ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
MINUTES FOR REGULAR SESSION MEETING

Tuesday, September 24, 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, Jack Gilmore, Andrew Everroad, Jason Madison, Alejandro Angel, Carmen Wyckoff, Stephen Noel
Not Present – Neal Jones, Eugene Montgomery,
Staff – Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter
AG – Scott Donald, Deanie Reh, Marc Harris

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, August 27, 2019 Board meeting minutes.

      Mr. Madison moved and Mr. Everroad seconded to approved the minutes; motion carried. Mr. Everroad, Ms. Wyckoff and Dr. Angel abstained.

   B. Discuss and consider whether to modify approved July 23, 2019 Board meeting minutes.

      Mr. Foose asked if the Board was obligated to amend the minutes when a member of the public informed the Board of perceived inaccuracies. Mr. Donald answered 'no.' Mr. Foose opined not changing the minutes.

      Dr. Angel moved and Mr. Everroad seconded to modify the minutes by changing the word 'cases' to case;' motion carried unanimously.

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 Administrative Law Judge's Decision

      1. Victor Johnson, Jr. - Application #190766 for Alarm Agent Registration and Application #190765 for Controlling Person Registration.

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Scott Donald, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent did not appear before the Board. No counsel represented him.

Mr. Foose called for the Board members to affirm that they had reviewed the details for this matter. Board members affirmed unanimously.

Mr. Donald recommended that the Board Adopt the Findings of Fact and Conclusions of Law as recommended by the ALJ.

Dr. Angel moved and Ms. Wyckoff seconded to adopt the Findings of Fact as recommended by the Administrative Law Judge; motion carried unanimously.

Dr. Angel moved and Ms. Wyckoff seconded to adopt the Conclusions of Law as recommended by the Administrative Law Judge; motion carried unanimously.

Ms. Wyckoff moved and Mr. Gilmore seconded to accept the recommended Order; motion carried unanimously.

B. Formal Administrative Hearing and/or Review, or Discuss and Take Possible Action on State's Motion to Deem Respondent's Admission to the Allegations in the Complaint and Notice of Hearing:

1. AL14-009 Bouthner, Christopher, Controlling Person (55019) & Alarm Agent (61333) and Desert Defense Security services, Inc. (18067)

   Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent appeared before the Board and no counsel represented him.

   Ms. Reh did not argue either for or against the State's motion. Respondent stated that he agreed with the motion's findings of fact and conclusions of law. Mr. Madison asked if the Board should vote to deny the motion to deem and instead draft a consent agreement for Respondent. Ms. Reh disagreed, stating that Respondent had no issue with the Board granting the State's motion. Respondent agreed with Ms. Reh's statement.

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

   Mr. Noel moved and Wyckoff 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.

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Ms. Reh argued for leniency since Respondent appeared before the Board and did not argue against the Board's findings. Respondent asked for the Board's understanding and apologized for his actions concerning this matter. Dr. Angel asked why Respondent did not sign the original proposed consent agreement four years prior. Respondent answered that he does not recall any consent agreement regarding this case prior to this year. Investigator Kraemer disagreed, stating he discussed with, and sent a consent agreement to, Respondent in 2014.

Dr. Angel moved and Ms. Wyckoff seconded to issue the following Order: Letter of Reprimand, Administrative Penalty of $1,000, cost of investigation, both to be paid within 90 days, stayed suspension and if stayed suspension lifted it will remain lifted until Respondent is in compliance; motion carried unanimously.

2. AL17-007 Stevens, Nathaniel B., Alarm Agent (57304)

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent did not appear before the Board and no counsel represented him.

Ms. Reh recommended the Board accept the State's Motion to Deem.

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

Mr. Madison moved and Mr. Everroad 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 recommended a thousand dollar penalty and revocation of Respondent's certification. Mr. Madison asked if Respondent was still active. Staff answered 'no.'

Mr. Madison moved and Mr. Noel seconded to issue the following Order: Respondent's certification is revoked; motion carried unanimously.

3. HI18-024, Culpepper, Thomas, Home Inspector (39422)

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent did not appear before the Board and no counsel represented him.

