

**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
MINUTES FOR REGULAR SESSION MEETING**

Tuesday, June 25, 2019, beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. CALL TO ORDER – 9:01am

2. ROLL CALL - PRESENT: Jason Foose, Carmen Wykoff, Gene Montgomery, Neal Jones, Stephen Noel, Andrew Everroad, Jack Gilmore

NOT PRESENT: Alejandro Angel, Jason Madison

STAFF: Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter

ASSISTANT ATTORNEY GENERAL: Scott Donald, Michael Raine

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, May 28 2019 Board meeting minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve minutes; motion carried.
Mr. Montgomery 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/or Take Possible Action on Petition for Rehearing

a. Deprima, Christopher Case No. 17F-P14-05-BTR-RES

Petitioner did not appear before the Board.

Mr. Scott Donald AAG appeared on behalf of the State. Mr. Michael Raine AAG was present to give the Board legal advice.

Mr. Winter stated that Respondent refused the certified mail containing the Notice of Hearing for this matter and that he did not receive any returned 1st class mail containing the Notice of Hearing.

Mr. Foose read the petition for rehearing before the Board.

Mr. Donald requested that the Board deny the motion for rehearing because Petitioner failed to demonstrate any qualifications for rehearing under R4-30-126(C).

Mr. Everroad stated he agreed with Mr. Donald that Respondent failed to demonstrate a basis for a rehearing.

Mr. Everroad moved and Mr. Jones seconded to deny the motion for rehearing; motion carried unanimously.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P19-036, Jerry Webster, R.L.S. #33881

Respondent appeared before the Board.

Respondent provided a letter to the Board members for discussion. Respondent explained that the Alleger harassed him and it only stopped when the courts imposed an injunction upon the Alleger. Mr. Foose asked if the Respondent could discuss the letter. Mr. Donald answered 'yes,' stating that the Board was discussing this matter in an open meeting, that the document would enter into the Public Record regardless if the Board discussed it and he advised the Board not to comment on Respondent's statement and letter.

Respondent did not object to Mr. Donald's advice to the Board.

Mr. Everroad moved and Mr. Gilmore seconded to dismiss case; motion carried unanimously.

B. Complaints Proposed to Offer Consent Agreement:

1. HI19-034, Garry Hukill, C.H.I. #45509

Mr. Foose stated Board staff informed the Board that Respondent had signed the consent agreement.

Mr. Everroad moved and Ms. Wyckoff seconded to accept signed Consent Agreement; motion carried unanimously.

2. HI19-030, Scott Fidel, C.H.I. #52986

Respondent appeared telephonically. Allegers Mr. and Mrs. Lynch appeared telephonically.

Mr. Foose stated this matter was brought back before the Board to determine when the specific pictures that were presented to the Board were taken and who took them.

Mr. Lynch explained that the EAC discussed and reviewed the pictures taken and came to the conclusion that Respondent didn't meet the minimum standards.

Respondent asked the Board if they received his statement. Board members answered 'yes.' Respondent stated that the EAC members came to the conclusion that he did not meet the minimum standards based upon their personal opinions. Respondent argued that his report met the minimum standards because his report clearly addressed a representative number of windows as required in the standards.

Mr. Montgomery opined that when a home inspector performed a home inspection they should observe areas that are prone to damage such as the windows in this matter.

Mr. Donald stated he understood the Boards empathy for the Allegers, but recommended that the Board observe the minimum standards when reviewing this matter.

Mr. Everroad stated the photographs at issue were taken after the inspection and, therefore, no evidence existed that the windows were in disrepair at the time of the inspection.

Mr. Foose moved and Mr. Everroad seconded to dismiss case; motion carried unanimously.

3. P19-053, Clay O'Daniel, Non-Registrant

Mr. Gilmore stated that Respondent removed the expiration date on a sealed drawing and he opined that this was not a de minimis violation. Mr. Montgomery agreed.

Mr. Foose agreed with Mr. Gilmore but opined that the fine in the Board's offered consent agreement was reasonable in this matter. Ms. Wycoff agreed. Mr. Noel asked if the company should be notified. Mr. Montgomery stated the company was aware of Respondent's violation.

Mr. Noel asked if the Board should add language to the consent agreement informing Respondent the violation was not de minimis. Ms. Cornelius stated that the language within the consent agreement clearly stated the violation in a manner that already established the severity of the violation.

Mr. Everroad moved and Mr. Gilmore seconded to offer proposed Consent Agreement; motion carried unanimously.

4. P19-033, Jerry Webster, R.L.S. #33881

Respondent appeared before the Board.

Respondent opined that Alleger was ignorant of the laws and standards of surveying. Respondent asked Mr. Foose for his opinion on the laws and standards of surveying. Mr. Webster was informed that he could not question Board Members. Respondent asked how he could get support from the Board regarding survey knowledge if they refused to answer his question. Ms. Cornelius stated to Respondent that he should not question the Board Chairman.

Respondent stated that a surveyor could not establish property ownership rights, they could only establish property lines that existed and property rights were established in court. Respondent argued that he met the minimum standards.

Mr. Foose asked Respondent if he brought up his argument at the EAC meeting. Respondent's answer was not clear. Mr. Foose asked Respondent again, if he discussed his argument with the panel at the EAC meeting. Respondent stated he did not participate in the EAC but sent a three (3)-page letter to the EAC members for consideration at the meeting. Respondent further stated that Board staff failed to provide him with documents from his case file. Mr. Foose asked Respondent why he did not attend the EAC meeting. Respondent answered that he chose not to attend the meeting and he opted to submit a letter to the EAC.

