

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

Tuesday, July 28, 2015
9:00 a.m.
OPEN SESSION

1. CALL TO ORDER – 10:00 a.m.

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

3. CALL TO THE PUBLIC – Ms. Jennifer Meek addressed the Board to discuss the time sensitive test date that was approaching near the end of August of 2015. Ms. Meek was concerned that she might miss the deadline to take her test. The Board recommended that BTR staff confer with Ms. Meek and assist her in any way that they can and that Ms. Meek’s case be added to the agenda for the August 25, 2015 Board meeting.

4. ADOPTION OF MINUTES

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject May 26, 2015 Executive Session Board meeting minutes - Mr. Brady made a motion to approve the minutes. Mr. Noel seconded the motion. No further discussion; motion carried.
- B. Approve, modify and/or reject June 23, 2015 Board meeting minutes. - Mr. Brady made a motion to approve the minutes. Dr. Angel seconded the motion. Mr. Marley abstained. No further discussion; motion carried.
- C. Approve, modify and/or reject June 23, 2015 Executive Session Board meeting minutes. Mr. Brady made a motion to approve the minutes. Mr. Noel seconded the motion. Mr. Marley abstained. No further discussion; motion carried.
- D. Approve, modify and/or reject July 10, 2015 Board meeting minutes - Mr. Brady made a motion to approve the minutes. Dr. Angel seconded the motion. Mr. Marley abstained. No further discussion; motion carried.

5. FORMAL HEARINGS:

A. Review, Consideration and Vote on the following Formal Hearings:

1. H10-027, Robert W. Garrard, non-registrant – Mr. Marley opened the hearing. Mr. Garrard was not present and was not represented by legal counsel. Mr. Michael Raine, Assistant Attorney General, represented the State of Arizona. Chris Munns, Solicitor General's Office, was present to advise the Board. The Board confirmed its review of Mr. Garrard's response to the Complaint and Notice of Hearing. Mr. Raine presented the State's evidence and testimony regarding the allegations in this matter.

Dr. Angel moved that the Board find that the respondent engaged in an unregistered practice, Mr. Marley stated that the motion has to state whether or not it adopts the factual allegations in the complaint as finding of fact. Dr. Angel modified the motion and moved that the Board adopt the factual allegations in the complaint as finding of fact. Mr. Brady seconded the motion. No further discussion; motion carried.

Conclusions of law: Mr. Folk moved that the Board adopt as Conclusions of law all but the last sentence of the alleged violations. Dr. Angel seconded the motion. No further discussion; motion carried.

Dr. Angel moved that the Board assess civil penalties in the amount of \$2000 payable over 24 months in equal installments plus the cost of the investigation and requested that staff add a note to the file of this action in case the Respondent reapplies for registration in the future. Mr. Folk seconded the motion. No further discussion; motion carried.

2. H10-030, Bradley W. Isaly, non-registrant – Mr. Isaly was not present and was not represented by legal counsel. Mr. Michael Raine, Assistant Attorney General, represented the State of Arizona. Chris Munns, Solicitor General's Office, was present to advise the Board. Mr. Raine informed the Board that Mr. Isaly had signed a consent agreement with terms and conditions previously approved by the Board.

Dr. Angel moved that the Board accept the Respondent's signed Consent agreement. Mr. Brady seconded the motion. No further discussion; motion carried.

3. M13-039, Andrei S. Neiciulescu, P.E. (Civil) #49559 – Mr. Neiciulescu was not present and was not represented by legal counsel. Mr. Michael Raine, Assistant Attorney General, represented the State of Arizona. Chris Munns, Solicitor General's Office, was present to advise the Board. Mr. Raine stated that Mr. Neiciulescu had not responded to the Complaint and Notice of Hearing and filed a Motion to Deem Allegations and Violations Admitted.

