

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

Tuesday, May 28, 2019, beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL - Present** - Alejandro Angel, Jason Madison, Stephen Noel, Jason Foose, Andrew Everroad, Neal Jones, Jack Gilmore **Telephonic** - Carmen Wyckoff (left at 11:40am)
Not present - Eugene Montgomery
STAFF – Melissa Cornelius, Patrice Pritzl, Douglas Parlin, Robert Stam, Kurt Winter
AG – Scott Donald, Michael Raine

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 23, 2019 Board meeting minutes.

Mr. Noel moved and Mr. Jones seconded to approve minutes; motion carried.

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

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

- A. Review, Discuss and Take Possible Action on Administrative Law Judge’s Decision

1. Deprima, Christopher - Application for PE registration #182949

Applicant appeared before the Board and was not represented by legal counsel. Mr. Donald A.A.G. appeared before the Board representing the State. Mr. Raine A.A.G. appeared before the Board to give the Board legal advice.

Mr. Deprima argued that the Board should expunge his revocation and grant his application for licensure.

Mr. Donald requested that the Board accept the ALJ’s decision to confirm denial of Applicant’s application for licensure.

Mr. Everroad moved and Dr. Angel seconded to adopt the Findings of Fact as recommended by the Administrative Law Judge; motion carried.

Mr. Everroad moved and Dr. Angel seconded to adopt the Conclusions of Law as recommend by the Administrative Law Judge; motion carried.

Mr. Everroad moved and Dr. Angel seconded to accept the decision of the ALJ denying the appeal and uphold the Board's denial of licensure; motion carried.

B. Review, Discuss and Take Possible Action on the Formal Hearing in the Matter of:

1. Johnson, Victor and Justice Satellite and Security - Case # AL19-004

Respondent appeared before the Board and was not represented by legal counsel. Mr. Donald A.A.G. appeared before the Board representing the State. Mr. Raine A.A.G. appeared before the Board to give the Board legal advice.

Mr. Donald passed out exhibits to the Board Members. Mr. Everroad asked if the materials Mr. Donald passed out were included in the Board packets in preparation for this Hearing. Mr. Donald answered "yes."

Mr. Donald and subsequently Respondent presented their opening statements.

Mr. Donald requested that the Board admit the State's exhibits into the record. Respondent did not object to the State's request. The Board admitted the State's exhibits into the record.

Mr. Donald called his first witness, Investigator William Will. Mr. Donald questioned the witness. Respondent declined to cross-examine the State's witness. Mr. Noel asked if Victor Johnson and Victor Johnson Jr. were the same person. Investigator Will answered it was difficult to tell since Respondent had used both names interchangeably. Dr. Angel asked if there had been any communication with Respondent's son. Investigator Will answered "no." Mr. Donald called his second witness, Respondent. Mr. Donald questioned the witness. Dr. Angel asked when the last time Respondent communicated with his son. Respondent answered a year prior. Dr. Angel asked who tended the company PO Box. Respondent answered he did. Dr. Angel asked if Respondent had an example of his son's signature. Respondent answered "no."

Respondent did not have any exhibits to admit into the record. Respondent did not call a witness to testify.

Mr. Donald, in closing, argued that the Board adopt the factual allegations in the complaint and notice of hearing as Findings of Fact, the alleged violations as Conclusions of Law and include the State costs of investigation and attorney's fees in any Order the Board issued.

Respondent, in closing, argued that the Board made him aware that he needed to obtain a license. He subsequently applied in order to comply with the law. Respondent ended stating that he did what the Board asked of him and yet he was still unlicensed.

Mr. Donald rebutted that the State still wished to pursue disciplinary action for Respondent's prior violations, regardless of whether he became licensed.

Mr. Everroad moved and Mr. Jones seconded to adopt the factual allegations in the Complaint and Notice of Hearing as Findings of Fact; motion carried. Mr. Madison voted Nay

Mr. Everroad moved and Mr. Jones seconded to adopt the alleged violations of law in the Complaint and Notice of Hearing as Conclusions of Law; motion carried. Mr. Madison voted Nay.

Mr. Everroad moved and Dr. Angel seconded to issue an Order encompassing the following: a \$5,000 civil penalty, cost of investigation and award attorney's fees and costs to the State, all with joint and several liability, and an assurance of discontinuance; motion carried. Mr. Madison and Mr. Foose voted Nay.

