

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

Tuesday, July 28, 2020, 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 – Jason Foose, Neal Jones, Jack Gilmore

Telephonic – Andrew Everroad, Carmen Wyckoff, Eugene Montgomery, Alejandro Angel, Clarence McAllister (appeared at 10:10am)

AAGs – Deanie Reh (telephonic), Scott Donald, Michael Raine (telephonic)

Staff – Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter

3. ADOPTION OF MINUTES

Review, Consideration, and Possible Action on the following:

A. Board Meeting Minutes

1. Approve, modify and/or reject, June 23, 2020 Board meeting minutes

Dr. Angel moved and Mr. Jones seconded to approve the minutes; motion carried unanimously.

B. Board Executive Session Minutes

1. Approve, modify and/or reject, February 25, 2020 Board meeting executive session minutes

Mr. Jones moved and Ms. Wyckoff seconded to approve the minutes; motion carried unanimously.

2. Approve, modify and/or reject, March 10, 2020 Board meeting executive session minutes

Mr. Jones moved and Ms. Wyckoff seconded to approve the minutes; motion carried. Dr. Angel and Mr. Montgomery abstained.

3. Approve, modify and/or reject, April 7, 2020 Board meeting executive session minutes

Mr. Jones moved and Ms. Wyckoff seconded to approve the minutes; motion carried unanimously.

4. Approve, modify and/or reject, May 26, 2020 Board meeting executive session minutes

Mr. Jones moved and Ms. Wyckoff seconded to approve the minutes; motion carried unanimously.

4. **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 Signed Consent Agreement in Lieu of Hearing:

1. P19-061, Aguirre, Manuel, RA 28487, and GBMA Architecture, LLC, Non-Registrant Firm

AAG Mr. Donald appeared before the Board representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

Mr. McAllister recused himself.

Mr. Donald asked that the Board accept the signed consent agreement.

Dr. Angel moved and Mr. Gilmore seconded to accept the signed consent agreement and vacate the formal hearing; motion carried.

2. HI19-023, Findlay, Iain, HI 43627, and The Inspection People, PLLC, # 18012

AAG Mr. Donald appeared before the Board representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

Mr. Donald asked that the Board accept the signed consent agreement.

Mr. Gilmore moved and Mr. Jones seconded to accept the signed consent agreement and vacate the hearing; motion carried.

3. P18-070 & P19-031, Takash, Peter, PE (civil) #44085, and Takash Design & Building Services Inc., Firm #19655 (expired)

AAG Mr. Donald appeared before the Board representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice. Respondent's attorney, Mr. Williams, appeared telephonically to represent Respondent and Respondent Firm.

Mr. Donald asked that the Board accept the signed consent agreement.

Mr. Williams stated that Respondent agreed with the consent agreement's findings of fact and conclusions of law, that the Order was just and fair, and Mr. Williams asked that the Board accept the signed consent agreement.

Mr. Montgomery moved and Mr. Jones seconded to accept the signed consent agreement and vacate the formal hearing; motion carried.

4. AL19-001, Landon, Tyson, Non-Registrant

AAG Ms. Reh appeared before the Board representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

Ms. Reh asked that the Board accept the signed consent agreement. Dr. Angel asked Ms. Reh if there was any indication that Respondent would sell alarm systems without licensure in violation of this new consent agreement. Ms. Reh opined that Respondent had no intention of selling alarm systems in the future.

Dr. Angel moved and Ms. Wyckoff seconded to accept the signed consent agreement and vacate the formal hearing; motion carried. Mr. Noel abstained.

5. AL18-003, Security Systems, Inc, DBA Safeguard America, DBA Safe Home Security, Inc, Non-Registrant Firm

AAG Ms. Reh appeared telephonically before the Board representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

Ms. Reh explained that Respondent remediated the issues present in the matter and asked that the Board accept the signed consent agreement.

Mr. Gilmore moved and Mr. Foose seconded to accept the signed consent agreement and vacate the formal hearing; motion carried unanimously.

