr. Foose recused himself.

Mr. Jones moved and Mr. Everroad seconded to administratively close without prejudice the complaint; motion carried.

5. P17-101, Carlos Padilla, R.L.S. #46474

Mr. Foose recused himself.

Mr. Jones moved and Mr. Everroad seconded to administratively close the complaint without prejudice; motion carried.

6. P17-046, Helmut Hammen, R.A. #32886

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

7. P17-081, Felix Steele, R.L.S. #28234

Allegers, Eric Gierst and Donna Gierst, appeared before the Board.

Allegers stated Respondent entered their property to conduct a survey without their permission and therefore Respondent was in violation of the Board's rules and standards. Allegers asked the Board not to dismiss or close this matter.

Mr. Foose asked Allegers if there was an easement on their land. Allegers answered yes, but stated that their neighbor hired Respondent to survey their entire property not just the easement. Mr. Foose asked if Respondent had stayed within the easement when conducting his survey. Allegers answered no.

Mr. Foose opined that the survey contract's language was contradictory with the law. Mr. Madison stated that state law supersedes contracts. Mr. Noel asked if Respondent conducted the survey within the standards of the profession. Mr. Foose answered no, and opined that the contract tried to circumvent the law. Ms. Cornelius asked Mr. Parlin why staff suggested dismissing the case. Mr. Parlin answered that the suggestion was assessor driven. Mr. Jones asked if this was a civil matter. The Board answered it was both a civil and administrative matter.

Mr. Foose moved and Mr. Jones seconded to offer a consent agreement encompassing a letter of reprimand, \$1000 fine, cost of investigation, and if not signed in 30 days have the matter sent to hearing; motion carried.

8. P18-004, Lawrence Dalton, Non-Registrant and Daltons Designs, Non-Registrant Firm

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

B. Complaints Proposed for Resolution by Letters of Concern:

1. P17-099, Mark Davenport, R.A. #45840

Respondent appeared before the Board.

Mr. Everroad moved and Mr. Gilmore seconded to issue the proposed Letter of Concern; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. P17-031, Vincent Catalano, R.A. #23463 and VVC Design, PLLC, Firm #20008

Respondent appeared before the Board.

Respondent asked the Board to reduce the administrative penalty in the proposed consent agreement because he was unaware that his 28-year-old business needed to be registered and his perpetrated violations were minimum in severity.

Mr. Noel asked if Respondent designed the garage in question. Respondent answered no, but he stated that he assumed the wall near the garage represented the property line, which he admitted was a mistake. Mr. Jones asked Respondent why he did not suggest that the property owner conduct a land survey. Respondent answered that it seemed to be an unneeded expense for a job of this nature and he assumed the wall was the property line. Mr. Madison asked if the carport was an addition to the house. Respondent answered that there were no records and therefore he did not know the answer to the question. Mr. Jones stated that he understood why Respondent came to his conclusions and opined that the administrative fees were excessive. Mr. Everroad stated that \$500 was the usual amount a registrant paid for having an unregistered firm and therefore the question was to determine the amount of the penalty fee for the technical violation. Mr. Montgomery asked Mr. Jones if it were customary in a matter such as this to ask the client to pay for a land survey. Mr. Jones answered yes, but stated he understood the Respondent's actions.

Mr. Jones moved and Mr. Gilmore seconded to offer the proposed consent agreement encompassing a Letter of Reprimand, cost of investigation and an administrative penalty of \$250; motion carried. Mr. Montgomery, Mr. Foose and Mr. Everroad voted Nay.

2. HI17-028, Vince Sferruzza, C.H.I. #60003 and Property Pro Home Inspection, Firm #20546

Respondent appeared before the Board with counsel, Gregg Gibbons.

In light of Mr. Gibbon's late submission of his written argument, Mr. Everroad suggested tabling this matter for a future meeting. Mr. Gibbons informed the Board that Respondent would agree to that.

Mr. Everroad moved and Mr. Foose seconded to table this matter for next month's meeting; motion carried.

After the vote, Mr. Gibbons asked if he could continue discussing a possible settlement with staff in the interim. The Board answered yes.

3. P17-098, Duane DeLarco, Non-Registrant and First American Solar Technology, Non-Registrant Firm

Respondent appeared before the Board with counsel, Justin Castillo. Respondent signed a consent agreement prior to the Board meeting.

Mr. Castillo indicated that Respondent intended to apply for licensure in the near future and he asked the Board if Respondent hypothetically received licensure and complied with the Board Order, was there a chance the Board would forgive the remainder of the fees. Ms. Cornelius answered yes; Respondent may ask the Board in such a situation to make a decision regarding Respondent's remaining compliance obligations. Mr. Castillo asked when Respondent could request the Board to waive remaining civil penalties. Ms. Cornelius answered that there was no time requirement.

