

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

Tuesday December 11, 2018

9:00 a.m.

OPEN SESSION

1. **CALL TO ORDER** - 9:03 am

2. **ROLL CALL – Present:** Dr. Alejandro Angel, Jack Gilmore, Neal Jones, Jason Foose, Jason Madison, Carmen Wyckoff, Stephen Noel, Andrew Everroad and Eugene Montgomery.
Staff: Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Dolly Lucero

3. **CALL TO THE PUBLIC** – No members of the public addressed the Board.

4. **ADOPTION OF MINUTES**
Review, Consideration, and Possible Action on the following:
 - A. Approve, modify and/or reject, October 23, 2018 Board meeting minutes.
Mr. Noel moved and Mr. Gilmore seconded to approve the October 23, 2018 Board meeting minutes; motion passed unanimously.

 - B. Approve, modify and/or reject, October 26, 2018 Board meeting minutes.

Mr. Foose moved and Mr. Gilmore seconded to approve the October 26, 2018 Board meeting minutes with minor modifications; motion passed. Mr. Madison abstained.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**
Formal Hearings or Related Proceedings will begin at 9:30 a.m.

Nothing to consider.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal

1. HI18-018, Mark King, C.H.I. #38589

Mr. Jones moved and Mr. Foose seconded to consolidate agenda items 6A1 and 6A3 and dismiss; motion passed unanimously.

2. P19-012, Ron Darling, Non-Registrant

Mr. Montgomery expressed his concern that the word 'Architecture' was in Respondent's business letterhead. Dr. Angel observed that Respondent's business letterhead used 'Residential Architecture' and asked if this made a difference. Ms. Cornelius stated that the Board had found that the public could be deceived by the use of the word 'Architecture' on business letterheads in past matters. The Board members discussed pending this matter to gather additional materials for reevaluation.

No action taken.

3. HI19-009, Eric Kastanek, C.H.I. #58616

Mr. Jones moved and Mr. Foose seconded to consolidate agenda items 6A1 and 6A3 and dismiss; motion passed unanimously.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI18-029, Steven Juraszek, C.H.I. #38214

Mr. Foose moved and Mr. Gilmore seconded to consolidate 6B1 and 6B3 and issue letters of concerns; motion passed unanimously.

2. P19-006, Henry Krzysik R.A. #27907 and H.J. Krzysik, Architect, Firm #21438

Investigator Will stated that Respondent argued that he had always renewed timely and the Board never made him aware that his firm needed to be registered. Board members discussed that sole proprietorship and 'doing business as' designations required firm registration and suggested to staff to place language in newsletters, forms, etc. indicating such. Ms. Wyckoff opined that the Board should offer a consent agreement consisting of a penalty fee and a letter of reprimand in order to stay consistent with past Board decisions.

Ms. Wyckoff moved and Mr. Foose seconded to offer a consent agreement encompassing the following: issue a letter of reprimand, a \$500.00 administrative penalty, and if not signed within thirty days, move to formal hearing; motion passed unanimously.

3. HI19-015, Guy Minarsich, C.H.I. #42076

Mr. Foose moved and Mr. Gilmore seconded to consolidate 6B1 and 6B3 and issue letters of concerns; motion passed unanimously.

After the vote and later in the meeting, Alleger, Mr. Johnson, appeared before the Board and requested that the Board reopen the case and reconsider issuing Respondent a Letter of Concern. The Board granted Alleger's request and reopened case at 11:51 am.

Mr. Johnson stated Respondent incorrectly reported that the upstairs bathtub was in good working order and did so without testing it. Dr. Angel stated that Respondent provided the Board with pictures showing the bathtub was tested and he further stated that the Board received this complaint two years after the inspection making it difficult for the Board to corroborate either testimony. Mr. Johnston stated the time to submit a complaint was irrelevant and Respondent never shared photos of the bathtub with him. Investigator Loera stated that the EAC did not find the allegations substantiated, which prompted Ms. Loera to recommend the Board issue a Letter of Concern. Dr. Angel opined that there was no cause to rescind the Board's previous decision in this instance. Mr. Foose agreed.

No further action taken.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P19-004, Randel Jacob, R.A. #31971 and Randel Jacob Design Group, PLLC, Firm #16302 remove

Mr. Madison moved and Mr. Jones seconded to consolidate 6C1 and 6C3 and accept the signed Consent Agreements; motion passed unanimously.

2. P19-005, Jose Ceja, R.A. #50677 and EXA Architects, Firm #18632

Mr. Madison recused himself.

Mr. Gilmore moved and Mr. Everroad seconded to accept signed consent agreement; motion passed unanimously.

3. HI18-030, Eric Villaverde, C.H.I. #43394

Mr. Madison moved and Mr. Jones seconded to consolidate 6C1 and 6C3 and accept the signed Consent Agreements; motion passed unanimously.

D. Complaints Proposed to Offer Consent Agreement:

1. P18-064, Helmuth Hack, R.L.S. #32226

Respondent appeared before the Board.

Respondent addressed the Board and explained how he determined the center of the parcel in this matter. Dr. Angel asked Respondent why he failed to record the reason why he had rejected the monuments he found in the field. Respondent answered that it was common practice to use calculations as a means of explanation.

