

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

Tuesday, September 22, 2020, 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 – Jack Gilmore (acting Chairman), Neal Jones

Telephonic – Dr. Alejandro Angel, Carmen Wyckoff, Stephen Noel, Andrew Everroad, Clarence McAllister (left at 1pm)

Absent – Jason Foose

Vacancies – three (3)

Staff – Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter

AAG – Scott Donald, Deanie Reh, Mona Baskin

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, Board meeting minutes.

1. August 20, 2020 Board Meeting Minutes

Mr. Jones moved and Dr. Angel to accept the minutes; motion carried. Mr. Everroad abstained.

B. Approve, modify and/or reject, Executive Session meeting minutes

1. August 20, 2020 A 11:46am ES Minutes

Mr. Jones moved and Mr. McAllister to accept the minutes; motion carried. Mr. Everroad abstained.

2. August 20, 2020 B 10:20am ES Minutes

Mr. Jones moved and Mr. McAllister to accept the minutes; motion carried. Mr. Everroad abstained.

5. CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING

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

A. Formal Administrative Hearing and/or Review, or Discuss and Take Possible Action to Deem Respondent Admission to the Complaint and Notice of Hearing:

1. AL20-002 Orozco Gomez, Fabian Alonzo

Scott Donald, AAG, appeared before the Board representing the State. Mona Baskin, AAG, appeared before the Board to give independent advice. Respondent did not appear before the Board.

Mr. Donald stated that the State successfully noticed Respondent but Respondent failed to submit an answer. Mr. Donald asked that the Board grant the State's motion.

Dr. Angel moved and Mr. Jones seconded to grant the State's motion and deem the allegations in the Complaint and Notice of Hearing as admitted; motion carried unanimously.

Dr. Angel moved and Mr. Jones seconded to adopt the Factual Allegations and the Alleged Violations from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law; motion carried unanimously.

Mr. Donald asked that the Board request fees and costs associated in this matter when deciding its final order. Dr. Angel opined that a stayed suspension of Respondent's certification until all fees were paid was an option. Ms. Cornelius opined that a revocation, as opposed to a stayed suspension, was preferable since the Board had been unsuccessful in getting a response from Respondent.

Dr. Angel moved and Mr. Jones seconded to issue the following Order: revoke Respondent's certification; motion carried unanimously.

2. HI19-011, Sullivan, Thomas and Inspec 10, LLC

Deanie Reh, AAG, appeared before the Board representing the State. Mona Baskin, AAG, appeared before the Board to give independent advice. Respondent appeared before the Board.

Enforcement manger Parlin stated that Respondent contacted him regarding the complaint and notice of hearing and he referred Respondent to Ms. Reh. Respondent did not submit an answer to the complaint and notice of hearing.

Ms. Reh argued that the Board grant the State's motion. Respondent did not disagree or object.

Dr. Angel moved and Mr. Jones seconded to grant the State's motion and deem the allegations in the Complaint and Notice of Hearing as admitted; motion carried unanimously.

Dr. Angel moved and Mr. Jones seconded to adopt the Factual Allegations and the Alleged Violations from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law; motion carried unanimously.

Ms. Reh asked that the Board include the cost of investigation in its final order. Respondent asked that the Board not issue any fines in its final order because it was not his fault that his firm registration expired since he did not receive a notice to renew his firm registration.

Mr. Jones moved to issue a Letter of Reprimand. No second, motion died.

Dr. Angel moved and Ms. Wyckoff seconded to issue the following Order: issue a letter of reprimand to Respondent and Respondent must pay the cost of investigation of \$104 within 30 days; motion carried. Mr. Jones voted Nay.

3. HI20-009, Letner, Dennis

Deanie Reh, AAG, appeared before the Board representing the State. Mona Baskin, AAG, appeared before the Board to give independent advice. Respondent did not appear before the Board.

Ms. Reh stated that the complaint and notice of hearing for this matter was delivered, Respondent failed to submit an answer, and she therefore asked that the Board grant the State's motion.