B. Formal Administrative Hearing and/or Review, or Discuss and Take Possible Action to Deem Respondent Admission to the Complaint and Notice of Hearing or Review, Discuss and Take Possible Action on Signed Consent Agreement in Lieu of Hearing:

1. P19-018, John Davis, RLS #26410

AAG Ms. Reh appeared before the Board telephonically representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

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

Mr. Foose moved and Mr. Jones seconded to accept the signed consent agreement and vacate the formal hearing; motion carried unanimously.

C. Receive Legal Advice, Review, Discuss and Take Possible Action on:

1. P19-056, Mills, Greg, Non-Registrant, and Southwest Engineering Concepts, LLC, Non-registrant Firm CV 2019-013509 – Mills v. Arizona State Board of Technical Registration

Mr. Foose moved and Mr. Gilmore seconded to enter executive session at 10:35am; motion carried.

The Board returned to open session at 11:02am.

No further discussion.

D. Review, Discuss and Take Possible Action on possible Reconsideration of its Vote to Hearing

1. P19-008, Nelson, Gregory, RA 27370, and Greg Nelson Architect, Non-Registrant Firm

AAG Ms. Reh appeared before the Board telephonically representing the State. AAG Mr. Raine appeared before the Board telephonically to give legal advice.

Ms. Reh explained that Respondent retired from professional services and she asked the Board whether they wished to pursue a hearing at this time. Mr. Raine stated that if the Board decided to dismiss the matter, they could vote to dismiss the matter without prejudice; this would allow the Board to reopen the matter if Respondent later attempted to renew his registration.

Mr. Jones moved and Mr. Gilmore seconded to dismiss the case without prejudice; motion carried unanimously.

2. P19-056, Mills, Greg, Non-Registrant, and Southwest Engineering Concepts, LLC, Non-registrant Firm CV 2019-013509 – Mills v. Arizona State Board of Technical Registration

Dr. Angel asked what the Board would need to do if, in the future, they wished to send this matter back to hearing if today they rescinded their previous vote to send this matter to hearing. Ms. Cornelius answered that the Board could at a later date vote to send this matter back to hearing.

Mr. Foose moved and Mr. Gilmore seconded to rescind its vote to send this matter to hearing; motion carried unanimously.

Mr. Foose moved and Mr. Gilmore seconded to enter executive session at 11:06am; motion carried unanimously.

The Board returned to open session at 11:49 am.

Dr. Angel opined that the Board should direct Board counsel, Lewis and Roca, to work with Respondent and Respondent counsel to find a mutual resolution to this matter. Mr. Gilmore agreed. Mr. Jones agreed. Mr. Foose agreed. Mr. McAllister agreed. Ms. Wyckoff agreed. Mr. Noel agreed. Mr. Everroad agreed. Mr. Montgomery agreed, stating that the case should not be dismissed.

Mr. Foose moved and Mr. Gilmore seconded to direct Board counsel, Lewis and Roca, to work with Respondent and Respondent counsel to find a mutual resolution to this matter; motion carried unanimously.

5. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI20-010, Brian Cook, C.H.I. #60892

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

2. P20-048, Christopher Caver, R.A. #50438 (Revoked) and Architectural Solutions, Non-Registrant Firm

Dr. Angel asked whether the Board could take a different action other than dismissal for this matter. Mr. Donald answered 'no,' the Board did not have jurisdiction over the matter and therefore must close it.

Dr. Angel moved and Mr. Gilmore seconded to administratively close the case; motion carried unanimously.

3. P20-038, Christopher Caver, R.A. #50438 (Revoked) and Architectural Solutions, Non-Registrant Firm

Mr. Gilmore moved and Mr. Jones seconded to administratively close the case; motion carried unanimously.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI20-038, Lance Pederson, C.H.I. #42315 and Eagle Eye Property Inspections, Firm #15242 (related to case no. HI20-037)

Respondent appeared telephonically.

Respondent stated that he changed his business practice to better track his employees' certification status and that he did not intentionally or knowingly aid or abet Mr. Bruner when Mr. Bruner performed home inspections without active Board certification as a licensed home inspector.

Mr. Gilmore moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

2. HI20-030, Allen Blaker, C.H.I. #61953

Dr. Angel moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

C. Complaints Proposed to Offer Consent Agreement:

1. P20-029, Clint Schuler, Non-Registrant and U Build It-DIY, Non-Registrant Firm

Respondent appeared telephonically. Alleger, Mr. Gilbert, appeared telephonically.

