

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

GENERAL SESSION MINUTES

**THE FLORIDA HOTEL AND CONFERENCE CENTER
1500 SAND LAKE ROAD
ORLANDO, FLORIDA 32809**

APRIL 13, 2007

GENERAL SESSION MINUTES

The meeting was called to order by Paul Del Vecchio, Chair, at 8:33 a.m.

BOARD MEMBERS PRESENT

Paul Del Vecchio, Chair
Raymond Holloway, Vice-Chair
Peggy Bailey
Joan M. Brown
Lee-En Chung
Lorie Clark
Joe Cook
Carl Engelmeier
James Flaherty
Barry Kalmanson
Ed Weller
Mark Pietanza
Robert Stewart
Thomas Thornton
Jacqueline Watts

BOARD MEMBERS ABSENT

Don Wilford
Michelle Kane
Robert Stewart

OTHERS PRESENT

Diane Guillemette, Board Counsel
April Hammonds, Acting Chief Prosecuting Attorney, DBPR
Mathew Morton, Assistant General Counsel, DBPR
G.W. Harrell, Executive Director, DBPR
Andy D. Janecek, Government Analyst I, DBPR
Amanda Abbott, Government Analyst, DBPR
Marc Drexler, FHCRF Attorney, DBPR
Valeria Singleton, FHCRF Staff, DBPR

Mr. Flaherty gave the invocation. Mr. Kalmanson led the Pledge of Allegiance.

REVIEW OF THE MINUTES

- General Session – January 2007
- Final Action – March 2007

The Board voted unanimously to approve these minutes.

EXECUTIVE DIRECTORS REPORT – GW HARRELL

Mr. Harrell gave the following report:

Mr. Harrell brought up the boards concerns with the quality of the Department's application review section. Mr. Harrell stated he has discussed with the Chair to have a meeting with the leaders of the application processing unit to discuss these concerns and to implement better training of the processors by board staff, including the implementation of a checksheet the processors can use to guarantee the accurate processing. One of the main issues has been misrepresentations of experience, and the Division of Regulation has agreed to audit 50 random applications to confirm the experience listed on the application. These will be the first in a series of audits. Mr. Harrell also stated that some concern has been brought to his attention about license holders offering to certify experience for a fee, and initiatives to identify those contractors have been implemented, with help from the Attorney General's office, but Mr. Harrell did not go into detail about exactly what initiatives had been taken.

Mr. Harrell also introduced some representatives from the Florida Marine Contractors Association, Rick Fender and David Mulliak. The representatives are appearing today to request the Board authorize a Rule to create a State Certified Marine Specialty Contractors license. Mr. Harrell gave a brief rundown of the issues facing the Marine Contractors industry, how they aren't eligible to obtain a general contractors license, but often time needs a license similar to that for the structural nature of their work. A Rule draft was presented to the board for their review. The board made a motion, which was seconded, to allow the industry to proceed with the process of having this license created. The board voted unanimously to pass the motion.

With nothing further to report the board voted unanimously to approve this report.

CHAIRMAN'S REPORT – PAUL DEL VECCHIO

Mr. Del Vecchio gave the following report:

Mr. Del Vecchio stated he was assembling a nominating committee comprised of the current Vice Chair, the previous Vice Chair, and staff, to elect the incoming Vice Chair.

The following absences were excused:

Mr. Wilford
Ms. Kane
Mr. Stewart

With nothing further to report the board voted unanimously to approve this report.

PROSECUTING ATTORNEY'S REPORT – APRIL HAMMONDS

Ms. Hammonds gave the following report:

For the month of March 2007 the overall case load was 1,786, up from 1,669 in February of 2007, and up from 1,466 in March of 2006.

There were 616 cases to be reviewed in Legal, 191 cases set for probable cause, and 253 cases where probable cause had been found/administrative complaints filed. 69 cases were ready for default, 32 cases had stipulations executed/informal hearings requested, and 176 had requested formal hearings. There were 16 cases referred to DOAH, 87 cases in settlement negotiations, 237 cases awaiting final orders, and 109 cases set for board presentation. There were 0 cases reopened and 0 cases under appeal. There were 244 cases closed for the month of March.

The board voted unanimously to adopt local discipline against the following registered contractors:

Donald A. Boyce (RC 66611) – 2007010553 – Indefinite suspension of license
Charles B. Drake (RB 66911) – 2007008011 – Revocations, Fines, and Costs
Charles B. Drake (RB 66911) – 2007011112 – Revocation, Fines, and Costs
Pamela J. Guite (RP 65099) - 2007010616 – Revocation
Joseph F. Metz (RG 35044) – 2006035044 – Motion to Vacate Final Order

With nothing further to report the board voted

RECOVERY FUND ATTORNEY'S REPORT – MARC DREXLER

Mr. Drexler gave the following report:

So far this year, the total money disbursed totals \$853,690.13 with another \$395,991.72 obligated, leaving a cash balance through the end of March of \$2,750,000.00.