Mr. Gilmore moved and Mr. Jones seconded to grant the State's motion and deem the allegations in the Complaint and Notice of Hearing as admitted; motion carried unanimously.

Mr. Gilmore moved and Mr. Jones seconded to adopt the Factual Allegations and the Alleged Violations from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law; motion carried unanimously.

Ms. Reh asked that the Board include the disciplinary actions found in the offered consent agreement in this matter when issuing their final order. Dr. Angle opined raising the civil penalty higher than the amount in the offered consent agreement.

Dr. Angel moved and Mr. Jones seconded to issue the following Order: Respondent shall pay a Civil Penalty in the amount of \$1500; the cost of investigation in the amount of \$265, both to be paid within 180 days; Respondent's certification shall be placed on a stayed suspension until both fees have been paid; and, the Board shall issue a letter of reprimand to Respondent; motion carried unanimously.

B. Formal Administrative Hearing

1. AL19-008, AL19-010, AL19-019; Stevens, Travis and Triton Alarm LLC

Deanie Reh, AAG, appeared before the Board representing the State. Mona Baskin, AAG, appeared before the Board to give independent advice. Respondent appeared before the Board telephonically.

Respondent requested the Board continue the hearing until after his release from state prison in July 2021 because he could not obtain legal counsel while incarcerated. Ms. Reh objected to the request arguing that Respondent had ample time to obtain legal counsel, regardless of his current incarceration.

Dr. Angel asked for confirmation that Respondent was incarcerated. Ms. Reh confirmed. Dr. Angel asked Respondent if he was able to use a phone or the internet in prison. Respondent answered that he did not have access to email and that he only had access to a phone through a burdensome request process. Ms. Reh asked that Respondent's prison case manager to confirm Respondent's statement. Respondent's prison case manager responded that Respondent does not have access to the internet but may make a request to call an attorney. Respondent stated he did not have access to a phone book or the internet to help research and call counsel. Respondent again requested the Board continue the hearing, stating it was his constitutional right to have defense counsel. Ms. Reh stated that right was for criminal proceedings, not administrative hearings such as this matter. Board members requested clarification as to whether they could proceed without Respondent having counsel.

Mr. Noel moved and Ms. Wycoff seconded to enter executive session at 10:40am to request legal advice; motion carried. Mr. Jones voted Nay. The Board returned to open session at 11:01am.

Dr. Angel stated that he would move to deny Respondent's motion because Respondent had ample time to retain counsel before his incarceration and during the 60-day period in which he was aware of this hearing, and that Respondent's case manager confirmed that Respondent had the ability to contact legal counsel while incarcerated.

Dr. Angel moved Mr. Jones seconded to deny Respondent's request for a continuance; motion carried unanimously.

Respondent asked for the timeline to appeal his case if the Board issued an order today. Board staff obliged.

Both parties gave opening statements; the State proceeded with its witnesses and testimony. The Board accepted Exhibits 1-12 into the record.

At 12:30 the Board recessed at Respondent's request and decided to continue the hearing at the October 27, 2020 Board Meeting.

The Board took a break at 12:25pm and returned at 12:44.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P20-021, John Trummer, P.E. (Structural) #12528*

Alleger, Dan Demland, appeared telephonically. Joe Carr, attorney for Chad Komnick (6a2) and Marcos Hernandez (6a3), appeared telephonically.

Mr. Demland argued that the Board should not dismiss cases 6a1 through 6a5 because he believed that there was clear evidence of registrants aiding and abetting non-registrants.

Mr. Carr argued that the Board should dismiss the cases against his clients because there was no evidence of any alleged aiding and abetting of non-registrants.

Investigator Loera stated that all of the EAC members agreed that all five Respondents did not violate the Board's Practice Act. Ms. Wyckoff asked who was responsible for the plans that were not signed or sealed found on page 475 of the packet. Investigator Loera indicated that Mr. Demland provided the plans found on page 475 as an example; the plans were not part of the project discussed in this matter. Dr. Angel opined that this was a civil issue and beyond the Board's purview.

