

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

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

1. **CALL TO ORDER** - 9:10 a.m.
2. **ROLL CALL** – Board Members in attendance: Dr. Alejandro Angel, LeRoy Brady, Neal Jones, Jason Foose, Jason Madison, Edward Marley, and Stephen Noel. Board Members who are absent: Robert Stanley and P. Douglas Folk. Staff: Melissa Cornelius, Patti Pritzl, Doug Parlin, and Kurt Winter.
3. **CALL TO THE PUBLIC** - No one addressed the board.

4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject June 28, 2016 Board meeting minutes - Mr. Marley moved and Mr. Jones seconded to approve the minutes. Dr. Angel noted that a correction was needed on page 10; Mr. Marley amended his motion to approve the minutes as modified. Mr. Jones seconded the motion. No further discussion; motion carried.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

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

1. AL15-005, Christian Bluth, Alarm Agent #56382

Mr. Brady opened the hearing. Roll call was taken and a quorum established. Mr. Raine, A.A.G. appeared on behalf of the State. Mr. Harris, A.A.G., was present to advise the Board. Respondent was not present and was not represented by legal counsel. Mr. Raine presented the evidence regarding the allegations in this proceedings. According to Mr. Raine, the Respondent failed to comply with a May 2014 Consent Agreement. Mr. Raine presented the evidence regarding the allegations in this matter, including testimony from Board Investigator Douglas Kraemer.

Mr. Marley moved and Mr. Foose seconded to adopt the Factual Allegations from the Complaint as Findings of Fact; motion carried.

Dr. Angel moved and Mr. Marley seconded the motion to adopt the Alleged Violations as Conclusions of Law; motion carried.

Dr. Angel moved and Mr. Marley seconded the motion to revoke Respondent's certification; motion carried.

Dr. Angel asked staff to send notice of the revocation to Respondent's former employer.

2. AL15-006, Oscar Bluth, Alarm Agent #57762

Mr. Brady opened the hearing. Roll call was taken and a quorum established. Mr. Raine, A.A.G. appeared on behalf of the State. Mr. Harris, A.A.G., was present to advise the Board. Respondent was not present and was not represented by legal counsel. Mr. Raine presented the State's case against the Respondent and requested that the Board deem the allegations admitted due to the Respondent's failure to respond to the Complaint and Notice of Hearing. Respondent failed to file an answer to the complaint.

Mr. Marley moved and Mr. Noel seconded to deem the allegations of the complaint admitted; motion carried.

Mr. Foose moved and Mr. Marley seconded to adopt the alleged violations in the Complaint as Conclusions of Law; motion passed.

Mr. Marley moved and Dr. Angel seconded to revoke Respondent's license; motion carried.

Mr. Marley asked staff to name the Respondent in email salutation lines in the future.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI16-013, Brent Ruttle, C.H.I. #41248

Mr. Marley moved and Mr. Madison seconded to dismiss the case; motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI16-026, John Hess, C.H.I. #42607

Mr. Madison expressed that the case should be dismissed. Dr. Angel disagreed. Dr. Angel moved and Mr. Marley seconded to resolve the issue by Letter of Concern; motion carried with Mr. Madison voting nay.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. HI16-020, Jeffery Garay, C.H.I. #56405

Jeffery Garay, Respondent, appeared in front of the Board to answer any questions. Luis Chacos, Complainant, appeared and addressed the Board to impart that the actions of Respondent hindered his ability to get accurate estimates for the inspected home, therefore causing him damages. Dr. Angel explained to Mr. Chacos the limited scope of the Board in this matter, that being the skills and abilities of the Registrant and the Consent Agreement that addresses the issue. Dr. Angel further clarified that the consent agreement does consider the performance of the Registrant and restitution of the inspection fee. Staff recommended that the Board accept the signed Consent Agreement for a Letter of Reprimand, costs of investigation, and an administrative penalty for established violations of the Practice Act.

Dr. Angel moved and Mr. Marley seconded to adopt the Consent Agreement; motion carried.

2. P16-068, Timothy Evans, R.L.S. #50988

Mr. Madison moved and Mr. Marley seconded to consolidate items C2, 3, 5 and 6 and accept signed Consent Agreements; motion carried.

3. P16-031, Jeffrey Pierce, R.A. #35237

Mr. Madison moved and Mr. Marley seconded to consolidate items C2, 3, 5 and 6 and accept signed Consent Agreements; motion carried.

4. HI16-023, Scott Fidel, C.H.I. #52986

David Bennett, Complainant, appeared to address the Board. Scott Fidel, Respondent, did not appear at the meeting. Mr. Bennett dialoged with the Board expressing concern that many items were missing from the inspection report. Mr. Marley and Mr. Madison expressed concern that the proposed Consent Agreement was insufficient to address the level of violation substantiated by the investigation. Mr. Marley requested that staff refer the issue to the Board of Real Estate so that they can investigate as well.