So far there are 279 pending claims, of which 112 were received this year, 38 of which were ineligible. For March, 44 claims were received, of which 22 were ineligible based on the fact that they had not received a final order. The claims that were received against Division II contractors were ineligible, but were referred to the Division of Regulation for investigation. 2 complaints were recommended for denial and 17 are scheduled to be presented to the board in May. There are currently 165 claims incomplete more than 180 days old, and 114 are incomplete less than 180 days.

Mr. Drexler also informed that board that steps were being taken to better inform consumers of how the Recovery Fund works and who is eligible/ineligible.

With nothing further to report the board voted unanimously to approve this report.

ATTORNEY GENERAL'S REPORT – DIANE GUILLEMETTE

WILLIAM JOHN BARANSKY – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION

Mr. Baransky was present.

Ms. Guillemette presented this case stating that Mr. Baransky was placed on probation for 5 years as a condition of licensure for failure to demonstrate financial responsibility. Mr. Baransky requested a continuance of his probation hearing at the February meeting which was denied, and as a result, the stay of suspension was lifted for failure to appear at the February meeting. Mr. Baransky has requested the board reinstate the stay of suspension. The request was filed in March of 2007.

After discussion the board voted unanimously to reinstate the stay of suspension with two unsatisfactory appearances on his record.

NELSON CASTILLO – REVIEW OF RECOMMENDED ORDER

Mr. Nelson was not present.

Ms. Guillemette presented this case stating Mr. Castillo's application for a certified commercial pool/spa contractor's license was denied at the June 2006 meeting of the board because the applicant was the subject of pending discipline. Mr. Castillo requested a formal hearing in front of DOAH which was heard on December 19, 2006. At the hearing, the administrative law judge confirmed the decision reached by the board and filed a Recommended Order denying the application on February 20, 2007.

After discussion the board voted unanimously to accept the Recommended Order.

JOHN JAMES FRANGOS – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION

Mr. Frangos was present.

Ms. Guillemette presented this case stating that Mr. Frangos was placed on probation for 2 years as a condition of licensure. The stay of suspension was lifted for failure to appear at his January probation appearance. Mr. Frangos has requested the board reinstate the stay of suspension and probation. The request was filed in February of 2007.

After discussion the board voted unanimously to reinstate the stay of suspension with two unsatisfactory appearances on his record.

JAMES HATTON – REQUEST FOR EARLY TERMINATION OF PROBATION

Mr. Hatton was present.

Ms. Guillemette presented this case stating Mr. Hatton was placed on probation as a condition of licensure for failure to demonstrate financial responsibility. Probation would be terminated as soon as Mr. Hatton provided proof the liens were satisfied. Mr. Hatton requested the board consider early termination of his probation. The request was filed in January of 2007.

After discussion the board voted unanimously to deny the request until proof was submitted that the liens had been satisfied.

JAMES R. HILL – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION

Mr. Hill was not present but his counsel, Rosemary Hays, spoke on his behalf.

Ms. Guillemette presented this case stating Mr. Hill was placed on probation for 2 years as a condition of licensure because evidence existed that the applicant had violated sections of Ch. 489, F.S. The stay of suspension was lifted for failure to appear at his January probation appearance. Mr. Hill has requested the board reinstate the stay of suspension and probation. The request was filed in February of 2007.

After discussion the board voted to reinstate the stay of suspension with two unsatisfactory appearances on his record.

SAMUEL MCDONALD – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION

Mr. McDonald was present.

Ms. Guillemette presented this case stating Mr. McDonald was placed on probation for 3 years as a condition of licensure because the board had concerns about financial responsibility and past disciplinary violations. The stay of suspension was lifted for failure to appear at his January probation appearance. Mr. McDonald requested the board reinstate the stay of suspension and probation. The request was filed in February of 2007.

After discussion the board voted unanimously to reinstate the stay of suspension with two unsatisfactory appearances on the record.

OMARI MURRAY – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION

Mr. Murray was present.

Ms. Guillemette presented this case stating Mr. McDonald was placed on probation for 2 years as a condition of licensure. The probation committee denied Mr. Murray's request for continuance at the February meeting and the stay of suspension was lifted on Mr. Murray's license for failure to appear at that meeting. Mr. Murray requested the board reinstate the stay of suspension and probation. The request was filed in February of 2007.