Mr. Foose stated that he found issues with the Findings of Fact. Dr. Angel asked Mr. Foose if he believed Respondent adequately explained why he had rejected the monuments he found. Mr. Foose answered 'yes.' Mr. Foose stated that the Alleger submitted this case based upon assumptions and subjective interpretations of the parcel he surveyed. Mr. Foose further stated that he believed that Respondent's survey met the minimum standards and opined that the Board should dismiss the case.

Dr. Angel stated that the EAC and assessors substantiated that Respondent did not meet the minimum standards. Mr. Foose stated that he disagreed with the EAC. Mr. Montgomery asked if this was a matter of a difference of professional opinion between the Alleger and Respondent. Mr. Foose answered 'yes.' Dr. Angel opined sending this matter back to the EAC for analysis and not voting to dismiss the case. Respondent stated he was disappointed in the EAC's view of Respondent's case materials. Mr. Montgomery asked if another EAC could be convened but with new members. Board members answered 'yes.'

Mr. Foose moved to dismiss the case and Mr. Noel seconded but, after the discussion, Mr. Foose withdrew his motion.

Mr. Gilmore moved and Mr. Montgomery seconded to send this matter to a new EAC panel to review the case; motion passed unanimously.

2. P18-047, Cesar Armenta, Non-Registrant and Matrix Architecture, LLC, Non-Registrant Firm.

Investigator Hunt stated that Respondent changed his firm's name when he became aware of this investigation. Mr. Montgomery asked how Alleger, Mr. Blake, lost control of his seal. Mr. Hunt answered that collaborators from past projects used the seal.

Mr. Foose moved and Mr. Jones seconded to offer the Staff recommended consent agreement and, if not signed within thirty days, proceed to formal hearing; motion passed unanimously.

E. Reconsideration of Prior Board Action:

1. HI19-011, Thomas Sullivan, C.H.I. #38636 and Inspec 10, LLC Firm #12474

Investigator Will stated that Respondent requested that the Board not assess him any penalty fees. Mr. Foose opined to offer the same consent agreement.

Mr. Foose moved and Mr. Jones seconded to reaffirm the consent agreement previously offered in October. After further discussion, Mr. Foose withdrew his motion.

Mr. Madison opined that the \$500 penalty was not consistent with similar cases and was therefore too high.

Mr. Madison moved and Mr. Gilmore seconded to offer Respondent a new consent agreement consisting of a letter of reprimand, a civil penalty of \$250.00, the cost of investigation and, if not paid within thirty days, move to a formal hearing; motion passed unanimously.

F. Compliance Monitoring Investigations:

1. HI17-031, Matthew Jenks, C.H.I. #44033

Respondent appeared before the Board in this matter.

Respondent stated that the spring 2018 rules prohibited him from performing parallel inspections, even though he had a good track record as a home inspector and parallel inspector up until last year's disciplinary action, and he asked if the Board could make an exception for him. Dr. Angel asked if the Board had any flexibility with the rule. Mr. Donald answered 'no.' Ms. Wyckoff asked what determined the start date of a disciplinary action. Mr. Donald answered the date Respondent signed the consent agreement determined the start date. Dr. Angel stated the Board could not take action but Respondent could make a request for a rule change through GRRC if he felt the rule overly burdensome.

No action taken.

2. P18-046, Charles Andrews, P.E. (Civil) #39473

Investigator Hunt stated Respondent had fully complied with his consent agreement and Respondent had requested the Board lift his stayed suspension. Dr. Angel stated that he wished some sort of training or education remediation had been included in the

original consent agreement.

Mr. Everroad moved and Ms. Wyckoff seconded to remove Respondent's stayed suspension; motion passed unanimously.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration after Full Board Review

A. Pic-Kell, Sean, Electrical Engineer Application #182487

Respondent appeared telephonically.

Applicant asked the Board to grant his registration on the basis that he completed his jail and parole time, that he had been practicing his profession for a number of years after serving his time and that he had been sober since the incident.

Mr. Foose asked Respondent if all his current licenses were in good standing. Applicant answered 'yes.' Mr. Foose asked if any other Board had ever disciplined Applicant. Applicant answered 'no.' Dr. Angel asked Applicant why he was seeking licensure in Arizona. Respondent answered that his company asked him to register. Ms. Wyckoff asked when police arrested Applicant. Board members answered 2005. Dr. Angel suggested denying registration based on Applicant's apparent poor judgment and character. Mr. Noel and Mr. Montgomery agreed. Mr. Gilmore asked Applicant how he has kept sober. Applicant answered he used to frequently attend AA meetings in the past, but not at present. Ms. Wyckoff stated people change over 10 years.

Mr. Foose moved and Mr. Everroad seconded to approve Mr. Pic-Kell's registration. Motion passed. Mr. Montgomery, Dr. Angel and Mr. Noel voted Nay.

Whether to Grant or Deny Request for Extension of Licensing Timeframes

B. Yearly, Brian, Civil Engineer Application #182382

Mr. Everroad moved and Mr. Foose seconded to grant extension until October 3, 2019; motion passed unanimously.