Mr. Gilbert stated that he agreed with Board staff's recommendation.

Respondent stated that he thought Board staff conducted a sub-par investigation and he argued that he did not violate the Board's Practice Act since the evidence showed that Respondent and Respondent firm worked for Mr. Caver, the designated professional of the project in this matter. He asked that the Board dismiss the case. Respondent further stated that he initiated civil litigation against Mr. Gilbert, Mr. Caver, Investigator Kraemer and Enforcement Manger Douglas Parlin.

Mr. Foose asked Respondent if he participated in the EAC meeting. Respondent answered 'no.' Mr. Jones asked Respondent if he chose not to participate. Respondent answered that he forgot about the meeting and didn't intentionally miss it. Mr. Donald explained that staff cancelled the original March EAC meeting due to COVID-19, so Respondent missed the more recent EAC meeting. Investigator Kraemer stated that Respondent did submit documentation to him, but not the documentation originally requested, that Respondent was uncooperative during the investigation and that Respondent chose not to participate in the EAC meeting.

Mr. Montgomery asked Investigator Kraemer how the EAC members reached a consensus that Respondent violated the Board's Practice Act. Investigator Kraemer answered that the EAC members focused on Respondent's correspondence to Mr. Gilbert and Respondent's prepared plans, which included Respondent firm's watermark/title block, to come to their conclusion. Investigator Kraemer noted that the plans did not include calculations. Respondent disagreed with the EAC's findings. Mr. Montgomery asked if there was a contract between Respondent and Mr. Caver. Respondent answered 'yes.' Dr. Angel expressed his concern that the project was for a commercial building. Board members confirmed that the project was for a multi-unit structure. Respondent stated that the fact that the project was for a multi-unit structure

was irrelevant because both an architect and engineer were working on the project. Dr. Angel opined that Respondent's descriptive language of the plans in his correspondence with Mr. Gilbert and the use of Respondent Firm's title block on the plans was the unauthorized practice of architecture.

Ms. Wyckoff expressed her concern that Respondent firm's title block was on the plans but she wished to discuss the contractual aspects of the case. Mr. Jones opined that Respondent did not violate the Board's Practice Act and further stated that Respondent could have been more cooperative during the investigation. Mr. Foose agreed. Mr. Donald noted that email correspondence between Respondent and Mr. Gilbert were 'cc'd' to Mr. Caver. Respondent indicated that his contract was with Mr. Caver. Mr. Gilbert stated that there were multiple contracts, including one between himself and Respondent firm, and he received an invoice from Respondent firm. Ms. Wyckoff stated she did not see a contract between Respondent or Respondent firm and Mr. Gilbert. Investigator Kraemer agreed stating he never received a copy of any contract between Respondent or Respondent firm and Mr. Gilbert. Mr. Gilmore asked Mr. Gilbert why he communicated with Respondent and not Mr. Caver. Mr. Gilbert answered that Mr. Caver did not return his communications but Respondent did, so he assumed Respondent was an architect.

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

2. HI20-012, David Berry, C.H.I. #38633 and DJ's Horizon Home Inspection, LLC, Firm #12302 (expired 12/24/2017)

Ms. Cornelius asked Investigator Thacker if the consent agreement language was accurate and correct. Investigator Thacker answered 'yes.'

Mr. Gilmore moved and Mr. Jones seconded to offer Proposed Consent Agreement to Respondent and if not signed within 30 days, move to formal hearing; motion carried unanimously.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. HI20-023, Robert Crum, C.H.I. #62694

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

2. P20-032, John Neugebauer, Non-Registrant

Respondent and Respondent's counsel, Mr. Van Norman, appeared telephonically.

Mr. Van Norman asked the Board to accept the signed consent agreement.

Dr. Angel stated that he could not accept the signed consent agreement because Respondent's actions were egregious. He believed they rose to the criminal level. Investigator Correll stated she agreed with Dr. Angel, however the penalty fees within the consent agreement were the maximum the Board could assess. Dr. Angel asked Respondent if he was remorseful. Mr. Van Norman answered Respondent was remorseful. Dr. Angel asked if the Board could forward this matter to the AG's office for possible criminal prosecution. Mr. Donald answered 'yes.'

