

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

Tuesday, May 22, 2018
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:02am
2. **ROLL CALL - Present:** Dr. Alejandro Angel, Stephen Noel, Jason Foose, Neal Jones (left at 11:31am), Eugene Montgomery, Jason Madison, Jack Gilmore, Edward Marley
Not Present: Andrew Everroad
Staff: Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter

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, April 24 2018 Board meeting minutes.

Mr. Marley moved and Mr. Gilmore seconded to approve the minutes; motion carried.

- B. Approve, modify and/or reject, April 24 2018 Board Executive meeting minutes.

Mr. Foose moved and Mr. Marley seconded to approve the minutes; motion carried.

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

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

Nothing to Consider

6. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI18-027, Mike Elsberry, C.H.I. #38984

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

B. Complaints Proposed to Offer Consent Agreement:

1. HI18-007, Kent Lamb, C.H.I. #40585 and AZ Inspections, Inc., Non-Registrant Firm

Investigator Kraemer stated that Respondent had communicated that he would not sign the consent agreement because he considered the administrative penalty excessive. Mr. Madison asked how long the Respondent's firm was not registered while Respondent performed the function of a Home Inspector. Investigator Kraemer answered 'over three years'. Mr. Montgomery questioned what factors established a higher fine for failure to register a firm. Dr. Angel answered that, in this matter, the Respondent knowingly failed to register his firm, which factored into the higher administrative penalty.

Mr. Madison moved and Mr. Marley seconded to offer a consent agreement encompassing the following: the Board shall issue a letter of reprimand to Respondent, a stay of suspension/probation, Respondent shall pay an administrative fee in the amount of \$500, Respondent shall pay the costs of investigation in the amount of \$500 and, if not signed within 30 days, move to formal hearing; motion carried.

2. AL18-003, David Roman and Security Systems, Inc., DBA Safeguard America, DBA Safe Home Security, Non-Registrants (Companion case with AL18-004)

Mr. Marley moved and Mr. Gilmore seconded to table this matter for the June meeting; motion carried.

3. P16-042, Dean Ashworth, Non-Registrant and ADP Design Group, Firm #16395 (expired between 9/30/2015-7/6/2016 and since 7/6/2017)

Respondent appeared before the Board.

Investigator Hunt explained that Respondent's partner deceived him, which was why the penalty fee was so low. Dr. Angel asked whether Respondent firm was registered with the Board at the time of the Cielo Villas project. Investigator Hunt answered 'no', but stated Respondent Firm registered immediately after the Board notified Registrant Firm. Mr. Marley expressed his concern that Mr. Takach's seal appeared on plans requiring the use of seals of differing disciplines. Investigator Hunt clarified that the project owner of Cielo Villas project, Mr. Cotan, gave staff a written statement that Mr. Dominquez and Mr. Takach handed him the plans and said they were ready to go, implying Mr. Takach sealed all the plans. Investigator Hunt stated it was difficult obtaining this information since the Allegor, Mr. Takach, was uncooperative. Mr. Marley expressed concern with the language in a statement from

Alamo Financial and asked staff to forward the document to the Arizona Department of Insurance. Dr. Angel asked if there was proof Respondent fraudulently used a registrant's seal. Investigator Hunt answered 'no'. Mr. Madison opined that the cost of investigation was too high; given that the Alleger's uncooperative nature was the primary factor of the final amount.

Mr. Marley moved and Mr. Gilmore seconded to offer the consent agreement encompassing the following: assurance of discontinuance until such time the firm was registered and an administrative penalty of \$250; motion carried.

After the vote, the Board directed staff to open a case against Mr. Takach.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. AL18-004, Tyson Landon, Non-Registrant (Companion case with AL18-003)

Respondent appeared before the Board.

Respondent stated that his employer told him he could work under the employer's license and did not know he was in violation of Board rules and statutes. Dr. Angel asked Respondent if he was registered. Respondent stated he was moving through the application process. Dr. Angel asked if Respondent was currently selling alarm systems. Respondent answered 'no'.

Mr. Foose moved and Mr. Marley seconded to accept the signed consent agreement and open a case against Jason Taylor and Northstar Alarms LLC for aiding and abetting a non-registrant; motion carried.

2. P18-039, Gerold Pratt, P.E. (Civil) #26873

Mr. Madison moved and Mr. Marley seconded to accept the signed consent agreement; motion carried.

3. P17-082, Jeremy Dalmacio, R.L.S. #49864

Mr. Foose moved and Mr. Noel seconded to accept the signed consent agreement; motion carried.

The Board took a break at 10:19am and returned at 10:28am

D. Complaints Requiring Board Guidance:

1. P18-054, James Elson, R.A. #11005 (Cross reference with P18-058)

Mr. Madison recused himself. See Agenda item 6d2 for discussion of this matter as well as P18-058.

2. P18-058, James Elson, R.A. #11005, and James Elson Architect, Firm # 19729 (expired 4/18/2017)

Mr. Madison recused himself.