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. Madison moved and Dr. Angel seconded to cancel the registration and certifications that have been expired for one full renewal period; motion passed unanimously.

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. Board Meeting dates for 2019

Board members reviewed the list of dates and approved them acclamation.

- B. Licensure by Endorsement Proposed Legislation

Ms. Cornelius explained that the new legislation included modifications that removed language indicating the Board had jurisdiction over assayers and remedial specialists, clarified language regarding in-training designations and added language the HIRSC had suggested at its last meeting. Dr. Angel asked to have language changed in the statutes regarding the use of the term 'in-training examination/exam.' Ms. Cornelius stated she would check with legislative staff.

No action taken.

- C. HIRSC recommendation that the Board change the designation of home inspectors from occupation to profession.

Ms. Cornelius explained that home inspectors, not unlike other professions, required education, experience and passing exams to register. Mr. Everroad and Mr. Montgomery indicated they did not see an issue with changing how the Board identified home inspectors. Dr. Angel expressed his concern that it may appear as if the Board was making it more difficult to become a home inspector. Mr. Montgomery asked if the changing of the designation would infer the inclusion of a home inspector board member. Ms. Cornelius answered 'no.'

Ms. Wyckoff moved and Mr. Everroad seconded to change the designation of home inspectors from an occupation to a profession; motion passed. Mr. Jones and Mr. Foose voted Nay.

Board members requested that Staff place a discussion of possible increases to home inspector fees on a future Board agenda.

D. HIRSC recommendation that the Board rescind Substantive Policy Statement #8

Mr. Foose opined that if no conflict existed between the policy statement and new rules then the Board should not rescind the policy statement. Ms. Cornelius stated that the new rule was similar in language to the policy statement and if the Board decided not to rescind, Staff would agree.

No action taken.

E. Compliance and Monitoring Policy regarding extensions of time for Respondents to comply with disciplinary orders

Enforcement Manager Parlin stated that the Board was to discuss whether to grant Staff the authority to lift a Respondent's stay of revocation and grant Staff the authority to extend the period in which a Respondent could comply with their consent agreement due to a demonstrated hardship; these changes would delegate the responsibility of the Board. Mr. Donald stated that the Board had the ability to delegate these responsibilities to the Executive Director, but the Board would need to specify the authority it delegated.

No action taken.

The Board took a break at 11:20 am and returned at 11:30 am.

F. Firm Principal; Type of Registration Requirement

Ms. Cornelius stated that the issue for discussion was whether the principal of a firm needed to practice one of the firm's offered professional services. The Board discussed this matter and concluded that any registered professional could be the principal of a professional firm, regardless of whether the services offered mirrored the professional's discipline. Ms. Cornelius stated that she would place this matter on the next L&R agenda for a possible policy statement.

No action taken

10. DIRECTOR'S REPORT & DISCUSSION

A. Budget Update

Nothing discussed

B. Previous Meeting Follow-Up

a. Litigation (possibility of entering executive session)

[These minutes are made public, because the Board held an executive session pursuant to A.R.S. §38-431.03(A)(4), the possibility of which was noted on the agenda but without noticing the prescribed subsection on its agenda]

The Board voted to enter into an Executive Session at 12:09pm to discuss possible IT related litigation it might face from former vendor, GL Solutions.

Ms. Cornelius reported to the Board that she and staff met several times with representatives from other state agencies regarding issues related to services either contracted for or provided by GL Solutions. The Board asked Ms. Cornelius about the status of the Board's annual budget, and discussed how best to utilize its vacancy savings in light of potential litigation with GL Solutions. The Board then directed Ms. Cornelius to explore the possibility of retention of outside counsel.

The Board left Executive Session at 12:30pm and reentered open meeting.

b. Licensure by Endorsement

Nothing discussed

c. Letter to ABET asking that the Board be included in its review of curriculum at State's Engineering Schools.

Nothing discussed

d. Correspondence with UK Charter School

Nothing discussed

e. ARS 41-1033 Petition

Nothing discussed

f. HR challenges (possibility of entering executive session)

Nothing discussed

C. Director's Meetings

Nothing discussed

D. Statistics Review.

Nothing discussed

11. **BOARD CHAIR'S REPORT** – Nothing to consider

12. **STANDING COMMITTEE REPORTS**

A. Legislation and Rules Committee – Nothing to Report

B. Home Inspector Rules and Standards Committee – November 14, 2018 Meeting

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

A. ASBOG – Message from ASBOG Chairman

Mr. Noel stated it was nice meeting that went well.

B. CLARB – Nothing to Report

C. NCARB – NCARB offering training for Board investigators. Meeting at Arizona Biltmore January 9, 2019 to discuss the ‘future of Architect registration.’

D. NCEES – MBA/MBC meeting in Atlanta on February 8, 2019

14. **FUTURE BOARD MEETINGS** – January 22, 2019

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

A. Increase fees for Home inspectors

B. Correct registrant listing online

16. **MEETING ADJOURNMENT** - 12:35 pm



Jason Foose, Chairman

Melissa Cornelius, Executive Director