Dr. Angel moved and Mr. Jones seconded to dismiss the case; motion carried. Noel was absent from the vote.

2. P20-022, Chad Komnick, P.E. (Civil) #53643*

See 6a1

Dr. Angel moved and Mr. Jones seconded to dismiss the case; motion carried. Mr. Noel was absent from the vote.

3. P20-023, Marcos Hernandez, P.E. (Civil) #55070*

See 6a1

Dr. Angel moved and Mr. Jones seconded to dismiss the case; motion carried. Mr. Noel was absent from the vote.

4. P20-024, Kevin Gillies, Non-Registrant*

See 6a1

Dr. Angel moved and Mr. Jones seconded to dismiss the case; motion carried. Mr. Noel was absent from the vote.

5. P20-025, Scott Roberts, Non-Registrant*

See 6a1

Dr. Angel moved and Mr. Jones seconded to dismiss the case; motion carried. Mr. Noel was absent from the vote.

6. P20-049, Richard Frost, P.E. (Structural) #27341

Alleger, Jacob Vinton, appeared telephonically. Respondent appeared telephonically.

Mr. Vinton argued that Respondent failed to apply the appropriate knowledge and skill of a structural engineer when working on the project in this matter and asked the Board to investigate the case further. Investigator Correll informed the Board that Mr. Vinton was not present during the EAC meeting. Respondent stated that the EAC agreed with him that no violation occurred and asked the Board to dismiss the case.

Dr. Angel asked why Respondent continued to use a calculation that appeared deficient. Investigator Correll explained that the EAC concluded that the plans were not deficient because of the clients imposed limitations of the project.

Ms. Wyckoff moved and Dr. Angel seconded to dismiss the case; motion carried unanimously.

7. HI20-040, Nicholas Bigelow, C.H.I. #60395

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

8. P21-008, Manuel Inurriaga, P.E. (Civil) #31687

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

9. P20-050, George Everland, P.E. (Civil) #35242

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

B. Complaints Proposed for Resolution by Letters of Concern:

1. P20-042, Kathryn Mills, P.E. (Civil) #31118

Ms. Wyckoff indicated that she knew Respondent but could be fair and impartial in this matter.

Mr. Jones moved and Ms. Wyckoff seconded to issue a letter of concern the case; motion carried unanimously.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P20-036, Paul Nzomo, P.E. (Civil) #33446

Mr. Jones moved and Noel seconded to accept signed consent agreement; motion carried unanimously.

2. HI21-001, Mickey Foster, C.H.I. #44914 and Absolute Home Inspections, Firm #15359 (expired)

Mr. Jones moved and Mr. Noel seconded to accept signed consent agreement; motion carried unanimously.

D. Compliance and Monitoring Investigations:

1. P19-021, Richard Waage, R.L.S. #39954

Mr. Jones moved and Mr. McAllister seconded to terminate Respondent's probation early; motion carried unanimously.

E. Compliance and Monitoring Investigations, to Consider Lifting Stay of Revocation:

1. P18-070 and P19-031, Peter Takach, P.E. (Civil) #44085

Investigator Hunt informed the Board that Respondent and Respondent's counsel requested that the Board postpone this matter to a later date.

Dr. Angel asked if Respondent contacted the Board regarding the city of Phoenix's information that Respondent was sealing and signing structural engineering documents, violating his signed consent agreement. Mr. Donald stated that because the vote was for lifting a stay of revocation, it might be best to continue this matter until the Respondent was available. Board members agreed.

Ms. Wyckoff moved and Mr. Jones seconded to continue this matter to the next Board meeting; motion carried unanimously.

F. Accept or Reject Financial Statement as Proof of Financial Assurance:

1. Mark Gaydosz, C.H.I. #43012

Mr. Gaydosz appeared telephonically.