After discussion the board voted unanimously to reinstate the stay of suspension with one unsatisfactory appearance.

HENRY OLIVER – REQUEST FOR RECONSIDERATION OF APPLICATION DENIAL

Mr. Oliver was present.

Ms. Guillemette presented this case stating Mr. Oliver's application for initial licensure as a certified general contractor was denied at the November 2006 meeting of the board because the applicant was the subject of pending discipline. The Notice of Intent to Deny was filed in January of 2007. Mr. Oliver was timely requested.

After discussion the board voted unanimously to send the application back to the Applications Review Committee.

RICHARD WALCOTT – REQUEST FOR RECONSIDERATION OF APPLICATION DENIAL

Mr. Walcott was present with counsel.

Ms. Guillemette presented this case stating Mr. Walcott's application for initial licensure as a certified class B air conditioning contractor was denied at the July 2006 meeting because the applicant had been found guilty of performing unlicensed activity. The Notice of Intent to Deny was filed in September of 2007. Mr. Walcott had requested an informal hearing for the October meeting, but had requested a continuance to the November meeting. Mr. Walcott then failed to appear at the November meeting, and the denial was upheld. Mr. Walcott filed this petition for reconsideration of the denial upheld at the November meeting as the continuance request for that meeting was not received prior to the board staff departure for the November meeting.

After discussion the board voted to grant the reconsideration request. After further discussion the board voted unanimously to approve the conditionally approve the application provided the applicant serve 2 years of probation.

RULE 61G4-15.001 – REVIEW OF PROPOSED LANGUAGE FOR RULE CHANGE

Ms. Guillemette presented this as a review of changes initiated by Board staff to Rule 61G4-15.001, and for the board to approve or deny the changes as appropriate.

After discussion the board voted unanimously to approve the changes.

CHRISTOPHER FERRARA – REQUEST FOR REINSTATEMENT OF NULL & VOID LICENSES

Mr. Ferrera was not present.

Ms. Guillemette presented this as a request by Mr. Ferrara to reinstate his Null & Void certified plumbing contractor's license and certified a/c contractor's license. Mr. Ferrara's licenses went Delinquent in August of 2004 and went Null & Void in September of 2006. The request to reinstate the Null & Void licenses was filed in February of 2007.

After discussion the board voted to unanimously to deny the request.

With no further discussion the board voted unanimously to approve this report.

COMMITTEE REPORTS

ADDITIONAL BUSINESS ENTITIES COMMITTEE – MARK PIETANZA

Mr. Pietanza gave the following report:

Applications Approved

Alvarez, Albert
Applegate, Arthur
Bartlett, Britton
Carlton, Brett
Collier, Scott
Dravo, Ann
Dravo, Ann
Drawdy, Randall

Englett, Philip
Hempel, Donald
Hempel, Donald
Hopper, Donald
Kowenski, Lisa
Lee, Danny
Lopez, Ricardo
Martin, William
Mastrosimone, Philip
McIvor, Jon
Meinzinger, Edward
Mills, Curtis
Nelson, Roger - \$3,300 assessment
Sanderson, Ronald
Suojanen, Erik
Swanson, James
Thayer, Ryan
Weems, Thomas
Ziegler, James

Applications Denied

Adrian, Frank
Bastedo, Joseph
Biskup, Mitchell
Ewing, Richard
Fitch, Wayne
Ladu, Jerome
Moore, Rodney
Morris, Gregory
Torres, Nilo

Applications Continued

Branning, William – 30 days
Frakes, Dawn – 30 days
Gonzalez, Luis – 30 days

Applications Withdrawn

Herbert, Robert

With no further discussion the board voted unanimously to approve this report.

EXAMS/CE/PUBLIC AWARENESS COMMITTEE – RAYMOND HOLLOWAY

Mr. Holloway gave the following report:

Becker & Poliakoff

1st Course: Advanced Construction Seminar – **approved**

Lorman Business Center, Inc.

1st Course: Basic Commercial Leases – **denied**

Contractors Exam School

1st Course: Workplace Safety – OSHA recordkeeping – **approved**

2nd Course: Workers Compensation – **approved**

American Construction School, Inc.

1st Course: Ethics for Construction – **approved**

FRSA Education and Research Foundation

1st Course: The Hurricane of 2004 and 2005: FEMA's recommendation for Improving Wind Performance of Roof Assemblies – **approved**

2nd Course: Managing the Cost of WC and Hazard Communication – **approved**

3rd Course: Dealing with Defects in Design and Construction – **approved**

4th Course: Are You Ready for a Department of Labor Audit? – **approved**

5th Course: Metal Roofing (2.5 hours) – **approved**

6th Course: Extending the Life of your Equipment – **approved w/o business practices**

Palm Construction School, Inc.