Mr. Marley moved and Dr. Angel seconded to reject the Consent Agreement and directed staff to offer a different Consent Agreement that included a letter of reprimand, \$2,000 fine, restitution of \$300, the cost of investigation, and directs the registrant to complete an ethics course within 90 days, and if not signed within 30 days to proceed to formal hearing.

Mr. Madison spoke in favor of the motion and recommended that the Board set a specific number of hours for the ethics courses, as well as include peer reviews due to the lack of a signed agreement and disclosure of conflicts. Mr. Hunt explained that only three allegations of deficiencies were substantiated in the EAC:

1. There was no signed agreement between Complainant and Respondent.
2. The unsigned home inspection was given to the realtor.
3. The home inspection included a realtor license number.

Mr. Bennet expressed his displeasure with the Board process and the lack of notice regarding the investigation and agenda. Ms. Cornelius then explained for the Board and Mr. Hunt that investigations are confidential pursuant to statutory law, and while frustrating, must be followed.

Mr. Marley amended his motion to require eight hours of ethics education and the completion of five peer reviews. Dr. Angel seconded; motion carried.

The Board directed staff to communicate the Board's findings to the Department of Real-Estate. Mr. Bennet stated to the Board that he had already filed a complaint. No further discussion.

5. AL16-010, Mitchell Hughes, Non-Registrant

Mr. Madison moved and Mr. Marley seconded to consolidate items C2, 3, 5 and 6 and accept signed Consent Agreements; motion carried.

6. AL16-011, Derek Bradshaw, Alarm Controlling Person #60748, The Alarm Guys, Inc. Alarm Business #19329

Mr. Madison moved and Mr. Marley seconded to consolidate items C2, 3, 5 and 6 and Accept signed Consent Agreements; motion carried.

D. Complaints Proposed to Offer Consent Agreement:

1. P15-022, Allen C. Aerni, R.L.S. #24513

Mr. Madison moved and Mr. Foose seconded to accept the signed Consent Agreement; motion carried.

E. Complaints Requiring Board Guidance:

1. P16-063, Karl Franklin, P.E. (Civil) #46029

Mr. Foose moved and Dr. Angel seconded to dismiss the case regarding the state of Colorado discipline of Respondent's registration. The Board agreed that the Respondent posed no danger to public welfare and safety; motion carried.

F. Review and Approval of Appointment for EAC Membership:

1. William Amor, R.A. #34217

Mr. Marley expressed concern that Mr. Amor lives and works in California. Mr. Marley questioned whether the standard of practice in Arizona might differ from California and expressed a concern that Mr. Amor might not be available to participate in EACs or to review applications. The Board questioned Investigator Jeff Hunt as to the usefulness of having an out of state EAC member to which Mr. Hunt mirrored the concerns of the board. The Board expressed an interest in asking Mr. Amor for more information to explain his interest and availability. The Board deferred action on this candidate.

2. Robert H. Marmon, P.E. (Civil) #45921

Mr. Madison moved and Mr. Marley seconded to approve Mr. Marmon and Mr. Stanley as EAC members; motion carried.

3. Robert M. Stanley, P.E. (Structural) #27352, P.E. (Civil) #20954

Mr. Madison moved and Mr. Marley seconded to approve Mr. Marmon and Mr. Stanley as EAC members; motion carried.

G. Compliance Monitoring Investigations:

1. C99-030, Francis Henri, P.E. (Civil) #12385

Francis Henri, Registrant, appeared and addressed the Board. Staff requested that the compliance file be closed. Respondent is retired and has not been able to complete required peer reviews, but has complied with the remaining terms of the 1999 Consent Agreement. Dr. Angel and Mr. Madison discussed the possibility of closing this case and issuing a new Consent Agreement for a practice restriction. Mr. Henri agreed to the proposal orally.

Mr. Madison moved and Dr. Angel seconded to administratively close the original Consent Agreement and offer Respondent a new consent for a permanent restriction on Respondent's practice of structural engineering. After receiving legal advice, the motion was amended to amend the existing Consent Agreement to restrict Respondent's practice of structural engineering indefinitely; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant Waiver of the FE

A. Samuel Palacios-Anzaldua, Civil Engineer Exam Application #161406

The Board noted that Applicant's education does not qualify him for a waiver of the FE pursuant to statute. Mr. Madison moved and Mr. Foose seconded to deny the request for a waiver and authorize applicant to sit for the FE; motion carried.

Whether to Grant or Deny Registration/Certification

B. Talon Powers, Home Inspector Application #160794

The Board went into executive session for legal advice at 10:40 am. The Board returned to open session at 10:50 am.

