

**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
MINUTES FOR REGULAR SESSION MEETING**

Tuesday, December 10, 2019, beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. **CALL TO ORDER** – 9:02am
2. **ROLL CALL** – **Present:** Dr. Alejandro Angel, Jason Madison, Eugene Montgomery, Stephen Noel, Jason Foose, Jack Gilmore, Neal Jones, Andrew Everroad, Carmen Wyckoff
Not Present:
Staff: Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter
A.A.G: Scott Donald, Deanie Reh, Seth Hargraves

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, October 22, 2019 Board meeting minutes.

Mr. Gilmore moved and Mr. Noel seconded to accept the minutes with minor changes to the title and footer; motion carried. Dr. Angel and Ms. Wyckoff abstained.

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

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

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

1. P17-048 & P17-049, Chris Lasch & Benjamin Aranda, Non-registrants

Mr. Donald, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Dr. Angel expressed his concern that the consent agreement lacked language regarding an assurance of discontinuance and that it was too narrow in its scope to assure that Respondents comply. Mr. Donald explained that because of the North Carolina Dental Board issue, he recommended the Board not use language that constitutes a 'cease and desist' in consent agreements and orders. Furthermore, Mr. Donald expressed his opinion that Respondents would comply with the Board's consent agreement. Ms. Cornelius stated that if Respondents violated the Board's Practice Act in the future, the Board could open another case against them.

Ms. Wyckoff moved and Mr. Noel seconded to accept signed consent agreement; motion carried unanimously.

2. P17-069, Wayne D. Nauert, Land Surveyor (48860) & Surpro, LLC (18810)

Mr. Donald, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Dr. Angel indicated that there was a scrivener's error under conclusions of law paragraph 14. Mr. Donald agreed that there was an error.

Dr. Angel moved and Mr. Everroad seconded to accept the signed consent agreement but to correct the scrivener's error under conclusions of law, paragraph 14; motion carried unanimously.

3 P16-011, David Marsh, Civil/Engineer (46538)

Ms. Reh, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

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

Dr. Angel moved and Mr. Jones seconded to accept signed consent agreement; motion carried unanimously.

4. P17-061, Andre Van Belkom, Non-registrant

Ms. Reh, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

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

Mr. Gilmore moved and Mr. Noel seconded to accept signed consent agreement; 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. AL19-009, Jason Taylor, Alarm Agent (63034)

Respondent did not appear before the Board. Mr. Donald, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Mr. Donald asked that the Board admit the State's exhibit A. The Board admitted the State's exhibit A. Mr. Donald indicated that the exhibits showed that the Board did its due diligence in its attempt to notice Respondent; that Respondent failed to answer the Board's Complaint and Notice of Hearing, and he asked that the Board accept the State's Motion to Deem.

Mr. Noel moved and Mr. Everroad seconded to grant the State's Motion to Deem; motion carried unanimously.

Mr. Noel 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. Donald asked that the Board to revoke Respondent's license because Respondent failed to comply with, and was therefore in violation of, a prior Board Order.

Dr. Angel moved and Mr. Everroad seconded to issue the following Order: revocation of Respondent's license; motion carried unanimously.

2. AL17-003 Hensley, Shae aka Josh Keller & AL19-013 Hensely, Shae

Respondent did not appear before the Board. Ms. Reh, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Dr. Angel asked if the Board could consider case AL19-015 when deliberating this matter. Mr. Hargraves advised the Board to deliberate the two cases separately since the Board did not notice the Respondent of case AL19-015 as an issue in this matter.

Ms. Reh explained that the Respondent failed to answer the Board's Complaint and Notice of Hearing, that Respondent's council of record, Mr. Cox, communicated that he no longer represented Respondent, and she asked that the Board accept the Board's Motion to Deem.

Mr. Noel moved and Mr. Gilmore seconded to grant the State's Motion to Deem; motion carried unanimously.

Mr. Noel 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.

Ms. Reh argued that the Board should impose the maximum penalty in this matter because of the severity of Respondent's actions.

Mr. Gilmore moved and Mr. Noel seconded to issue the following Order: civil penalty in the amount of \$28,000, cost of investigation, costs and fees, all to be paid within 60 days; motion carried unanimously.

3. AL19-015, Hensely, Amanda and EnGarde LLC

Respondent did not appear before the Board. Ms. Reh, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Ms. Reh stated that Respondent submitted an answer to the Board's Complaint and Notice of Hearing late; that Respondent communicated that she obtained counsel to represent her; that Ms. Reh had not heard from Respondent's counsel; and, that AZBTR staff invited Respondent to attend the meeting telephonically but Respondent did not respond.

