

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

Tuesday, January 26, 2016
9:00 a.m.
OPEN SESSION

1. CALL TO ORDER – 9:08 AM

2. ROLL CALL

Board Members in attendance: Alejandro Angel, LeRoy Brady, Douglas Folk, Jason Foose, Neal Jones, Jason Madison, and Steve Noel. Absent: Edward Marley and Robert Stanley. Staff: Melissa Cornelius, Michelle Fleming, Douglas Parlin, Patrice Pritzl, and Michelle Johnson. Assistant Attorney General: Michael Raine.

3. CALL TO THE PUBLIC

At 10:06AM. Ms. Mehrzad Khorsandi addressed the Board regarding her application to take the ARE. She had received a prior 3 year extension to test, but the extension will end in March 2016. She requested another 6 month extension. She explained that she could not concentrate on the testing because her job was too time consuming. The Board directed staff to work with her and investigate her application.

4. ADOPTION OF MINUTES

Review, Consideration, and Possible Action on the following:

A. Approve, modify and/or reject December 15, 2015 Board meeting minutes.

The members reviewed the minutes. Dr. Angel moved to approve the December 2015 minutes. Mr. Noel seconded the motion. No further discussion; motion carried.

5. FORMAL HEARINGS OR MOTION FOR REHEARING/REVIEW:

A. Case No. HI10-027, Robert W. Garrard, Non-Registrant

Roll call was taken for this rehearing. Board members in attendance were: Alejandro Angel, LeRoy Brady, Douglas Folk, Jason Foose, Neal Jones, Jason Madison, and Steve Noel. Absent were: Edward Marley and Robert Stanley. The Respondent, Mr. Garrard appeared and represented himself. Assistant Attorney General, Michael Raine appeared on behalf of the State. Chris Munns, AAG., was available to advise the Board.

The Respondent admitted to holding himself out as a registered home inspector by offering to conduct home inspections without certification and distributing a business card, stating he was a certified home inspector.

Mr. Folk moved to adopt the Findings of Fact on Paragraphs one through four of the Complaint and Notice of Hearing and Paragraphs six through eleven and thirteen. Mr. Foose seconded the motion; motion passed. Mr. Folk moved to adopt as Conclusions of Law, the alleged violations in the complaint and Notice of Hearing excluding the last sentence. Mr. Foose seconded the motion; motion carried.

Mr. Folk moved to impose a civil penalty in the amount of \$500.00, costs of the investigation, and an Assurance of Discontinuance. Mr. Foose seconded the motion; No further discussion; motion carried.

- B. Case No. AL15-007, OAH Docket No. 15F-M007-BTR. The Board will consider whether to approve a Consent Agreement in this matter or proceed to hearing.

Mr. Raine addressed the Board and asked that the Board accept a consent agreement which required the Respondent to become licensed within a 14 day period after acceptance of the consent agreement, and pay a civil penalty in the amount of \$1500 within twelve months, plus the costs of the investigation.

Dr. Angel moved to accept the signed consent agreement. Mr. Folk seconded the motion. Dr. Angel stated that the penalty was too "light." No further discussion; motion carried.

- C. Case No. P14-035, Ahmad N. Zarifi, P.E. (Structural) #32008, (Civil) #41872.

Mr. Raine explained how the newly proposed consent agreement was created. The consent proposed that the Respondent would surrender his structural PE, retain his Civil PE, which will be placed on a stayed revocation/probation with peer reviews, 16 hours of Board approved CE, civil penalties and costs of the investigation.

Mr. Madison expressed concerns about the consent agreement, but he moved to offer the Respondent a revised consent agreement that included surrender of his SE license, the restriction of practice of structural engineering with his civil PE until he takes and passes the NCEES 16 hour SE exam, stayed revocation/probation on his civil license for one year from the effective date of the consent agreement; that Respondent pay a \$4000 civil penalty and costs of the investigation. If not signed within 5 days, this matter will proceed to the scheduled hearing on February 11, 2016. Dr. Angel moved to second the motion. No further discussion; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P16-020, Adam Bronnenkant, P.E. (Structural) #55015

Attorney David Williams appeared on behalf of the Respondent. Mr. Folk recused himself. Mr. Bailey, the complainant, appeared. Mr. Madison moved to dismiss the case. Mr. Noel seconded the motion. Dr. Angel asked for statements from Mr. Bailey and Mr. Williams and expressed concerns that this case had escalated as far as it did, involving lawyers and collection agencies. No further discussion; motion carried. The case was dismissed.