The Board discussed the case and focused on the Applicant's past criminal offenses which would be grounds to deny his application pursuant to statutory law. Mr. Noel noted that the criminal offenses Applicant committed were old-over 10 years. He expressed concern over the nature of the crimes: theft, and how it relates to the good moral character required of the profession. Dr. Angel expressed an interest in inviting Applicant to the next meeting to address the Board. Mr. Marley agreed. The Board tabled this application to invite Applicant to the August meeting to address its concerns.

C. Samuel Dean, Electrical Engineer Application #160393

Mr. Madison moved and Mr. Marley seconded to grant registration. Dr. Angel questioned whether the Board should require Applicant to take the professional exam since the Applicant's California registration lapsed in 1984. Mr. Madison and Mr. Marley amended the motion to waive the FE and approve applicant to retake the PE prior to being granted registration; 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 and Mr. Marley seconded the cancellation of registrations and certificates that have been expired for one full renewal period; motion passed.

- 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. CLARB Model Board Pilot Program Report.

The Board reviewed the draft report proposed to send to CLARB. The Board had positive comments regarding the report, and that it exemplifies the Board's disciplinary and strategic character. Mr. Marley moved and Mr. Madison seconded to approve the Model Board report and send it to CLARB with minor editing as necessary; motion carried.

- B. Legislative Plans in light of the Governor's Executive Order 2016-05.

The Board acknowledged the Executive Order. Ms. Cornelius's communications and cooperation with the DOA resulted in the lobbyists unilaterally consenting to cancel their contract with the Board, effectively ending any professional lobbying on the Board's behalf. Ms. Cornelius awaits further information from the DOA regarding a possible exemption. Ms. Cornelius will attend the Stake holder meeting on July 28 and will update the Board afterwards. Ms. Cornelius suggested that the Board not pursue legislation this coming session due to the unknown effects of the Governor's Executive Order and his possible legislative plans. Mr. Marley suggested that the "B" list be placed on the next L&R agenda for vetting and consideration reasoning that perhaps the associations would put forth necessary corrective legislation. The Board suggested that staff stay in close contact with the associations and the ROC, and invite them to the L&R meeting.

- C. Giving Authority to Board Members Alejandro Angel, Jason Madison and Jason Foose to vote as appropriate on all Resolutions considered at the NCEES Annual Meeting to take place in Indianapolis, Indiana in August of 2016.

Mr. Marley moved and Mr. Noel seconded to grant the necessary authority to Board members attending the annual meeting to vote appropriately; motion carried.

10. DIRECTOR'S REPORT

- A. Budget Update – Ms. Cornelius reported that the DOA accounting office has not sent revenue updates, but Ms. Cornelius stated she is positive that there are no budget issues. She stated she expects to have figures next month.

Ms. Cornelius reported that OSPB has approved the transfer of \$15,000 from the 2071 fund to reimburse Fy16 expenses related to the drug lab program.

B. Previous Meeting Follow-Up

Ms. Cornelius reported that GL Solutions has indicated that the computer system is still set to go live April 2017. Ms. Cornelius updated DOA on the computer system's progress. The Board discussed what might occur if the system were not completed in a timely manner, possible drop of the project, and was glad to hear that progress was running smoothly and timely.

Ms. Cornelius reported that the AG Office acknowledged the Board's request for a formal opinion interpreting HB2613 and had indicated an opinion would be forthcoming.

Ms. Cornelius reported that there is no new news regarding new board member appointments.

C. Director's Meetings –

Ms. Cornelius introduced Kurt Winter as the new communication officer.

The Board requested that an update be sent to them after the ASBOG meeting in Lawrence, Kansas concludes.

D. Statistics Review – No discussion

11. BOARD CHAIR'S REPORT

A. Presentation of a plaque to Tom Thomas, P.E.

Mr. Brady presented a plaque to Mr. Thomas for his outstanding contribution to the Engineering Application Review Committee.

B. Appointments to the Legislation and Rules Committee

Appointed: Ron Starling, Ed Marley, LeRoy Brady, Jason Foose, Doug Folk, Bob Stanley, and Bill Greenslade.

12. STANDING COMMITTEE REPORTS

A. Legislation and Rules Committee – Next meeting on August 18th, 2016.

B. Home Inspector Rules and Standards Committee – No meeting calendared.

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. ASBOG – Annual meeting in Lawrence, Kansas on August 2, 2016.

- B. CLARB – Annual meeting in Philadelphia, Pennsylvania in September, 2016.
- C. NCARB – Board President’s meeting in Columbus, Ohio late October, 2016.
- D. NCEES – Annual Meeting in Indianapolis, Indiana August 24-27, 2016.

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

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

- A. Inviting Stakeholder Associations to Dialog with the Board.

16. **MEETING ADJOURNMENT 11:45 am**


E. LeRoy Brady, Chairman


Melissa Cornelius, Executive Director