Mr. Noel moved that the Board grant the State's motion to Deem the allegations and the complaint admitted. Dr. Angel seconded the motion. No further discussion; motion carried. Dr. Angel moved that the Board adopt the factual allegations as finding of fact as conclusions of law for case M13-039. Mr. Brady seconded the motion. No further discussion; motion carried.

Dr. Angel moved that the Board issue a Letter of Reprimand; impose an administrative penalty in the amount of \$2,000.00 plus cost of the investigation, stayed suspension until all requirements are met, and a practice restriction on structural engineering until the respondent can pass the NCEES structural engineering exam. Mr. Noel seconded the motion. After further discussion by the Board, Dr. Angel moved to modify the previous motion to suspend respondent's registration until he pays the administrative penalty of \$2,000.00 and the cost of the investigation ordered the penalty payable within 90 days. Mr. Folk seconded the motion. No further discussion; motion carried.

6. ENFORCEMENT MATTERS

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI15-025, Thomas Stokley, C.H.I. #40592 – Mr. Brady moved that the allegations against Stokley be dismissed. Mr. Noel seconded the motion. No further discussion; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P15-005, R. Craig Allison, P.E. (Civil) #13900 – Mr. Folk moved that the Board issue a Letter of Concern to Mr. Allison for failing to stamp, date, or seal a professional document. Mr. Brady seconded the motion. Dr. Angel stated that there seems to be some confusion in the engineering community as to whether or not the said documents are professional documents. The issue may warrant some discussion for clarification in the future. No further discussion; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. HI15-003, David Ungacta, C.H.I. #50920 – Mr. Ungacta appeared to address the Board. After hearing Mr. Ungacta's testimony, Mr. Folk moved that the Board offer a Consent Agreement to Mr. Ungacta. The Agreement should include a Letter of Reprimand, an administrative penalty in the amount of \$750.00, stayed suspension and probation of registration subject to compliance with the Consent Agreement, and the cost of the investigation in the amount of \$556.00. If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Brady seconded the motion. No further discussion; motion carried.
2. M09-039, David B. Logan P.E. (Civil) #30010 and Geo Dimensions Firm #12750 (dissolved) – Mr. Logan appeared by telephone before the Board. After hearing Mr. Logan's testimony, Dr. Angel moved that the Board offer the proposed Consent Agreement to consist of a Letter of Reprimand, a civil penalty in the amount of \$500.00, and the cost of the investigation in the amount of \$698.00.

If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Noel seconded the motion. No further discussion; motion carried.

3. P14-030, Dave Johnson, Non-Registrant and Mayfair Design, Non-Registrant Firm – Mr. Noel moved that the Board offer the proposed Consent Agreement to Mr. Johnson. The Agreement includes the Assurance of Discontinuance, a civil penalty in the amount of \$4,000.00, and the cost of the investigation in the amount of \$551.00. If the Consent Agreement is not signed within 10 days, the matter will proceed to Formal Hearing. Mr. Brady seconded the motion. No further discussion; motion carried.
4. P14-004, Hector Fimbres, Non-Registrant and Fimbres Design, Non-Registrant Firm Mr. Noel moved that the Board offer the proposed Consent Agreement to Mr. Fimbres. The Agreement includes the Assurance of Discontinuance, a civil penalty in the amount of \$4,000.00, and the cost of the investigation in the amount of \$1,450.00. If the Consent Agreement is not signed within 10 days, the matter will proceed to Formal Hearing. Mr. Brady seconded the motion. No further discussion; motion carried.
5. P15-069, Stephen Speyer, Geologist #28254 and Speyer & Associates, Firm #10434 (dissolved) – Dr. Angel moved that the Board offers the proposed Consent Agreement to Mr. Speyer. The Agreement includes a Letter of Reprimand, a Stayed Suspension/Probation, and payment to a Collaborating professional in the amount of \$6135.00, an administrative penalty in the amount of \$1,500.00 and the cost of the investigation in the amount of \$409.00. If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Noel seconded the motion. No further discussion; motion carried.
6. P15-046, Paul Miernicki, Non-Registrant and PK Surveying, Non-Registrant Firm – Mr. Miernicki appeared to address the Board. After hearing Mr. Miernicki's testimony Dr. Angel moved that the Board offer the proposed Consent Agreement to Mr. Miernicki. The Agreement includes the Assurance of Discontinuance, a civil penalty in the amount of \$3,200.00, and the cost of the investigation in the amount of \$798.00. If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Brady seconded the motion. No further discussion; motion carried.