Mr. Jones moved and Mr. Gilmore seconded to accept signed Consent Agreement; motion carried unanimously.

The Board directed staff to forward this matter to the AG's office for possible criminal prosecution.

3. HI20-037, Clinton Bruner, Provisional C.H.I. #P201177 (related to case no. HI20-038)

Mr. Gilmore moved and Mr. Jones seconded to accept signed Consent Agreement; motion carried unanimously.

E. Review and Approval for EAC Membership:

1. Michael Wier, R.L.S. #07247

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

2. John-Jozef I. Proczka, P.E. (Civil) #61946

Mr Proczka thanked the Board for the chance to be an EAC member.

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

3. Alex Arveson, P.E.(Civil) #69871

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

4. Paul Getty, P.E. (Civil) #28788

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

5. Howell Lewis Shay, R.A. 09457 (Inactive/Retired) for Public Member

Ms. Cornelius stated that Mr. Shay used to be a Board Member and Board Chairman.

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

6. Jason Comer, R.A. #67478

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

7. John D. Hall, P.E. (Civil) #47451

Mr. Gilmore moved and Ms. Wyckoff seconded to approve appointment; motion carried unanimously.

The Board took a break at 12:34pm and returned at 12:45pm.

6. LICENSING CONSENT AGENDA

Review, Consideration, and Action on Staff Recommendations for the following Universal Applications:

A. Gbolo, Prosper - Universal Licensure Application for Registration as a Geologist #201372

Mr. Jones moved and Mr. Gilmore 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.

B. Friend, Paul - Universal Licensure Application for Registration as an Architect #201218

Mr. Jones moved and Mr. Gilmore 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. Kolman, Caroline - Universal Licensure Application for Registration as an Industrial Engineer #200912

Mr. Jones moved and Mr. Gilmore 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. Reynolds, Ronan - Universal Licensure Application for Registration as a Mechanical Engineer #200509

Mr. Jones moved and Mr. Gilmore 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. Reinhart, Davis - Universal Licensure Application for Registration as a Civil Engineer #201318

Mr. Jones moved and Mr. Gilmore 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. Montgomery, Richard - Universal Licensure Application for Registration as a Civil Engineer #201053

Mr. Jones moved and Mr. Gilmore 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. Beitler, John - Universal Licensure Application for Registration as a Civil Engineer #201410

Mr. Jones moved and Mr. Gilmore 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.

H. Hummel, Ryan - Universal Licensure Application for Registration as a Civil Engineer #201409

Mr. Jones moved and Mr. Gilmore 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.

I. Muha, Carl - Universal Licensure Application for Registration as a Mechanical Engineer #200933

Mr. Montgomery expressed his concern that the Board packet did not contain verification that Applicant completed the NCEES FE or PE exams. Mr. Stam stated that the license of verification from Colorado mistakenly listed the Applicant's exam as an NCARB exam, not a NCEES exam. Mr. Stam's review of the Applicant's file revealed a license of verification from Ohio, which showed that the Applicant successfully passed the NCEES mechanical PE examination.

The Ohio verification was added to the record.

Mr. Montgomery moved and Mr. Gilmore 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.

Review, Consideration, and Action on Staff Recommendations for the following:

J. Bruner, Clinton - Application for Registration as a Home Inspector #201177

Mr. Foose moved and Dr. Angel seconded to approve registration; motion carried unanimously.

K. Pannalal, Shanmugam - Application for Waiver of the FG exam #201013

Mr. Noel opined that the Board approve Applicant's waiver of the NCEES FG exam.

Mr. Noel moved and Mr. Foose seconded to approve waiver of the NCEES FG exam and approved applicant to sit for NCEES PG exam; motion carried unanimously.

7. 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. Jones moved and Mr. Gilmore seconded to cancel registrations and certification 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.

8. POLICY MATTERS

A. Review, Consideration, and Possible Action on the following:

1. NCEES 2020 Ballot

Ms. Cornelius reported that NCEES sent out ballots to all Boards for its August 27, 2020 election and asked the Board for guidance. Mr. Montgomery asked if the NCEES bylaws were available. Ms. Cornelius answered they were available online.