Mr. Madison expressed concern over Respondent's actions and reminded the Board of said actions. Mr. Castillo reassured the Board that Respondent intended to fulfill his obligations. Ms. Cornelius reminded the Board of the staff's recommendation to send this matter to the criminal division of the Attorney General's office for investigation. Mr. Montgomery asked if Respondent was minimally competent to complete the work he had sealed. Ms. Cornelius answered that Respondent was not registered and therefore he had not proven to the Board he possessed minimum competency. Mr. Donald indicated that if the Board sent the matter to the Attorney General's office for investigation, it did not mean the Attorney General's office would necessarily prosecute Respondent.

Mr. Everroad moved and Mr. Foose seconded to approve the signed consent agreement and refer this matter to the Attorney General's office for investigation; motion carried.

The Board directed staff to open complaint investigations on Land Garret, P.E. #06326 and Fred Riggs, P.E. #45685.

After the vote, Mr. Castillo asked for a timetable of when this matter will be before the Attorney General's office. Mr. Donald answered he was unsure. Mr. Castillo asked if he would continue to be in contact with the investigator after the Board moves this matter to the Attorney General's office. Mr. Madison answered no; the Attorney General's office would take possession of the matter and they will provide a new contact.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. AL17-016, Krista Peru, A.C.P. #58676 and RK Marketing, LLC, Firm #18905

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

E. Review and Approval of Appointment for EAC Membership:

Mr. Madison opined that staff add additional language to the appointment notice explaining the Board's expectations of new appointees.

1. Craig Collier, C.H.I. #43520

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

2. Paul Hegreiness, C.H.I. #60229

Mr. Noel 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. Hartley, Sean- Alarm Agent Application #170403

Mr. Everroad moved and Mr. Foose seconded to grant registration; motion carried.

- B. Soto, Orlando – Alarm Agent Application #170771

Mr. Foose moved and Mr. Jones seconded to table this matter for the next meeting to question applicant; motion carried.

The Board took a break at 10:27am and returned at 10:35am.

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. Noel moved and Mr. Gilmore seconded to cancel registrations and certifications that have been expired for one full renewal period; motion

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. Conflicts, Prejudice, and Bias Workshop

Scott Donald presented the conflicts, prejudice and bias workshop and answered the Board's questions.

10. DIRECTOR'S REPORT

- A. Previous Meeting Follow-Up - Ms. Cornelius reported that the computer system was now live; the new system had bugs, which staff and the vendor were fixing; and, she planned to request funds from the Board's savings account to pay for future enhancements. Mr. Stam reported that the turnaround for alarm agent and controlling person applications appeared to be much faster after the new law went into effect. Ms. Cornelius reported that it was still not clear how the Board will implement the new fee waiver law; Ms. Cornelius officially acknowledged Adrianna Soto became an investigator; Douglas Kraemer might return as an employee in a reduced capacity; NCARB, CLARB, and NCEES may be pushing for an all-encompassing national certification in the future.
- B. Director's Meetings – Ms. Cornelius and Ms. Pritzl attended a meeting at the Governor's office regarding the Governor's executive order. Ms. Cornelius reported that the governor's office staff had not reviewed the Board's response and Board staff left the meeting unsure as to whether the Governor's office planned future deregulation legislation.

11. **BOARD CHAIR'S REPORT** – Mr. Madison reported that the Board position elections will take place at the September Board Meeting.

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – Nothing to report
- B. Home Inspector Rules and Standards Committee - Future meeting planned for September 7, 2017.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Meeting planned in Portland, Oregon in October.
- B. CLARB – Ms. Cornelius reported that she would participate in a telephonic meeting in September to discuss the CLARB budget. The CLARB annual meeting will be held September 13-16.
- C. NCARB – NCARB planned to celebrate their centennial and asked the Board to submit a short history of the Arizona Board of Technical Registration. Ms. Cornelius planned to participate in the NCARB telephonic regional engagement board meeting September 8, 2017.
- D. NCEES – Dr. Angel, Mr. Everroad, Mr. Foose, Ms. Cornelius and Ms Pritzl attended the meeting in Miami, Florida at the end of August 2017. Mr. Foose reported that a NCEES committee planned to create two different survey tests (PLS and Colonial) that would be reviewed at the next meeting; and, Wyoming and Nevada now share an application process where registrant’s receive dual registration once registered in either state. Ms. Pritzl reported she was disappointed in the drone presentation because it failed to address regulation of drone use in conducting land surveys.

14. FUTURE BOARD MEETINGS – September 26, 2017

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

Board member position elections.

16. MEETING ADJOURNMENT – 11:46am

Jason Madison Chairman



Melissa Cornelius, Executive Director