The Board took a break at 11:40am. Ms. Wyckoff left the meeting.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P18-009, Kathryn Mills, P.E. (Civil) #31118

Dr. Angel opined that the Board issue a Letter of Concern informing Respondent to stick to timelines she proposed to her clients.

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

2. P19-031, Peter Takach, P.E. (Civil) #44085 (Related to P19-032)

Dr. Angel opined that Respondent owed Alleger restitution and that the Board should not dismiss this case.

Dr. Angel moved and Mr. Everroad seconded to direct staff to draft a consent agreement for the Board to offer to Respondent encompassing the following: restitution to Alleger, a Letter of Reprimand and Costs of Investigation; motion carried. Vote was unanimous.

3. P19-032, Herbert Wagner, Non-Registrant (Related to P19-031)

Mr. Jones moved and Mr. Gilmore seconded to dismiss case; motion carried. Vote was unanimous.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P19-034, Jason O'Brien, R.L.S. #46473

Alleger, Philip Delaney, appeared before the Board.

Alleger argued that Respondent's land survey did not meet the Board's minimum standards; that Respondent failed to communicate timely, and he requested that Respondent redo the survey.

Mr. Foose asked Alleger if Respondent had given him any sort of deliverable that illustrated the items of his concern. Alleger answered "no." Dr. Angel noted that there were some issues with the survey and Respondent's communication with Alleger, but he opined that the survey was correct. Mr. Gilmore agreed. Mr. Foose asked Alleger if he owned two properties. Alleger answered "yes," stating that his home sat on the line splitting the properties.

Dr. Angel moved and Mr. Gilmore seconded to Issue a Letter of Concern; motion failed. Mr. Madison and Mr. Everroad voted Yay.

Mr. Foose stated that Respondent's survey did not note Alleger's house was on a property line and he argued that this, and other missing details, warranted a reevaluation of this matter. Mr. Madison cautioned the Board from setting a precedent of sending matters back to EACs for reevaluation. Mr. Everroad agreed. Dr. Angel asked if the EAC discussed these details during their meeting. Investigator Hunt answered that he did not recall any such details being the focus of discussion.

Dr. Angel moved and Mr. Gilmore seconded to send this matter back to EAC; motion failed. Dr. Angel and Mr. Foose voted Yay.

Mr. Everroad moved and Mr. Jones seconded to Issue a Letter of Concern; motion carried. Mr. Foose voted Nay.

C. Complaints Proposed to Offer Consent Agreement:

1. HI19-019, Arthur McKay, C.H.I. #38657 and Commercial & Residential Inspections, LLC, Firm #12153

Mr. Jones moved and Dr. Angel seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

2. HI19-030, Scott Fidel, C.H.I. #52986

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

Mr. Lynch argued that Respondent's home inspection did not meet the Board's standards when he failed to report on the condition of some window frames and asked that the Board require Respondent to compensate him for the repairing of those frames. Respondent argued that his home inspection met the minimum standards, that there was no proof that the window frames were in a state of disrepair at the time of his inspection, and that he would not sign the proposed consent agreement.

Mr. Jones asked Respondent if he checked the windows during his inspection. Respondent answered "yes." Board members questioned the photos presented in the packet, as it was unclear when, during or after the inspection, or who, Respondent or Alleger, took the photos. Board members opined tabling this matter for the next meeting so staff could prepare materials with more clarity.

Mr. Madison moved and Mr. Everroad seconded to table to the next meeting; motion carried. Vote carried unanimously.

3. HI19-023, Iain Findlay, C.H.I. #43627 and The Inspection People, PLLC, Firm #18012

Mr. Madison moved and Mr. Everroad seconded to offer proposed Consent Agreement; motion carried. Vote was unanimous.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. AL19-011, John Quijada, Alarm Controlling Person #65435 and Southwest Integrated Solutions, Alarm Business #18279

Mr. Jones moved and Mr. Madison seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

2. P18-033, Bruce Heyse, R.L.S. #23949

Alleger, Peggy Giller, appeared before the Board.

Ms. Giller explained that Respondent's survey did not meet the Board's standards and requested that the outcome of this matter be that the Board indicate as such and nullify the survey.