Ms. Reh recommended the Board accept the State's Motion to Deem.

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

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Mr. Madison moved and Mr. Gilmore 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.

Dr. Angel moved and Mr. Madison seconded to issue the following Order: peer review, remedial training, $420 restitution, Administrative Penalty of $1000, cost of investigation, suspension effective the day of the Order until in compliance, letter of reprimand, stay of revocation subject to be lifted if not compliant within 60 days of the effective day of the Order; motion carried. Mr. Foose voted nay.

4. HI19-003 Gossard, Theodore (Non-Registrant) and Fine Tooth Home Inspections, Inc. (Non-Registrant Firm)

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent did not appear before the Board and no counsel represented him.

Ms. Reh recommended the Board accept the State's Motion to Deem.

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

Mr. Madison moved and Mr. Everroad 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. Madison moved and Dr. Angel seconded to issue the following Order: Civil Penalty $6000, cost of investigation to date, and if not be paid within 30 days forward to collections; motion carried unanimously.

5. P18-005 Essary, Ana (Non-Registrant) and Arizona Special Inspections Group, LLC (Non-Registrant Firm).

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent did not appear before the Board and no counsel represented her.

Ms. Reh recommended the Board accept the State's Motion to Deem and to impose a heavy penalty fee.

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

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Mr. Madison moved and Mr. Gilmore 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. Madison moved and Dr. Angel seconded to issue the following Order: Civil Penalty of $20,000, cost of investigation to date to be paid within 30 days and refer this matter to AG's office for criminal prosecution; motion carried unanimously.

C. Whether to accept, modify or reject the signed consent agreement in lieu of a hearing.

1. HI15-008 Borgogni, Ronaldo, Home Inspector (50622)

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent's counsel, Ms. White, appeared before the Board.

Ms. Reh recommended that that Board accept the signed consent agreement. Ms. White asked that the Board accept the signed consent agreement.

Mr. Everroad moved and Mr. Madison seconded to accept the signed consent agreement in lieu of a hearing; motion carried unanimously.

D. Whether to accept Respondent's counter-offer consent agreement.

1. HI16-023 Fidel, Scott, Home Inspector (52986) and Fidelity Home Inspection (17216)

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent and Respondent's counsel, Patrick Lopez, appeared telephonically.

Mr. Donald stated that, from the State's perspective, the counter-offer consent agreement was agreeable, even though there were some redundancies in the findings of fact and the omission of an administrative penalty. Mr. Madison asked how long Mr. Donald had been working with Respondent and counsel on this matter. Mr. Donald answered before staff sent the complaint and notice of hearing, but not the full three years since the alleger submitted the complaint.

Respondent stated that he signed the original consent agreement staff proposed but the Board subsequently modified the signed consent agreement, which Respondent refused to sign and asked that the matter go before an ALJ, and he had been waiting ever since.

Dr. Angel stated he could not agree to some of the language in the consent agreement nor the omission of an administrative penalty and opined that the matter move to hearing reasoning that Respondent failed to disclose a conflict of interest. Respondent and his counsel disagreed with Dr. Angel's reasoning, sighting evidence they provided to the Board. Ms. Cornelius stated that the Board the evidence in the case seemed to clearly

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establish that Respondent participated in a pay-to-play program, which was a clear violation of the Board's Practice Act. Respondent and his counsel denied that Respondent participated in a pay-to-play program and further stated that there was no evidence of Respondent participating in a pay-to-play program.

Dr. Angel moved and Mr. Gilmore seconded to reject Respondent's counter-offer consent agreement and if consent agreement not signed within 30 days proceed to hearing; motion carried unanimously.

Break at 10:53am. Returned at 11:05am.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P19-064, Elizabeth Shinohara, Non-Registrant (related to P19-063 and P19-062)

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

2. P19-063, Ron Yeager, Non-Registrant (related to P19-064 and P19-062)

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

3. P19-062, David Escalante, Non-Registrant (related to P19-063 and P19-064)

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

4. P20-003, Andrew McQuality, Non-Registrant and McQuality Designs & Services LLC, Non-Registrant Firm

   Alleger, Mr. Roberts, appeared before the Board.