Ms. Cornelius stated she would send all the materials to the Engineer and Land Surveyor Board members and would submit the ballot based upon their majority vote.

2. ASPE letter of endorsement to NCEES

Mr. Lohr appeared before the Board telephonically.

Mr. Lohr asked that the Board send a letter of endorsement to NCEES to add a plumbing specialization section to the NCEES's mechanical engineering PE exam, indicating that there was both a need and want from applicants. Board members discussed if such an exam section was indeed needed and wanted.

Mr. Montgomery moved and Mr. Noel seconded to send the ASPE letter of endorsement to NCEES; motion carried unanimously.

3. Proposal to request an appropriation to pay professional registrants to provide support to the Board for application reviews and technical input on cases proceeding to the Board for review

Ms. Pritzl asked the Board for their opinions regarding: if the Board began to pay professionals for application review and technical input on cases, does the Board believe it would alienate the Board's current volunteers who do not receive financial compensation; and, whether paid volunteers should help staff determine a complaint merits investigation.

Dr. Angel opined that the possible loss of the Board's volunteers wouldn't affect the fact that the Board needed professionals to review applications and provide technical input on cases and that any paid professionals wouldn't be needed in determining whether a complaint merits investigation since Board staff already did an adequate job. Ms. Cornelius opined that having professionals help staff determine whether a complaint merits investigation may be necessary with the reduction of professionally

licensed Board members. Ms. Wyckoff opined that staff should make it known in the proposal that any contracted professionals would be hired on a one for one discipline basis and possibly limit professional expertise to hearings.

Ms. Cornelius stated staff would update the proposal with their suggestions and present it to the Board at its next meeting.

Dr. Angel left the meeting at 1:34pm

4. Discussion of extensions for professional exams due to COVID-19

Mr. Stam asked the Board to agree to extend the time for applicants to take and pass exams due to the extenuating circumstances of COVID-19. Mr. Foose asked if this was an issue that required an immediate action from the Board. Mr. Stam explained that he has received approximately five phone calls from applicants asking for information regarding exam extensions. Mr. Foose opined that because there were only a few exam extension inquiries from applicants, it is best to have those wanting an extension added to future agendas for the Board to determine on a case by case basis. Other Board members agreed.

No action taken.

9. **DIRECTOR'S REPORT**

A. Budget Update

Ms. Cornelius reported that there was a state wide shortfall of funds due to COVID-19 and that the State would be looking to use funds from the federal government, the State's rainy day fund, sweeping Board and Agency funds and cutting costs to alleviate the shortfall.

B. Previous Meeting Follow-Up

a. Newsletter Published

Ms. Cornelius reported that over 8,000 email recipients opened the Board's Newsletter link staff emailed the previous month.

b. Board Composition

Ms. Cornelius reported that Peter Leeds applied to be appointed as a Board Member. Mr. Foose asked if the Board's Practice Act prevented Board registrants from applying to become Board Members. Ms. Cornelius answered 'no.' Ms. Cornelius reported that she was still waiting for an official legal opinion from the AG's office regarding whether the current Board Members could continue to serve after the new law goes into effect.

C. National Council Updates

a. NCARB – AIA presentation

Nothing Discussed

b. NCEES – Zone Officer Ballot

Nothing Discussed

c. CLARB – Virtual Annual Meeting 9/10/20

Nothing Discussed

d. ASBOG – Test October

Nothing Discussed

e. AZSLS – Four test takers in July

Ms. Cornelius reported that Board staff took social distancing precautions to keep examinees and staff safe during testing.

D. Statistics Review

a. Monthly numbers

Ms. Cornelius reported that the Board received more renewals last month than the previous month and fewer applications than the previous month.

b. Cash Flow Report

Nothing discussed

c. Licensing Trends

Nothing discussed

10. FUTURE BOARD MEETINGS – August 20, 2020

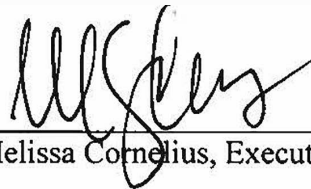
11. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

Budget, AG Advice

12. MEETING ADJOURNMENT – 1:55pm



Chairman, Jason Foose



Melissa Cornelius, Executive Director