Ms. Pritzl informed the Board that Mr. Gaydosz submitted his proof of assets up to \$25,000 as his financial assurance as a home inspector and she asked the Board for guidance as to whether Mr. Gaydosz's submission was sufficient. Dr. Angel stated that the documentation Mr. Gaydosz submitted was insufficient since it only contained assets, not net assets. Mr. Gilmore asked if Mr. Gaydosz wished to continue practicing as a home inspector. Mr. Gaydosz stated that he placed his license on inactive status.

Dr. Angel moved and Mr. Jones seconded to request Mr. Gaydosz to submit additional financial documentation to establish his net assets, which he/staff will present at the next Board meeting. Additionally, the Board will stay Mr. Gaydosz's certification from revocation until that time; motion carried unanimously.

G. Notification of Civil Malpractice Action, to Consider Opening a Complaint Investigation:

1. Kenneth Allen R.A. #14330 and Mark Philp R.A. #14369 and Allen & Philp Architects, PC

Mr. Everroad recused himself.

The Board could not discuss the matter due to a lack of a quorum. Dr. Angel asked if the Board could direct staff to take an action. Mr. Donald answered 'no.'

*Cases are related

7. LICENSING MATTERS

Review, Consideration, and Action on Staff Recommendations for the following Universal Applications:

- A. Smitt, Erik - Application # 201186 for Licensure as a Mechanical Engineer

Dr. Angel moved and Mr. Jones seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- B. Ramirez, Andrea - Application #201259 for Licensure as a Civil Engineer

Dr. Angel moved and Mr. Jones seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

Extension request for Examination timeframes due to Covid-19

C. Hawkes, George- Application #1902299 for approval to sit for AREs

Ms. Wyckoff moved and Mr. Jones seconded to extend Applicant's period to sit for the ARE two months; motion carried 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

Nothing discussed.

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. Recognition of Patrice Pritzl and Eugene Montgomery for their contributions to the Board, staff and the public.

Nothing Discussed

B. Holiday Party

Nothing Discussed

C. Election of Officers

Nothing Discussed

D. Supplemental Proposed Rulemaking

Nothing Discussed

- E. CV 2019-013509 – Mills v. Arizona State Board of Technical Registration: upon motion and vote, the Board may hold an executive session to receive legal advice pursuant to A.R.S. § 38-431.03(A)(4) [Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.]

Mr. Gilmore moved and Mr. Jones seconded to enter executive session at 1:30pm. The Board reentered open session at 2:01pm.

Nothing Discussed

- F. Public Comment: Whether a Conflict exists between the Board's Practice Act and the Arizona Department of Transportation Record Drawing Guidelines.

Dr. Angel requested additional information. The Board postponed this matter.

10. DIRECTOR'S REPORT

- A. Budget Update

Nothing Discussed

- B. Previous Meeting Follow-Up

- a. National Council Updates

- i. NCARB – Webinar August 26, 2020

Nothing discussed.

- ii. NCEES – Virtual Annual Meeting August 27, 2020

Nothing discussed.

- iii. CLARB – Virtual Annual Meeting September 10, 2020

Nothing discussed.

- iv. ASBOG – Exam October 1 and 2, 2020

Nothing discussed.

- v. AZSLS – Four exam takers in October

Nothing discussed.

b. Board Composition under SB1274

Nothing discussed.

c. Land Surveyor Standards of Practice Update

Nothing discussed.

d. Staff update

Nothing discussed.

C. Statistics Review

Nothing discussed.

11. FUTURE BOARD MEETINGS – October 27, 2020

12. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

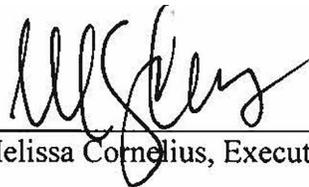
Nothing discussed.

13. MEETING ADJOURNMENT

2:02pm



Chairman, Jason Foose



Melissa Cornelius, Executive Director