Mr. Montgomery opined that Respondent was trying to adjudicate this matter with the Board in lieu of participating in the EAC meeting with other expert land surveyors present, putting the Board at a disadvantage.

Mr. Everroad asked the Board if they believed Respondent met the minimum standards. Mr. Foose stated he agreed with the EAC findings that Respondent did not meet the minimum standards.

Mr. Montgomery requested a minor date correction on page 502 of the file.

Mr. Montgomery moved and Mr. Noel seconded to offer proposed Consent Agreement and if not signed within thirty (30) days proceed to hearing; motion carried unanimously.

C. Complaints Requiring Board Guidance:

1. P19-048, John Courtney, R.L.S. #12216

Respondent appeared telephonically.

Respondent explained that there were issues with the project and that he did not finish because the client cancelled the project. He further explained that he did not place monuments or record the survey for the reasons previously mentioned. Mr. Foose stated he did not see any public harm in this matter.

Ms. Wyckoff moved and Mr. Montgomery seconded to dismiss case; motion carried unanimously.

D. Reconsideration of Prior Board Action.

1. P16-002 and P17-025, Chad Erickson, R.L.S. #40590 and Erickson Land Surveying, Firm #19216 (expired 5/13/16)

Mr. Foose recused himself.

Mr. Gilmore acted as Chairman for this matter.

Respondent did not appear before the Board.

Ms. Cornelius stated that these matters were before the Board for reconsideration of the vote to send these matters to formal hearing. Mr. Everroad asked for clarification of the staff's recommendation in this matter. Mr. Donald explained the motions in these matters and asked the Board to grant the state's motion.

Mr. Everroad moved and Mr. Gilmore seconded to grant the States motion; motion carried unanimously.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Nothing to discuss.

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. Gilmore moved and Ms. Wyckoff seconded to cancel registrations and certifications that have been expired for one full renewal period; motion carried 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. Proposed Language for New or Revised Rules

Ms. Cornelius presented the following proposed language for new or revised rules, which the Board then discussed: Revising A.A.C. R4-30-101(14). Incompetence; Revising A.A.C. R4-30-101(16): Other Misconduct; Revising the Definition of ‘Responsible Charge’; Revising A.A.C. R4-30-106. Fees; Revising A.A.C. R4-30-208. Education and Work Experience; Revising A.A.C. R4-30-301: Rules of Professional Conduct; Revising A.A.C. R4-30-247: Home Inspector Certification; and, Draft a New Rule for License Expiration.

The Board directed staff to draft rule changes for future review and discussion.

The Board took a break at 11:05am and returned to open session at 11:17am.

B. Review and possible Discussion of the Settlement Agreement between SPO/BTR/GL Solutions.

Ms. Cornelius explained the settlement agreement and Mr. Foose expressed his gratitude for the efforts of Board staff in handling the matter. Ms. Pritzl clarified that the settlement agreement clearly stated it was a matter of convenience only. There was no finding that the Board owed GLS any additional payment.

C. Presentation of Plaque of Appreciation to Board Members

The Board tabled this matter for a later meeting.

10. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius reported on the budget. She explained that staff was researching the possibility of hiring a temporary IT person to assist with the IT project and communication between ASET and the Board.

B. Previous Meeting Follow-Up

a. Computer Updates - Data Cleanse and AZBTR website searches

Ms. Cornelius reported that the online renewals were moving forward.

b. Surveyor Task Force - Second Meeting took place June 3, 2019

Mr. Foose stated the Task Force was making progress with the minimum standards.

c. Governor's Office Discussion - Possible new board members and meeting with Governor's office June 24, 2019 to discuss implementation of HB2569

Nothing discussed.

d. Annual Engagement Survey - Results of survey

Ms. Cornelius reported that the survey results were positive indicating staff enjoyed working at the BTR.

e. WCARB dues

Ms. Cornelius discussed with the Board continuation of paying WCARB dues.

f. Article for NCEES

Ms. Cornelius presented her submitted letter to the Board and stated that it may appear in a later NCEES newsletter.

C. Director's Meetings

Ms. Cornelius stated registration for CLARB is still open and ASBOG registration is open.

D. Statistics Review – Nothing discussed.

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

12. **ASSISTANT ATTORNEY GENERAL'S REPORT** – Nothing to consider.

13. **STANDING COMMITTEE REPORTS**

A. Legislation and Rules Committee – Nothing to consider.

B. Home Inspector Rules and Standards Committee – Nothing to consider.

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

A. ASBOG - Annual meeting November 4, 2019 in Minneapolis MN.

B. CLARB - Annual meeting September 26-28, 2019 in St. Louis, MO.

C. NCARB - Annual meeting June 20-23, 2019 in Washington DC.

D. NCEES - Annual meeting August 2019 in Washington DC.

E. ABET - Update regarding possible Board review of ABET accredited online degree programs.

15. **FUTURE BOARD MEETINGS** – July 23, 2019

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

NCEES survey examination, Public Outreach for licensure

17. **MEETING ADJOURNMENT** – 11:55am

Signed this 23rd day of July, 2019

Jason Foose, Board Chairman



Jason Foose, Chairman

Melissa Cornelius, Executive Director