2. HI16-010, John O'Coin, C.H.I. #39184

Mr. Madison moved to dismiss the complaint. Dr. Angel seconded the motion. No further discussion; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI16-003, Benjamin Schern, C.H.I. #50397

Dr. Angel moved to issue a Letter of Concern. Mr. Madison seconded the motion. No further discussion; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. HI15-023, Matthew Berry, Non-Registrant

Dr. Angel moved to proceed to a formal hearing. Mr. Foose seconded the motion. No further discussion; motion carried.

2. P15-073, Van McDonald, R.L.S. #05357

Dr. Angel expressed concern that the Respondent lacked the required skills to practice surveying safely and was upset that the Respondent contacted the property owners and "bullied" them. Mr. Foose opined that the Board should consider revoking the Respondent's surveying licensing because he caused conflict and disruption among the neighbors. The Respondent's survey varied from the chain of title. Mr. Foose also suggested that the Respondent invalidate his survey rather than correct it. Mr. Madison suggested the Board should require either the corrected survey or restitution, but not both. Mr. Foose suggested that the restitution was the better option. Mr. Foose moved to offer the Respondent a consent agreement to a voluntary surrender, including the maximum administrative penalty of \$4000, costs of the investigation, restitution to the property owner; if possible, voluntary invalidation of the plat in the public records, and if not

signed within 30 days, proceed to a formal hearing. Dr. Angel seconded the motion. No further discussion; motion carried.

3. HI16-006 and HI16-009, David Butler, C.H.I. #55756

Ms. Young, the complainant in HI16-009, appeared and addressed the Board. She explained her concern that the Respondent failed to bring issues with the HVAC system to her attention prior to the purchasing of her home, which in turn created an additional expense of \$7000. Dr. Angel asked if she had received restitution for her fees. Ms. Young stated she had not. Mr. Hunt, investigator, indicated that the Respondent had not cooperated with the investigation process. Dr. Angel moved to offer the consent agreement and include a requirement for the Respondent to pay restitution to Ms. Young. Mr. Folk seconded the motion. Mr. Madison asked to increase the administrative fee. Dr. Angel amended his motion to increase the penalty fee to \$1000. Mr. Folk seconded the motion. No further discussion; motion carried.

4. HI16-016, Fidelity Inspection & Consulting Services, Non-Registrant Firm

5. P15-045, Carlos A. Padilla, R.L.S. #46474

Dr. Angel moved to consent Agenda items 6C(4) and 6C(5). Mr. Madison seconded the motion. No further discussion; motion carried. Dr. Angel moved to offer consent agreements in 6C(4) and 6C(5). Mr. Madison seconded the motion. No further discussion; motion carried.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P16-022, Robert Moric, Non-Registrant
2. P16-001, Partner Engineering and Science, Inc., Non-Registrant Firm

Dr. Angel moved to accept the signed Consent Agreements in 6D(1), 6D(2) and 6D(5). Mr. Noel seconded the motion. No further discussion; motion carried.

3. P15-032, Raad Salih, P.E. (Civil) #34016

Dr. Angel moved to offer the Respondent a consent agreement to include administrative penalties in the amount of \$4000, an Assurance of Discontinuance from practicing land surveying until Respondent passes the NCEES professional surveying examination. If the consent agreement is not signed within 30 days, this matter will proceed to a formal hearing. The Board directed staff to open a complaint against the noted employee for aiding and abetting unlicensed practice. Mr. Noel seconded the motion. No further discussion; motion carried.

4. P16-009, Raad Salih, P.E. (Civil) #34016

Complainant Ed Cami appeared and addressed the Board explaining that the Respondent deceived him by stating he was an architect and put him in a bad financial situation. Mr.