   Alleger argued that Respondent's work was the practice of land surveying and asked the Board to not dismiss the case.

   Mr. Foose noted that only a single assessor looked at this case and recommended sending the matter to an EAC. Dr. Angel stated that the photos in the Board packet the Respondent provided did not show measurements or dimensions and therefore there was no proof that Respondent practiced land surveying. Mr. Madison agreed, and added that Respondent included a disclaimer on his documents to that effect. Mr. Foose again asked that this matter be reevaluated.

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The Board directed staff to pend this matter and send it to an assessor for revaluation.

5. P19-058, Taylor Hansen R.L.S. #37512

   Respondent appeared before the Board.

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

6. HI19-046, Gary Cornia, C.H.I. #40616

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

B. Complaints Proposed for Resolution by Letters of Concern:
   1. HI19-045, Robert Hill, C.H.I. #57189

      Mr. Madison moved and Mr. Everroad seconded to issue a Letter of Concern; motion carried unanimously.

   2. HI19-035, Callahan Shea, C.H.I. #53683

      Mr. Madison moved and Mr. Everroad seconded to issue a Letter of Concern; motion carried unanimously.

C. Complaints Proposed to Offer Consent Agreement:
   1. P19-061, Manuel Aguirre, R.A. #28487 and GBMA Architecture, LLC, Firm #22102

      Mr. Madison moved and Ms. Wyckoff seconded to offer proposed Consent Agreement but remove the letter of reprimand; motion carried unanimously.

   2. AL19-008, AL19-010 and AL19-019, Travis Stevens, Non-Registrant and Triton Alarm, Non-Registrant Alarm Business

      Mr. Madison moved and Mr. Gilmore seconded to offer proposed Consent Agreement and if not signed in 30 days proceed to hearing; motion carried unanimously.

D. Complaints Proposed for Resolution with Signed Consent Agreements:
   1. HI19-041, Lazslo Kantor, C.H.I. #60010 and Kantor Inspections, LLC, Firm #21868

      Respondent appeared telephonically.

      Dr. Angel asked if Respondent completed the repairs for alleger. Respondent answered ‘yes.’ Dr. Angel opined reducing or removing the penalty fee in light of Respondent’s efforts to reimburse the alleger.

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Dr. Angel moved and Mr. Everroad seconded to reject signed Consent Agreement and propose a new agreement with the Civil Penalty removed; motion carried unanimously.

2. P19-079, Ward Isaacson, R.A. #62175

   Dr. Angel moved and Mr. Gilmore seconded to accept signed Consent Agreement; motion carried unanimously.

3. P19-037, Steven Bargeloh, P.E. (Civil) #47507

   Respondent appeared before the Board. Allegers, Mr. and Mrs. Peshkin, appeared before the Board.

   Respondent stated that he agreed with the Consent Agreement and had already begun to work with the homeowners of the property in this matter to remedy the issues. Allegers thanked the Board and staff for their work in this matter.

   Mr. Everroad moved and Dr. Angel seconded to accept signed Consent Agreement; motion carried unanimously.

4. AL20-003, Paul Skaggs, Alarm Agent #61882

   Mr. Parlin explained that there was no provision in the Board's Practice Act that details what action the Board should take when DPS flagged an Alarm Agent's fingerprint clearance card and asked the Board to accept the signed consent agreement as drafted.

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

E. Complaints Requiring Board Guidance:
   1. P18-037, Brian Robichaux, Non-Registrant

      Respondent's counsel, Mr. Folk, appeared before the Board.

      Mr. Folk explained Respondent's case to the Board. Dr. Angel asked if Mr. Folk and Respondent had worked with the Board to reach a resolution. Mr. Folk answered 'no.' Dr. Angel expressed his concern that Respondent had ample opportunities to explain that he was not an architect but failed to do so. Mr. Folk stated that Respondent was unaware of the registered architect requirements at the time he served on several committees, which he does not deny doing. Ms. Wyckoff opined that Respondent was disingenuous with the Board and she was skeptical that Respondent was unaware that he needed to be a registered architect to serve on the committees detailed in this matter. Mr. Madison disagreed with the severity that other board members placed on Respondent's actions and opined that the Board dismiss this matter.