Mr. Noel asked when Respondent received the Board's Complaint Notice of Hearing and when she answered. Ms. Reh answered that Respondent answered two days late.

Mr. Madison moved and Dr. Angel seconded to deny the State's Motion to Deem; motion carried unanimously.

Mr. Madison moved and Mr. Noel seconded to forward this case to hearing at OAH; motion carried unanimously.

4. P17-026, Christopher Caver, Architect (50438)

Respondent did not appear before the Board. Ms. Reh, A.A.G, appeared before the Board representing the State. Mr. Hargraves, A.A.G, appeared before the Board to give legal advice.

Ms. Reh asked that the Board accept the State's Motion to Deem with the caveat that one of Respondent's mailing addresses may not have been used. Mr. Winter confirmed that the Board sent its Complaint and Notice of Hearing to all known Respondent's addresses of record and that the addresses matched the addresses of a renewal submitted six months prior. Investigator Kraemer confirmed that he recently communicated with Respondent on another matter and Respondent's email matched the email used to send the Board's Complaint and Notice of Hearing.

Dr. Angel moved and Mr. Everroad seconded to grant the State's Motion to Deem; motion carried unanimously.

Mr. Everroad 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.

Ms. Reh asked that the Board consider revoking Respondent's license but stay the revocation until or unless he failed to comply with the Order.

Dr. Angel moved and Mr. Madison seconded to issue the following Order: revocation of Respondent's license, however, revocation is stayed and Respondent's license is placed on suspension for 6 months during which the Board shall issue Respondent a Letter of Reprimand; Respondent shall pay an administrative penalty in the amount of \$5,000 and the cost of investigation and fees, take eight hours of professional ethics within six months; the stay of revocation shall be lifted if Respondent fails to comply with the Board Order, and vacate the OAH hearing.

Board took a break at 10:59am and returned at 11:11am.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. AL20-009, Ashley Salt, Alarm Agent #69962

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

2. HI20-011, Barrett Zeinfeld, C.H.I. #65757

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

B. Complaints Proposed for Resolution by Letters of Concern:

1. P20-009, Martin Sandino, R.A. #59457

Respondent appeared before the Board.

Respondent questioned the ability of the public to submit complaints against registrants as it only seemed to waste time for all those involved.

Mr. Madison moved and Mr. Jones seconded to dismiss case; motion carried. Dr. Angel voted Nay.

C. Complaints Proposed to Offer Consent Agreement:

1. P19-021, Richard Waage, R.L.S. #39954

Respondent appeared before the Board with council, Mr. Harper. Alleger, Mr. Webster, appeared before the Board.

Mr. Harper shared documents with the Board for consideration. Mr. Harper argued that the results of the second EAC indicated that most of the original allegations were unsubstantiated; that Respondent's substantiated violations were de minimis; and he asked that the Board either modify its proposed consent agreement to be more lenient or dismiss the case.

Mr. Foose asked if Respondent had taken any action to help resolve issues with the involved landowners and asked what Respondent had to say about his conduct. Mr. Harper answered that the landowners entered into a lot-line agreement, resolving the issues, and that the Board resolved the issue of Respondent's conduct in a previous case. Mr. Foose asked if the lot-line agreement was available to the public. Mr. Harper answered 'yes.' Dr. Angel asked Respondent to explain how his decision to correct his original survey occurred outside of the Board's influence as he argued at the second EAC. Respondent explained that he was unable to timely record the corrected survey due to a medical condition and that he communicated with Alleger about the ensuing lot-line agreement amongst the landowners.

Alleger shared documents with the Board for consideration. Alleger argued that Respondent and Mr. Harper's statement that the lot-line agreement resolved the issue with all parties involved was false; that he disagreed with the second EAC's findings and that Respondent's land survey harmed his client. Mr. Harper responded that Respondent's land survey did not harm the public and the second EAC disagreed with Alleger's arguments. Dr. Angel opined that the Board should offer the consent agreement but lower the penalty fee. Mr. Madison opined reducing the cost of investigation. Investigator Loera disagreed and explained that the time committed required to conclude the investigation.

Dr. Angel moved and Mr. Everroad seconded to offer proposed consent agreement but reduce the cost of investigation to \$1,197, remove the provision to obey all laws, and if Respondent complies early the Board would terminate the probation early, and if not signed within 30 days move to hearing; motion carried. Mr. Foose and Mr. Madison voted Nay.