Mr. Folk recommended that staff open an investigation on Mr. Husted concerning evidence of aiding and abetting unauthorized practice; and lack of technical skill and competence in connection with the survey document produced in this record.

7. HI15-028, Adam Tidwell, C.H.I. #55259 – Mr. Tidwell appeared to address the Board. After hearing Mr. Tidwell's testimony Dr. Angel moved that the Board modify the proposed consent agreement to reduce the penalty to \$400.00, payable in 10 months plus the cost of the investigation. If the Consent Agreement is not signed

within 30 days, the matter will proceed to Formal Hearing. Mr. Tidwell expressed his dissatisfaction with the Board's ruling. Mr. Noel seconded the motion. No further discussion; motion carried.

8. P15-084, Keith Mosier, P.E. (Civil) #27826 – Dr. Angel moved that the Board offer Mr. Mosier the proposed Consent Agreement which consists of a Letter of Reprimand, an administrative penalty in the amount of \$150.00, and the cost of the investigation in the amount of \$270.00. If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Noel seconded the motion. No further discussion; motion carried.
9. P15-076, Steve Oxford, R.L.S. #27749 – Mr. Oxford appeared to address the Board. After hearing Mr. Oxford's testimony Dr. Angel moved that the Board offer a Consent Agreement to include a Letter of Reprimand, an administrative penalty in the amount of \$150.00 plus the cost of the investigation in the amount of \$174.00. If the Consent Agreement is not signed within 30 days, the matter will proceed to Formal Hearing. Mr. Noel seconded the motion. No further discussion; motion carried.
10. H115-014, Bruce M. Lewis, C.H.I. #42597 – Mr. Lewis appeared to address the Board. After hearing some of Mr. Lewis' testimony and reviewing a letter he presented to the Board Mr. Folk moved to go into Executive Session at 1:12 p.m., Dr. Angel seconded the motion. The Executive Session ended at 1:25 p.m. and the Board meeting resumed. The Board determined that the case requires further review and remanded the matter for further investigation and review by Mr. Raine. Mr. Noel moved that the case be postponed for such review and continued at the August 25, 2015 Board Meeting. Mr. Folk seconded the motion. No further discussion; motion carried.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P15-078, James McClaren, R.A. #27764 – Mr. McClaren appeared to address the Board. After hearing Mr. McClaren's testimony Mr. Brady moved that the Board accept the Respondent's signed Consent Agreement. Mr. Noel seconded the motion. No further discussion; motion carried.
2. H115-027, John Haag, C.H.I. #50226 – Mr. Haag appeared to address the Board. After hearing Mr. Haag's testimony Mr. Noel moved that the Board accept the Respondent's signed Consent Agreement. Dr. Angel seconded the motion. No further discussion; motion carried.

E. Complaints Requiring Board Guidance:

1. AL15-009, Adam Scrivner, Alarm Controlling Person #55886 and Secure Link Inc., Alarm Business #18370 - Mr. Folk moved that the Board send the case to formal hearing on the allegations that the Alarm Controlling person Adam Scrivner aided and abetted unregistered and uncertified persons by employing or contracting with uncertified Alarm Agents to conduct the business of selling and installing alarms and stated the Board's actions to act under ARS § 32-128(C), and also for the failure to

respond to a subpoena issued by the Board and stated the Board's authority under ARS § 106 (6) and possible violation of ARS § 32-106. Dr. Angel seconded the motion. No further discussion; motion carried.

