

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

Tuesday December 13, 2016

9:00 a.m.

OPEN SESSION

1. **CALL TO ORDER** – 9:00am
2. **ROLL CALL – Board Members Present:** Dr. Alejandro Angel, Jason Foose, Jason Madison, Edward Marley, Stephen Noel, Andrew Everroad, Eugene Montgomery, LeRoy Brady, Neal Jones
Staff Present: Melissa Cornelius, Patrice Pritzl, Douglas Parlin, Michelle Fleming, and Kurt Winter
Assistant Attorney General Present: Scott Donald

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 November 15, 2016 Board meeting minutes.

Mr. Marley moved and Mr. Foose seconded to approve the minutes; motion carried.

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

- A. Review, Discussion and Action on Proposed Consent Agreement Amending a Board Order

1. Case No. P14-035, OAH Docket No. 14F-M035-BTR, Ahmad N. Zarifi, P.E. #32008 (Structural) and #41872 (Civil)

Mr. Donald, A.A.G., explained to the Board that Mr. Zarifi wished to enter into an amended consent agreement that will allow him to pay his administrative penalty in increments; voluntarily surrender his registration as a Professional Engineer (structural) No. 32008; and restrict his practice as a Professional Engineer (civil) No. 41872. Ms. Pritzl informed the Board that she advised Mr. Zarifi to pay \$500 of his \$2500 administrative penalty to demonstrate to the Board his sincerity when considering the consent agreement. Mr. Donald further stated that the Board members may suspend the

matter for another Board meeting to obtain Mr. Zarifi's signature on the consent agreement.

Mr. Foose moved and Mr. Brady seconded to table the matter for the January 2017 Board Meeting; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P17-036, Klaus Ganser, Non-Registrant

Respondent appeared before the Board. Dr. Angel expressed his concern about Respondent's scope of work and LinkedIn account possibly being misleading to the public. Other Board members expressed similar concern.

Dr. Angel moved and Mr. Marley seconded to have the case investigated further to clarify whether respondent's project is a public works project and whether Respondent had been overseeing and approving the project construction; motion carried.

2. HI16-031, James Sullivan, C.H.I. #52827

Respondent appeared before the Board. Mr. Marley expressed his opinion that the respondent conducted himself in a professional manner with regard to this matter.

Mr. Marley moved and Dr. Angel seconded to dismiss the complaint; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI16-029, Anthony Harms, C.H.I. #50096

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

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P16-041, Drone View Technologies, Non-Registrant Firm

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

2. AL17-008, Mountain Alarm Corporation, Alarm Business #18908

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

D. Complaints Proposed to Offer Consent Agreement:

1. P17-018, Michael Sanchez, Non-Registrant, Sanchez Survey, Non-Registrant Firm

Mr. Foose asked staff if the consent agreement imposed the maximum administrative penalty. Staff replied that the maximum administrative penalty was being imposed in this matter.

Mr. Foose moved and Mr. Marley seconded to offer the consent agreement and if not accepted within 30 days move to hearing; motion carried.

After the vote, Mr. Foose asked whether Mr. Yarbrough's participation in this matter was under inquiry. Mr. Yarbrough was the Arizona registered land surveyor who stamped Respondent's work. Staff responded that there was an open case regarding Mr. Yarbrough.

E. Complaints Requiring Board Guidance:

Mr. Foose recused himself from Agenda Items 6E1 and 6E2.

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

Mr. Marley moved and Mr. Everroad seconded to pend agenda items 6E1 and 6E2 to the January Board meeting; motion carried.

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

Alleger, Clifford Rice, appeared in person and Respondent's Counsel, Stephen Gonzalez, appeared before the Board telephonically. Respondent did not appear before the Board.

Mr. Madison asked Mr. Rice to detail his concerns with the case. Mr. Rice explained that he hired Respondent to complete a survey by a specific date which he says was never completed. Mr. Rice stated he asked Respondent for a refund on his down payment but Respondent failed to reply to the request.

Dr. Angel asked both parties to explain the discrepancy between the Mr. Rice's and Respondent's submitted contracts. Mr. Gonzalez alleged that the Respondent's contract was unaltered and the Mr. Rice's contract was a forgery. Mr. Gonzalez further explained that due to the short notice of the EAC meeting and the fact that his request for a continuance was denied, he was unable to discuss the contract discrepancies at the EAC meeting. Mr. Gonzalez rebutted Mr. Rice's argument that Responded did not do any of the work, stating work had been done and examples of which were submitted to the EAC meeting. Mr. Rice stated no work product was ever provided to him.

Mr. Donald advised the Board that staff had acted timely in this matter. Mr. Gonzalez

disagreed.

Mr. Marley moved and Mr. Everroad seconded to table agenda items 6e1 and 6e2 for the January, 2017 Board meeting; motion carried.

After the vote, Mr. Madison directed staff to send a letter by certified mail to Mr. Gonzalez informing him of the date of the January 2017 Board Meeting.

3. P16-019, Jeff Dietz, Non-Registrant

Board Members asked staff for an investigation update. Investigator Jeff Hunt explained that Respondent submitted new project plans and a contact list, but Mr. Hunt indicated that he could not get in touch with the provided contacts. Dr. Angel inquired about Mr. Oehler's involvement in this case. Mr. Hunt indicated that matter had already been settled in a past meeting. Mr. Marelly wondered if the civil penalty fee was high enough and was skeptical about the penalty fee being paid.