2. P20-008, Aaron Bass, Non-Registrant and Stance Architecture, LLC, Non-Registrant Firm

Respondent and counsel, Kathy Brody, appeared before the Board.

Ms. Brody reported that Respondent registered as an Architect successfully with the Board, that he was concerned with following the law and she asked that the Board be lenient. Furthermore, she stated that the Alleger submitted this complaint as a vendetta. Respondent stated that he wanted to do what was right, that he made a mistake and asked that the Board dismiss the case.

Dr. Angel asked Respondent if he had ever represented himself as an architect to clients. Respondent answered “no.” Dr. Angel asked investigator Thacker if Respondent represented himself as an architect to clients. Investigator Thacker answered “not to his knowledge.”

Dr. Angel opined that Staff’s recommended discipline was too harsh. Mr. Jones opined that the Board dismiss the case. Mr. Montgomery agreed with Dr. Angel, but disagreed with Mr. Jones.

Mr. Montgomery moved and Mr. Jones seconded to issue a letter of concern; motion carried unanimously.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. AL19-020, Ricardo Diaz, Controlling Person #68722 and Alliance Security, Inc., Alarm Business #19116

Dr. Angel moved and Mr. Jones seconded to accept signed consent agreement; motion carried unanimously.

2. AL20-004, Ronald Mitchell, Controlling Person #56491 and The Alarm Crew, Inc., Alarm Business #18302

Dr. Angel opined that the Consent Agreement seemed too lenient.

Dr. Angel moved and Mr. Everroad seconded to reject signed consent agreement and advised staff to re-draft the Consent Agreement and raise the penalty to \$6,000; motion carried.

3. AL20-005, Edgar Olivas, Alarm Agent #56922

Dr. Angel asked if it was a statutory requirement to penalize an alarm agent when DPS rescinds their fingerprint clearance card. Ms. Cornelius answered ‘yes.’

Mr. Everroad moved and Mr. Foose seconded to accept signed consent agreement; motion carried unanimously.

4. HI19-044 and HI19-047, Jeremy Noland, C.H.I. #67537

Dr. Angel moved and Mr. Jones seconded to accept signed consent agreement; motion carried unanimously.

5. HI20-008, Gregory DeBenedetti, C.H.I. #60521 and Pueblo Home Inspections, Firm #13727

Mr. Madison moved and Mr. Jones seconded to accept signed consent agreement; motion carried unanimously.

6. P19-076, Eric Spry, R.A. #43500

Respondent and counsel, Ms. Perry, appeared before the Board. Alleger representative appeared before the Board.

Respondent and counsel asked the Board to accept the signed Consent Agreement. Alleger representative had nothing to discuss.

Mr. Everroad moved and Mr. Gilmore seconded to accept signed consent agreement; motion carried unanimously.

E. Complaints Proposed for Formal Hearing:

1. AL20-002, Fabian A. Orozco Gomez, Alarm Agent #65655

Dr. Angel moved and Mr. Jones seconded to forward this case to formal hearing; motion carried unanimously.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration after Full Board Review

A. DePrima, Christopher- Application for Civil Engineer Registration #192190

Applicant and counsel, Ian Wyer, appeared before the Board.

Applicant read a written statement to the Board and asked that the Board grant his application for registration as a civil engineer.

Mr. Noel asked if Applicant wished to be a civil engineer or structural engineer. Applicant answered that he wished to do structural projects under a civil engineer license, which he stated the law allowed. Dr. Angel stated that Applicant was correct, but expressed concern that Applicant's technical knowledge should exclude him from doing structural work. The Board discussed the reasons for Applicant's license revocation in 2017, related to aiding and abetting an unlicensed person and his two previously submitted applications, which the Board denied in 2017 and earlier in 2019.

Dr. Angel noted that he did not see a reference from Gilbert Structural in the application packet and he questioned Applicant's submittal of a self-reference. Ms. Wyckoff indicated from her reading of an Applicant submitted email from October 2019, that she had concerns that Applicant believed that the Board should compensate him and she expressed concern that Applicant had not provided sufficient evidence in this application to demonstrate that he could be successfully regulated a mere two month after the denial of his previous application for registration that was upheld after a formal hearing. Applicant stated that he provided four sealed certificates of experience. Dr. Angel expressed his concern that the certificates of experience indicated that Applicant did sub-professional work. Applicant disagreed. Mr. Foose indicated that Applicant sealed his self-assessment with an expired

seal, indicating to him that Applicant did not understand the Board's Practice Act.

Dr. Angel moved Mr. Everroad seconded to deny registration; motion carried unanimously.