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The Board directed staff to negotiate with Respondent and counsel to settle the matter, provide additional evidence and obtain additional evidence for this matter.

7. **LICENSING MATTERS**

Discussion, Consideration and Vote on the following:

Nothing to consider

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 Mr. Noel 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. Purchasing BTR shirts for Board Members and Staff

Ms. Cornelius stated she would send a brochure to Board Members so that they may purchase a shirt.

B. Charging alarm industry and Home Inspector fees all up front 2019

Ms. Cornelius explained that Alarm Industry and Home Inspector applicants have been using a bifurcated payment process for the Board to grant them licensure; paying part of the application fee initially and the remainder after finishing the process to be granted. This process confused some applicants and is not strictly provided for in statute. Therefore, she asked that the Board affirm that applicants for these occupations pay the entire application fee 'up front', which would comply with statute and eliminate redundant licensing processes.

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Mr. Madison moved and Mr. Noel seconded to require alarm agents and controlling persons to pay the entire application fee of $260 for a 3 year license and Home Inspectors pay the entire application fee of $175 for a 1 year license and no longer require the initial registration fee for either occupation; motion carried unanimously.

C. Discussion and possible action whether to offer cross-testing state specific surveying exams with Oregon Board

Mr. Foose requested that the Board grant him permission to work cooperatively with the Oregon Board to help develop an improved state specific exam.

Board directed Mr. Foose to discuss the possibility of a cross-test with the Oregon Board.

10. **DIRECTOR'S REPORT**

A. Budget Update
   a. OSPB follow up questions regarding Board budget request - Nothing reported
B. Previous Meeting Follow-Up
   a. Badges / Parking

      Ms. Cornelius passed out badges to Board Members so they can access the parking garage and, eventually, the building.

   b. Shirts / Panic Button

      Ms. Cornelius reported that the Board received panic buttons, but the system was not yet operational.

   c. Computer Updates - Nothing reported
   d. Staff Updates

      Ms. Cornelius reported that Jamie Burleski began working for the Board as a receptionist this week.

C. Director's Meetings
   a. Governor's Request
      i. Possible New Board Members - Nothing reported
      ii. Rulemaking Request

         Ms. Cornelius reported that the Board had requested to change the fee rules so that the Board could stop accepting cash as payment.

   b. AG ISA contract - Nothing reported

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D. National Council News
    a. NCARB - Ed Marley is now WCARB President
    b. NCEES - Nothing to Report
    c. CLARB - Annual meeting in St. Louis September 26-28
    d. ASBOG - Annual meeting in Minneapolis in November. Record number of applicants taking the exams.
    e. ABET - Mr. Montgomery attending ABET meeting at NAU
    f. Other Outreach - Dr. Angel and Ms. Cornelius lectured at AZCE/ASHE Arizona Conference. Ms. Cornelius will participate in the United Surveyors of Arizona podcast.

E. Statistics Review - Nothing reported

11. **BOARD CHAIR'S REPORT -** Nothing to Report

12. **ASSISTANT ATTORNEY GENERAL'S REPORT -** Generic use of the terms 'architect' and 'engineer'

Mr. Donald recommended that the Board be careful of overreach when acting upon a case where the Respondent was potentially practicing a licensed profession without registration.

13. **STANDING COMMITTEE REPORTS**

A. Legislation and Rules Committee - No new meeting date
B. Home Inspector Rules and Standards Committee - November 5, 2019 Meeting date

14. **BOARD MEMBER REPORTS/DISCUSSION ON OUTSIDE NATIONAL COUNCIL ACTIVITIES, NEWS AND MEETINGS**

A. ASBOG - nothing reported
B. CLARB - nothing reported
C. NCARB - nothing reported
D. NCEES - nothing reported
E. ABET - nothing reported
F. Land Surveyor Task Force - Mr. Foose reported on the Land Surveyor Task Force

15. **FUTURE BOARD MEETINGS** – October 22, 2019

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

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17. **MEETING ADJOURNMENT –** 1:07pm

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