Folk asked Mr. Cami if he would be satisfied if the Respondent agreed to the Board's discipline. Mr. Cami stated he would be. The Respondent had been present to address the Board, but had to leave to attend another meeting. Dr. Angel moved to modify the consent agreement to require the Respondent's practice of structural engineering be restricted until he passes the 16 hours NCEES SE exam. Mr. Jones seconded the motion. The motion failed. Mr. Folk moved to accept the signed consent agreement. Mr. Noel seconded the motion. No further discussion; motion carried with Dr. Angel voting Nay.

5. P15-050, Craig Parkinson, R.G. #30843

Dr. Angel moved to accept the signed Consent Agreement. Mr. Noel seconded the motion. No further discussion; motion carried.

E. Complaints Requiring Board Guidance:

1. P15-065, Michael P. Johnson, Non-Registrant

The Respondent appeared and addressed the Board. Mr. Jones recused himself. The Respondent was not a licensed architect but may have held himself out to the public as such. Dr. Angel recalled that this case was sent back to the staff to determine who designed the AZ 88 restaurant. The Respondent admitted that he designed the restaurant under the supervision of licensed architects he worked for in the 1980s.

Dr. Angel moved to offer Respondent a Consent Agreement with an Assurance of Discontinuance, civil penalties in the amount of \$1000, and costs of the investigation. If not signed within 30 days, this matter will proceed to a formal hearing. Mr. Noel seconded the motion. Mr. Folk spoke against the motion, citing the residential design exemption. Dr. Angel noted that the exemption does not include commercial projects. The Respondent requested a lesser fine. Dr. Angel amended his motion to remove the costs of the investigation. Mr. Noel seconded the amendment. No further discussion; motion carried.

F. Review and Approval of Appointment for EAC Membership:

1. Patrick Rehse, R.A. #10615

Mr. Jones moved to approve Mr. Rehse's appointment to the EAC membership. Mr. Folk seconded the motion. No further discussion; motion carried.

G. Compliance Monitoring Investigations:

1. M09-134, Robert Jedinak, R.L.S. #15332 (Suspended)

The Board considered approving the Respondent's requested peer reviewers. Mr. Foose moved to approve Mr. Jedinak's request for peer reviewers. Dr. Angel seconded the motion. No further discussion; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant Requests for Extension of Licensing Time Frames:

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| A. Behrens, Seth | Mechanical Engineer Application #151518 |
| B. Bruno, Cole | Architect Application #152171 |
| C. Cameron, Vhybirt | Architect Application #152069 |
| D. Porter, Kevin | Civil Engineer Application #151740 |
| E. Rofail, Amgad | EIT Application #151819 |

Whether to Grant or Deny Registration after Full Board Review

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| F. Kizer, Julia | Structural Engineer Application #140985 |
| G. Mask, Bryan | Landscape Architect Application #151303 |

Dr. Angel moved to consider Agenda items 7(A) through 7(G) as a consent agenda. Mr. Jones seconded the motion. No further discussion; motion carried. Dr. Angel moved to approve the time extensions requested. Mr. Jones seconded the motion. No further discussion; motion carried.

Whether to Reopen and Extend the Licensing Time Frames

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| H. Coleman, Shawn | Civil Engineer Application #152375 |
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Dr. Angel noted that the applicant has been registered in Illinois for 8 years and qualifies for registration. The Board directed the Executive Director to grant him registration.

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| I. Djordjevic, Dusan | Chemical Engineer Application #151586 |
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This item will be tabled until the February 2016 meeting.

Whether to Grant Authorization to take Exam after Full Board Review

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| J. Dalton, Chad | Civil Engineer Application #152216 |
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Dr. Angel moved to authorize the Applicant to test. Mr. Madison seconded the motion. No further discussion; motion carried.

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;

Dr. Angel moved to cancel those registrations and certifications that have been expired for more than one full renewal period. Mr. Folk seconded the motion. No further discussion; motion carried.