Mr. Madison moved and Dr. Angel seconded to accept signed Consent Agreement; motion failed. Vote was unanimous.

Mr. Everroad stated that the Board included language in past Consent Agreements obligating Respondents to correct their surveys and he opined that the Board should consider a similar resolution in this matter. Mr. Foose opined that the Board could have difficulty specifying what Respondent needed to correct on his survey. Mr. Everroad stated that the violations in the Consent Agreement were explicit and the Board could require Respondent to correct those violations. Mr. Foose agreed.

Mr. Everroad moved and Dr. Angel seconded to offer a revised Consent Agreement adding the provision requiring Respondent to prepare and record a corrected survey within 90 days of signing the Consent Agreement that addresses items A 1-6 in paragraph six of the Findings of Fact, and, if not signed within 30 days, move to formal hearing; motion carried. Vote was unanimous.

3. AL19-014, William Peacock, Alarm Controlling Person #67728 and Safe Streets USA, LLC, Alarm Business #19898

Mr. Jones moved and Mr. Madison seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

4. P19-027, Christoph Kaiser, Non-Registrant and KaiserWorks, LLC, Non-Registrant Firm

Respondent appeared before the Board.

Dr. Angel asked if Mr. Armstrong was registered. Respondent answered 'yes.'

Mr. Jones moved and Mr. Noel seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

5. P19-043, Michael Hills, Non-Registrant and PHNX-Design, LLC, Non-Registrant Firm

Respondent appeared before the Board.

Dr. Angel moved and Mr. Everroad seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

The Board requested that staff open a case against Mr. Meiser for aiding and abetting.

6. HI19-028, Matthew Maxwell, C.H.I. #60042 and Silver Hammer Inspections, Firm #19304

Mr. Jones moved and Mr. Madison seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

7. HI19-025, Jodon Markona, C.H.I. #44153

Mr. Jones moved and Mr. Madison seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

8. P19-026, Lydia Reyes, Non-Registrant and Linda Reyes Architectural Design Group, LLC, Non-Registrant Firm

Respondent appeared before the Board.

Mr. Jones moved and Mr. Everroad seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

E. Complaints Requiring Board Guidance:

1. P19-039, Lawrence Sullins, Non-Registrant and Southwest Dreamworks, LLC, Non-Registrant Firm

Respondent and council, Barry Olsen, appeared telephonically.

Mr. Olsen explained that Yuma County approached Respondent for work, most probably due to a lack of landscape architects in the county, which Respondent innocently accepted and completed.

Mr. Gilmore opined that the county was at fault in this matter, that the Board should not discipline Respondent and Respondent firm and that the Board make Yuma County aware that a Professional Landscape Architect was required for all landscape public works projects. Mr. Jones agreed. Facts, however, established that Respondent and Respondent firm practiced landscape architecture without registration and in violation of ARS § 32-106.02.

Mr. Madison moved and Mr. Gilmore seconded to draft a Consent Agreement encompassing an assurance of discontinuance; motion carried. Vote was unanimous.

F. Compliance Monitoring Investigations:

1. AL19-009, Jason Taylor, Alarm Agent #63034

Mr. Madison moved and Mr. Jones seconded to lift stay of suspension and move this matter to formal hearing for revocation; motion carried. Vote was unanimous.

G. Review and Approval of Appointment for EAC Membership:

1. Dominick Grossi, C.H.I. #57185

Dr. Angel moved and Mr. Everroad seconded to approve appointment; motion carried. Vote was unanimous.

2. Clark Booth, C.H.I. #65593

Applicant appeared before the Board.

Dr. Angel moved and Mr. Everroad seconded to approve appointment; motion carried. Vote was unanimous.

H. Review, Discuss and Take Possible Legal Action on voting to Complaint and Notice of Hearing:

1. HI17-018 Bashford, Troy, C.H.I. #58611

Mr. Madison moved and Mr. Everroad seconded to vote this matter to Complaint and Notice of Hearing; motion carried. Vote was unanimous.

7. LICENSING MATTERS

Discussion, Consideration and Take Possible Action on the following:

Whether to Grant or Deny Registration after Full Board Review

A. Victor Johnson - Application #190766 for Alarm Agent Registration and Application #190765 for Controlling Person Registration.