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

F. Complaints Proposed for Formal Hearing:

1. AL17-007, Nathaniel B. Stevens, A.A. #57304

Dr. Angel moved and Mr. Everroad seconded to move case to hearing; motion carried.

G. Review and Approval of Appointment for EAC Membership:

1. Robert L. Winiecke, P.E. (Civil) #48059

Mr. Foose moved and Mr. Marley seconded to approve Mr. Winiecke's appointment; motion carried.

H. Review, discussion and action regarding compliance with a Board Order and lifting a stay of revocation:

1. 16F-M001-BTR, P15-001, William Gilbert, P.E. (Civil) #41931

Mr. Donald explained to the Board that the lifting of the stay of the revocation of Respondent's license was pending the Board's decision. Board members showed concern that Respondent failed to pay restitution to the Alleger within the 30 days as per the Board Order, but they also noted that he did pay the restitution in full the day prior to this Board Meeting. Mr. Foose opined that the matter be tabled for the January 2017 Board Meeting to validate Respondent's email comment that suggested his intent to pay the remaining fines and complete ethics training by the end of the year. Dr. Angel opined that revoking a license is a very serious action and believed the Respondent should be given a chance to pay the remaining amount owed considering he had paid two-thirds of the fines already. Mr. Madison directed staff to inform Respondent that the lifting of the stay of revocation will remain pending but the Board expects all fines to be paid in full by the January 2017 Board meeting.

A. Substantive Policy Statement Research and Draft Review for Foreign Education Evaluation Services

Board members expressed concern that the current evaluation process allowed practically any entity to evaluate transcripts for submittal to the Board. Mr. Marley suggested creating a list of Board approved transcript evaluation entities for registrants.

Board directed the Deputy Director to create a list of entities that evaluate based upon generally accepted accreditation standards.

B. Research for evaluation of education credit for applicants without a degree or with an unrelated degree.

Board Members discussed the matter. Concerns and opinions included the following: whether there should be a single education credit evaluation method over all professions or should each profession have its own education credit evaluation method; should there be a set maximum amount of credit given for humanities courses; should course work going towards an unfinished degree be given credit; and, will there be discrepancies between different BTR evaluators and what can keep evaluations consistent.

C. Review and Discussion of Formal Attorney General Opinion No. I16-012, regarding the Board's Jurisdiction over Trained Geologists.

Ms. Cornelius explained her understanding of the Attorney General Opinion. She stated that trained geologists are exempt from the BTR practice act. If a complaint is submitted with regard to a geologist, an analysis, one which is not based upon BTR rules, must be conducted to specify if the potential respondent is a trained geologist, and, if found to be a trained geologist, cannot be investigated by the BTR due to lack of jurisdiction. Board Members and Scott Donald agreed with this understanding.

10. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius reported the BTR has spent 37% of the Board appropriation and 117% of the Board's revenue with 42% of the budget year elapsed.

B. Previous Meeting Follow-Up

Ms. Cornelius reported that the BTR is still on schedule with its computer system, she signed the Attorney General ISA, the Board had received the AG opinion regarding jurisdiction over trained geologists, and, Mr. Madison was quoted in the Capital Times.

C. Director's Meetings

Ms. Cornelius reported that she participated in a meeting with Senator Nancy Barto to hear about the legislative plans for the health regulatory boards and that Senator Barto wished to introduce a Bill that would address the Governor's concerns over the North Carolina Dental Board decision.

Ms. Cornelius reported her efforts to meet with legislators.

Ms. Cornelius introduced BTR intern Casey, a third year law student, to the Board.

Ms. Cornelius reported Michelle Johnson will be taking another position and her last day is December 16. Kayla Blanco will be promoted to her position.

D. Statistics Review

11. BOARD CHAIR'S REPORT

- A. Presentation of Plaque to Gene Cetwinski, P.E. in appreciation for his dedicated service to the Board reviewing engineering applicants' credentials.
- B. Presentation of Plaque to Chip Shay, R.A., in appreciation for his dedicated service to the Board reviewing architect applicants' credentials.

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – meeting in January
- B. Home Inspector Rules and Standards Committee – meeting in January

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Nothing new to report.
- B. CLARB – Ms. Cornelius has been participating in CLARB training.
- C. NCARB – NCARB might hire lobbyist on their own behalf to make themselves heard in the AZ legislature.
- D. NCEES – Mr. Foose and Ms. Pritzl will attend a meeting in February in Atlanta.

14. FUTURE BOARD MEETINGS – January 24, 2017

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

Mr. Foose requested enforcement statistics regarding registrants in Arizona to be presented at the next meeting.

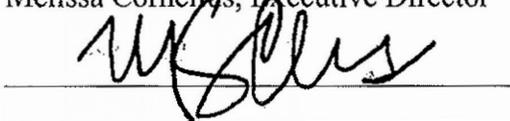
16. MEETING ADJOURNMENT 11:12 a.m.

Mr. Marley moved and Mr. Foose seconded to adjourn the meeting; motion carried.

Jason Madison Chairman

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

Melissa Cornelius, Executive Director

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