Whether to Grant Registration or Close the Application after Full Board Review

- B. Murphy, Daniel- Universal Licensure Application for Registration as a Mechanical Engineer #192436

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- C. Peters, Christopher- Universal Licensure Application for Registration as a Geologist #192331

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- D. Porsella, Joseph- Universal Licensure Application for Certification as a Home Inspector #192521

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- E. Johnson, Janice- Universal Licensure Application for Registration as a Landscape Architect #192159

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- F. Gosling, Erskine- Universal Licensure Application for Registration as an Architect #191387

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

- G. Savage, Steven- Universal Licensure Application for Registration as an Electrical Engineer #192797

Dr. Angel moved and Mr. Noel seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

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 Mr. Montgomery 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. Appointment/Reappointment of HIRSC member representing a small county

Mr. Swartz and Mr. Leeds appeared before the Board. The Board interviewed Mr. Swartz. Mr. Leeds asked that the Board reappoint Mr. Swartz to serve another term representing a small county on the HIRSC.

Dr. Angel moved and Mr. Everroad seconded to reappoint Mr. Swartz as the small county HIRSC home inspector member; motion carried unanimously.

B. HIRSC recommended changes to Home Inspector Report Checklist

Mr. Foose moved and Mr. Gilmore seconded to approve recommended changes to the Home Inspector Supplement Report Checklist; motion carried unanimously.

C. Public Comment regarding the Board's Proposed Rulemaking

No one from the public appeared before the Board.

Nothing discussed.

D. Discussion Regarding the NTSB Report/Recommendation

Lynn Malloy, a representative of South West Gas, appeared before the Board. Ms. Malloy shared documentation with the Board for their consideration regarding the NTSB Report. Mr. Montgomery asked what Southwest Gas's position regarding the recommendation to repeal the industry exception in A.R.S 32-144 (C) for the gas industry and require that registered professional engineers supervise all gas projects. Ms. Malloy

answered that Southwest Gas supported the NTSB recommendation. Dr. Angel opined that the Board recommend that any changes to A.R.S. § 32-144(C) not be over reaching but include all utilities, not just gas utility companies.

The Board directed staff to send a letter regarding its position and that of South West Gas to the Governor and Legislature.

10. DIRECTOR'S REPORT

- A. Budget Update
- B. Previous Meeting Follow-Up
 - a. Meeting with Governor's representative regarding NTSB – nothing discussed
 - b. Possible New Board Members – Ms. Cornelius reported that there might be a possible applicant for Mr. Madison's position.
 - c. Computer Updates – nothing discussed
 - d. Staff Updates – nothing discussed
 - e. Building Security – Board members reported that their badges did not allow them to enter the ADEQ building.
 - f. Board Shirts – Ms. Cornelius asked Board Members to communicate with staff if they wish to purchase a shirt.
 - g. Community Outreach – nothing discussed
- C. Director's Meetings – nothing discussed
- D. Statistics Review – nothing discussed

11. BOARD CHAIR'S REPORT - Nothing to Report

12. ASSISTANT ATTORNEY GENERAL'S REPORT - Nothing to Report

13. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee - No new date
- B. Home Inspector Rules and Standards Committee - November 19, 2019

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

- A. ASBOG – nothing discussed
- B. CLARB – nothing discussed
- C. NCARB - Model Law Task Force
- D. NCEES – Zone meeting in April in Houston. Mr. Montgomery reported that he was participating in a NCEES committee in January.
- E. ABET – nothing discussed
- F. Land Surveyor Task Force – Meet December 11, 2019.

15. FUTURE BOARD MEETINGS – January 28, 2020

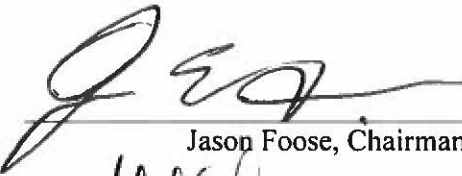
16. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

9d, HIRSC appointment

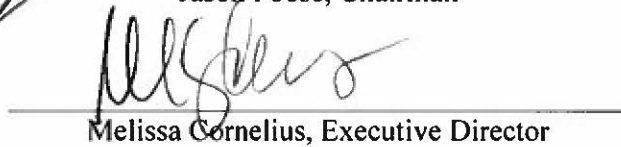
17. MEETING ADJOURNMENT – 1:09pm

After the meeting, Board Members participated in a holiday luncheon with Staff.

Signed this day January 28, 2020



Jason Foose, Chairman



Melissa Cornelius, Executive Director