2. HI15-029, Thomas Sullivan, C.H.I. #38636 – Mr. Peter Leeds Chairman of the EAC appeared before the Board to give testimony on case HI15-009. Dr. Angel moved that the Board issue a Letter of Concern reminding Mr. Sullivan that his reports result in deficient Home Inspection reports and that he needs to improve the form to reflect all standards and ensure future inspections meet the Arizona Home Inspection standards. The motion was amended to include language that requires the Respondent to submit a corrected or updated report format to the Home Inspection Committee for review. Mr. Brady seconded the motion. No further discussion; motion carried.
3. P15-077, Calvin Coatsworth, R.A. #27872 – Mr. Coatsworth appeared to address the Board. After hearing Mr. Coatsworth's testimony, Dr. Angel moved that the Board issue a Letter of Concern to the Respondent for using the a fire report duplicated from a pre-existing report for a second project in the same building. Mr. Folk seconded the motion. No further discussion; motion carried.
4. P15-079, David Ohlemeyer, R.A. #31348 – Dr. Angel moved to dismiss the allegations against Mr. Ohlmeyer. Mr. Noel seconded the motion. No further discussion; motion carried.
5. P15-068, Rodney Westrum, R.L.S. #15403 - Dr. Angel moved to dismiss the allegations against Mr. Westrum. Mr. Brady seconded the motion. No further discussion; motion carried.
6. P15-080, Kent Bice, P.E. (Civil) #34666 - Mr. Kent Bice appeared by Telephone before the Board. After hearing Mr. Bice's testimony, Dr. Angel moved to dismiss the allegations against Mr. Bice. Mr. Folk seconded the motion. No further discussion; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Reopen and Reauthorize Exams

- A. Morton, Jon, Architect Application #132919 – Mr. Morton appeared before the Board. After hearing Mr. Morton's testimony Mr. Brady moved that the Board reopen the Respondent's application and authorized him to take the ARE through July 31, 2016. Mr. Noel seconded the motion. No further discussion; motion carried.
- B. Richardson, Jacob, Civil Engineer Application #150179 – Dr. Angel moved that the Board reopen the application for Mr. Richardson and grant registration. Mr. Noel seconded the motion. No further discussion; motion carried.

Whether to Waive the FE and Authorize SE Examination Access:

- C. Pancrazio, Steven, Structural Engineer Application #142204 – Mr. Steven Pancrazio appeared before the Board to request authorization to take the SE and request the wavier of the FE. While hearing Mr. Pancrazio’s testimony Mr. Folk moved that the Board go into Executive Session to receive legal advice at 12:22 pm. Dr. Angel seconded the motion. The Executive Session ended at 12:40 pm and the Board meeting resumed at that time. Dr. Angel moved to request that staff consider the previous COE for Mr. Pancrazio from 2005 – 2008 with this application as credit for experience, and that staff verify that his degree is an ABET accredited degree; and that Mr. Pancrazio’s application be extended through November 2015. Mr. Brady seconded the motion. No further discussion; motion carried.

Whether to Grant or Deny Registration:

D. Benson, Randall	Alarm Agent Application #150945
E. Brady, Ryan	Alarm Agent Application #150491
F. Costello, Brian	Alarm Agent Application #150900
G. Dumdie, Michael	Controlling Person Application #150710
H. Etchen, Edward	Architect Application #150785
I. Flores, Roberto	Alarm Agent Application #150739
J. Gibbs, Michael	Alarm Agent Application #150859
K. Hunsucker, Kurtis	Controlling Person Application #150480
L. Reininger, Eugene III	Land Surveyor Application #150372
M. Solis, Ivan	Alarm Agent Application #150820

- D. Dr. Angel moved that the Board Consent to grant the applications listed in items 7D through 7M. Mr. Brady seconded the motion. No further discussion; motion carried.

The Board asked staff to place the topic of *Whether to Grant or Deny Registration to Applicants with criminal history on the August Board Meeting Agenda* in order to reconsider the delegation of the task to the Executive Director.