Having heard testimony from Applicant during the formal hearing conducted earlier in the meeting, Dr. Angel opined that Applicant lacked the moral character required for licensure. Mr. Madison disagreed and stated that the Board told Applicant he needed to be licensed and the Applicant applied for licensure. Mr. Foose agreed.

Dr. Angel moved and Mr. Gilmore seconded to deny both registrations; motion failed. Mr. Everroad, Mr. Madison, Mr. Foose and Mr. Noel voted Nay.

Mr. Madison opined that the Board should grant Applicant's applications because he had successfully completed the application requirements, as the Board suggested to him at a prior meeting. Dr. Angel disagreed. Ms. Pritzl asked Applicant what the license would allow him to do if granted. Applicant could not clearly articulate an answer. Ms. Pritzl expressed her opinion to the Board that Applicant failed to demonstrate that he was aware of the purpose of licensure and what it allowed disallowed Applicant to do.

Mr. Madison moved and Mr. Noel seconded to grant both registrations. Motion was subsequently withdrawn.

Dr. Angel moved and Mr. Gilmore seconded to deny both registrations; motion carried. Mr. Madison voted Nay.

B. Shannon Ory- Application #190914 for Registration as an Electrical Engineer

Applicant appeared telephonically.

Dr. Angel asked Applicant to explain his two previous criminal convictions. Applicant obliged. Dr. Angel expressed his concern that Applicant may not have the good moral character required for licensure.

Mr. Madison moved and Mr. Everroad seconded to grant registration; motion carried. Dr. Angel 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. Madison moved and Mr. Jones seconded to cancel registrations and certificates that have been expired for one full renewal period; motion carried. Vote was unanimous.

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. Board Response to Executive Order 2019-01 - Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activates

Ms. Cornelius asked that the Board approve and submit the Board's response to the Governor's Office.

Mr. Everroad moved and Mr. Gilmore seconded to approve and submit Board's Response to the Governor's Office; motion carried. Vote was unanimous.

- B. Legislative Update – HB2146, HB2182, HB2660, SB1232, SB1482

Ms. Pritzl verbally reported on HB2146, HB2182, HB2660, SB1232, and SB1482.

C. Presentation of Plaque of Appreciation to Board members

Ms. Cornelius reported that staff would present a plaque at the next meeting.

10. DIRECTOR'S REPORT

A. Budget Update

Nothing discussed

B. Previous Meeting Follow-Up

a. GRRC Updates - 5-Year Rules' Report

Nothing discussed.

b. Computer Updates

i. Expert Technology Service's project

Ms. Cornelius reported that staff have been working with Expert Technology Service on their IT project and that phase one would end June 4, 2019.

ii. Online disciplinary action search and status of Online Renewals

Nothing discussed

iii. GL Solutions' Claim Status

Ms. Cornelius reported that a formal hearing regarding GL Solution's appeal of state procurement's denial of its claim would occur in July.

C. Director's Meetings

a. No Need for Fee Increases or Rulemaking

Ms. Cornelius reported that the Board was not raising fees since there was enough money in the Board's fund to allocate for a future e-licensing system.

b. Meeting with Department of Real Estate regarding regulation of Home Inspectors

Ms. Cornelius reported that she had met with the Department of Real Estate to discuss Home Inspector regulation and public protection.

D. Statistics Review

Nothing discussed.

11. BOARD CHAIR'S REPORT - Surveyors' Task Force Update

Mr. Foose reported that the next meeting would take place June 3, 2019.

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

13. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee - Nothing to Report
- B. Home Inspector Rules and Standards Committee - Next Meeting June 11, 2019

14. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG - The Annual meeting will take place in Minneapolis, MN, the week of November 4, 2019.
- B. CLARB - The CLARB Annual Meeting will take place in St. Louis, MO from September 26-28, 2019.
- C. NCARB - The NCARB Annual Meeting will take place in Washington, D.C., June 20-23, 2019.
- D. NCEES - The NCEES Western/Southern Zone meeting took place in Boise, ID, May 16-18, 2019.


15. FUTURE BOARD MEETINGS – June 25, 2019

16. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

None

17. MEETING ADJOURNMENT - 2:32pm

Signed this 25th day of June, 2019



Jason Foose, Chairman

Melissa Cornelius, Executive Director