- B. 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. Presentation from Representatives from NCARB, AIA, and Arizona's NAAB Accredited Architectural Programs regarding NCARB's *Integrated Path to Registration*.

Harry Falconer from NCARB appeared and made a presentation to the Board, along with Phillip Horton from ASU, about the initiative. ASU would like the Board to support their proposal, which is due to NCARB on April 1, 2016.

- B. When appropriate, whether to credit engineering applicants with more than 12 months of construction experience toward exam eligibility and/or registration.

The Board considered whether to award more than 12 months of credit for the construction experience toward the registration requirement. Dr. Angel expressed the desire to consider each application on a case by case basis. Mr. Madison pointed out that the Board does not define "construction experience" and does not separately acknowledge the construction experience as a branch of engineering.

- C. Possible new Substantive Policy Statement regarding Home Inspectors referring other Tradesmen to correct adverse conditions identified during a home inspection.

The Board reviewed the proposed Substantive Policy Statement. Mr. Madison moved to approve it and Mr. Noel seconded the motion. No further discussion; motion carried.

D. Legislation for the 2016 Session.

The Board's lobbyists appeared to review the proposal legislation with the Board members. Mr. Folk moved to direct the board staff to offer comments to the legislature on HB2333 regarding the Board's concerns for the public safety. Dr. Angel seconded the motion. No further discussion; motion carried.

10. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius reported that with 50% of the budget year elapsed; we have spent 51% of our appropriation and 72% of our revenue.

B. Staff Update

Julie Armour left state service on January 11, 2016 and will return to her previous job at Hospice of the Valley.

C. Previous Meeting Follow-Up

The Board's RFP was awarded to GL Solutions. The PIJ is currently being approved. The vendor will contact us regarding building of the new computer system.

D. Director's Meetings

On December 15, 2015, at his request, Ms. Cornelius and Ms. Pritzl met with Barry Wong, who is the director of the Equal Opportunity section at the Department of Administration.

On December 16, 2015, The Board's lobbyists, Ms. Cornelius, and Ms. Pritzl met with a policy advisor at the Governor's Office, Victor Riches, to discuss the Board's need to increase our appropriation next fiscal year in order to pay for the new computer system. Also discussed was the proposed termination of the drug lab remediation program, the assayers, remediation specialists and alarms issues—all the legislation the Board plans to run this coming session.

On January 7, 2016, Ms. Cornelius and Ms. Pritzl met with Mark Killian, the Director of the Department of Agriculture, regarding the potential legislation in which the agricultural agency plans to submit which could have had an impact on the Home Inspectors. After the meeting, the Department determined not to include the provisions that would have affected home inspectors in their proposed legislation.

Ms. Cornelius attended the NCARB MBE Meeting in San Francisco January 14-17, 2016.

Now that the Legislative session has begun, Ms. Cornelius and Ms. Pritzl will be meeting with Legislators to discuss the Board's 4 bills. The meetings began in earnest on January 19, 2016.

11. **BOARD CHAIR'S REPORT** – The Chairman waived giving a report this month.

12. **STANDING COMMITTEE REPORTS**

- A. Legislation and Rules Committee
- B. Home Inspector Rules and Standards Committee

Both meetings were cancelled this month.

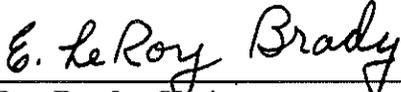
13. **BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES**

- A. ASBOG – Mr. Noel will be attending a meeting in Tucson in February 2016.
- B. CLARB – Nothing new to report.
- C. NCARB – Harry Falconer made a presentation to the Board.
- D. NCEES – Nothing new to report.

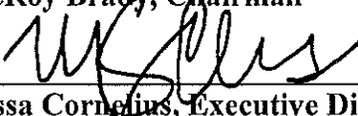
14. **FUTURE BOARD MEETINGS** – Tuesday, February 23, 2016

15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.** – None suggested at this time.

16. **MEETING ADJOURNMENT** – 3:25PM



E. LeRoy Brady, Chairman



Melissa Cornelius, Executive Director