Whether to Grant Requests for Extension of Licensing Time Frames:

- N. Hu, Jiale, EIT Application #150622 – Dr. Angel moved that the Board extend Ms. Hu’s application through December 31, 2015. Mr. Noel seconded the motion. No further discussion; motion carried.
- O. Pozen, Brian, Architect Application #040392 – Mr. Brady moved that the Board extend Mr. Pozen’s exam date to meet the requirements of NCARB. Mr. Noel seconded the motion. No further discussion; motion carried.

8. LIST OF THOSE GRANTED REGISTRATION OR CERTIFICATION, AUTHORIZED TO TEST, AND CLOSED BY THE EXECUTIVE DIRECTOR

Lists of names available at the Board's office for public review

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

- A. Draft Sunset Response to the Committee of Reference. – The Board discussed the Draft Sunset Response to the Committee of Reference. Ms. Cornelius requested that the Board further review the draft and asked that any comments about or changes to the draft be sent to her by August 15, 2015.
- B. National Society of Professional Engineers' Response to NCEES Annual Meeting Motion to Modify Model Law Regarding Structural Engineers and whether to Vote For or Against it. – The Board decided not to take any action on the motion to Modify Model Law Regarding Structural Engineers and whether to Vote For or against it. Instead the Board decided to leave it up to Dr. Angel and Mr. Stanley who will attend the NCEES Annual meeting.

10. DIRECTOR'S REPORT – Ms. Cornelius reported that the meeting at DPS yielded negative results. DPS refused the offer to assume regulatory authority over the Alarms industry. Ms. Cornelius reported that BTR is scheduling a meeting with Registrar of Contractors (ROC) to see if they are interested in accepting the responsibility for Alarms. If ROC refuses the Alarms, BTR will go back to the Legislature to ask for help in streamlining the Finger Printing process so that it isn't as cumbersome for BTR and burdensome for the applicants.

- A. Budget Update – Ms. Cornelius reported that BTR is meeting with JLBC next week to discuss the possibility of amending the appropriation to pay for the new Computer System.

Ms. Cornelius also reported that members of the RFP team met yesterday with several of the companies who are proposing to sell BTR their product to view their demonstrations here in the conference room. BTR will be sending out a request for the best and final offer now that the demos have been presented. Hopefully before the end of the calendar year BTR will be prepared to choose a vendor.

Ms. Cornelius reported that BTR Enforcement is only working cases from 2014 and 2015.

Ms. Cornelius reported that the renewals are up a bit for the architects, engineers and geologists.

Mr. Folk asked Ms. Cornelius if some of the pending 27 cases can be sent to the Office of Administrative Hearing (OAH) for hearing; Ms. Cornelius replied yes, Ms. Pritzl replied that 6 or 7 of the cases are currently scheduled to go to OAH.

11. BOARD CHAIR'S REPORT – Nothing to report

12. STANDING COMMITTEE REPORTS

- A. Home Inspector Rules and Standards Committee – Nothing to report
- B. Environmental Remediation Rules and Standards Committee – Nothing to report
- C. Legislation and Rules Committee – Ms. Cornelius reported that the agenda for the meeting is getting larger and the draft agenda will be posted on the website later this week.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. NCEES – The Annual NCEES meeting is coming up in August in Williamsburg, VA.
- B. NCARB – Move this item to next month's agenda
- C. CLARB – Nothing to report
- D. ASBOG – The Annual ASBOG meeting takes place in November 2015 in Delaware.

14. FUTURE BOARD MEETINGS – Tuesday, August 25, 2015 at 9:00 a.m.

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS. –

- The second draft of the Sunset report.
- Discuss the letter that BTR is required to send to the governor about the status of BTR's rules.
- Give feedback on the broadly experienced intern proposal.
- The Authorization for Criminal history.

16. MEETING ADJOURNMENT – 3:37 p.m.



Edward Marley, Chairman



Melissa Cornelius, Executive Director