Respondent appeared before the Board. Alleger, David Bixler, appeared telephonically.

Dr. Angel asked if Respondent's clients paid him for the two projects in this matter. Respondent answered he was paid for only one project. Dr. Angel expressed his concern that Respondent appeared before the Board in the past for the same issues and failed to timely comply with previous consent agreements. Alleger stated that Respondent gave him a cashier's check for \$2000 the previous day but Respondent still owed him \$1900. Dr. Angel asked how much Alleger owed for each project. Alleger answered \$3500 for the Skyharbor Leasing project and \$400 for the Bahia Mezzanine project. Dr. Angel expressed concern that the amounts owed for each project appeared unknown to Respondent. He further stated he believed that Respondent did not understand that he was lawfully obligated to pay collaborating professionals upon receipt of payment from the client. Respondent indicated that he would have paid if not for relying upon a non-paying client. Mr. Marley stated that Respondent should have communicated with the collaborating professionals of the non-paying client and that Respondent needed to pay collaborating professionals immediately upon receipt of payment from the client. He further stated that he questioned whether the Board could regulate Respondent. Mr. Foose opined that the Board should send this matter to formal hearing to revoke Respondent's registration.

Mr. Foose moved and Mr. Marley seconded to draft a consent agreement for the Board to review at the June meeting; motion carried.

The motion for case P18-054 subsequently superseded this motion and can be found below.

Mr. Marley moved and Mr. Angel seconded to consolidate P18-054 and P18-58 and direct staff to draft a consent agreement encompassing the Findings of Fact and Conclusions of Law for both cases P18-054 and P18-058 for the Board to review at the June 26, 2018 Board Meeting; motion carried. Mr. Foose voted Nay.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Request for Extension of Licensing Timeframes

- A. Hussain, Mohammed- Application for Registration as an Electrical Engineer #180306

Mr. Foose moved and Marley seconded to grant extension; motion carried.

Whether to Grant or Deny Based on Criminal Background

- B. Finch, Gary- Application for Certification as a Home Inspector #180533

Mr. Stam informed the Board that applicant had a criminal record dating back 20 years but, due to a head injury in 2014, applicant could not recollect the details; applicant submitted documentation from courts. Mr. Stam further stated that applicant was somewhat uncooperative. Ms. Cornelius stated that due to applicant appearing to act belligerent to three different staff members during the application process, she was concerned the Board may have difficulty regulating applicant if granted certification, but she did note that she was only speculating and therefore it should not be considered a factor when considering whether to grant or deny applicant certification.

Mr. Madison moved and Mr. Marley seconded to grant certification; motion carried. Dr. Angel and Mr. Jones voted Nay.

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. Marley moved and Mr. Foose seconded to cancel registrations and certifications that had been expired for one full renewal period; motion

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. Computer Software Update - Funding, Current state of computer system, How to proceed, Executive Session may be necessary.

Ms. Cornelius reported that the data migration to CRM was a success but some data cleanup would be required moving forward.

Mr. Marley moved and Mr. Foose seconded to enter executive session. Motion carried. The Board entered executive session at 11:05am. The Board reentered public session at 11:16am.

10. DIRECTOR'S REPORT

- A. Budget Update – Report on current Board budget and fiscal year

Ms. Cornelius reported that the fiscal year ends at the end of June and there were enough funds left over from the current period to pay for the CRM clean up.

- B. Previous Meeting Follow-Up

- a. Rules submission to the Governor's Regulatory Review Council (where the Board was in the rulemaking process)

Ms. Cornelius reported that staff submitted the Notice of Final Rulemaking to GRRC and that a special council would review the rules and ask questions on May 30, and make a final decision on June 5.

- b. Legislation - report on HB2207, SB1273 and SB1436

Mr. Donald reported on SB1436, stating judges would be able to review the Board's decisions without deference but the change did not overly concern him since the Board made its decisions in the proper manner and procedure.

- C. Staff - investigator position opening

Ms. Cornelius reported that there was a promising candidate for the open investigator position.

- D. Statistics Review - licensing and enforcement statistics

Nothing discussed.

11. BOARD CHAIR'S REPORT – Nothing to Report

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – Nothing to Report
- B. Home Inspector Rules and Standards Committee- Nothing to Report

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

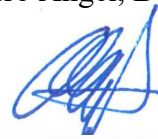
- A. ASBOG – Annual Meeting Monterrey, CA end of October 2018.
- B. CLARB – Annual Meeting in Toronto Canada end of September 2018.
- C. NCARB – Annual Meeting in Detroit, MI in June 2018.
- D. NCEES – Changes to PS exam. Annual Meeting in Scottsdale, AZ August 2018.

14. FUTURE BOARD MEETINGS – June 26, 2018

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

16. MEETING ADJOURNMENT – 11:44am

Dr. Alejandro Angel, Board Chairman



Melissa Cornelius, Executive Director