1st Course: Re-Cover Your Assets – **approved**

2nd Course: Lien on Me – **approved**

Building Officials Association of Florida (BOAF)

1st Course: The Formal/Informal Interpretation & Dec Statement Process – **approved**

2nd Course: Records Management as a Business Practice – **approved**

3rd Course: The Mechanical Code Points to Ponder – **approved**

4th Course: Key National Electrical Code 2005 Changes – **denied**

5th Course: Fundamentals of Florida's Energy Code – **approved**

6th Course: FBC Chapter I – Building Code Administration – **denied**

7th Course: Product Approval for the Florida Building Code – **approved**

8th Course: Roofing with 2006 updates – **approved**

9th Course: The Existing Building Code, Plans, & the Jobsite w/ 2006 supplements – **approved**

10th Course: 1 & 2 Family Dwellings w/ 2006 updates – **approved**

11th Course: Chapter 10 – Means of Egress – **approved**

12th Course: Chapter 17 – Accreditation of Manufacturers – **approved**

13th Course: 2004 Plumbing Code w/ 2006 updates – **approved**

14th Course: **withdrawn**

15th Course: Manufactured Modular Building Program: Residential and Commercial – **approved**

Koning Enterprises Inc., d/b/a Contractors Institute

1st Course: F.S. Chapter 440 – Florida's Workers Compensation Law – **approved**

2nd Course: F.S. Chapter 713 – Florida Lien Law – **approved**

3rd Course: Construction Business Organization & Management – **approved**

4th Course: Legal Protections for Contractors – **approved**

5th Course: Construction Legal Process & Actions – **approved**

6th Course: Construction Bidding & Contracting Methods – **approved**

7th Course: Construction Contract & Subcontract Terms – **approved**

8th Course: Construction Cost Control – **approved**

9th Course: Construction Business Principles & Ethics – **approved**

10th Course: F.S. Chapter 489 – Construction Contracting Part I – **approved**

Gulfshore Insurance, Inc.

1st Course: Competent Person Fall Protection - **denied**

Florida Refrigeration & Air Conditioning Contractors Association

- 1st Course: Clearing the Air – Residential Ventilation - **approved**
- 2nd Course: Evacuation and Recovery of Refrigeration System – **approved**
- 3rd Course: Hiring & Firing – What you need to know – **approved**
- 4th Course: Don't Forget Your Overhead Costs – **approved**
- 5th Course: Ductwork – An Update – **approved**
- 6th Course: Super Heat and Sub Cooling – **approved**

John T. Tolbert d/b/a C2N Code Solutions Group

- 1st Course: Coastal Construction and the Florida Building Code - **approved**
- 2nd Course: Advanced Coastal Construction II – **approved**

Advanced Builders College, Inc.

- 1st Course: Advanced Florida Building Code – **approved (with no ADA)**

Cutstone Learning, LLC

- 1st Course: Workers Compensation, A Brief History – **approved**
- 2nd Course: Fair Housing: An In Depth Study of Kitchens & Bathrooms – **approved**
- 3rd Course: Fair Housing: An In Depth Study of AAccessible Routes and Accessible Public and Common Use Areas – **approved**
- 4th Course: A Code Comparison: Occupancies in the Florida Building Code and Florida Fire Prevention Code – **approved**
- 5th Course: Stairways and Ladders (OSHA 29 CFR 1926 Subpart X) – **approved**
- 6th Course: The Contract Award – **approved**
- 7th Course: An Overview of the Fair Housing Act – **approved**
- 8th Course: Florida Existing Building Code – **approved**
- 9th Course: Advanced Florida Building Code – **approved**
- 10th Course: Advanced FBC, Permits, and Applications – **approved**
- 11th Course: Advanced FBC, Enforcement and Education – **approved**
- 12th Course: Advanced FBC, the Florida Building Commission – **approved**

Florida Vocational College, Inc.

- 1st Course: Workers Compensation and How it Affects You – **approved**
- 2nd Course: Business Practice in the Construction Industry – **approved**
- 3rd Course: Construction Lien Law – **approved**
- 4th Course: Building Estimating Course – **approved**
- 5th Course: Energy Efficient Building Construction – **approved**
- 6th Course: Work Place Safety – **approved**
- 7th Course: Construction Law Course – **approved**

Solar World, Inc.

- 1st Course: Plumbers Introduction to Solar for FL – **approved**
- 2nd Course: Field Installation – **approved**
- 3rd Course: Advanced Solar Training for the FL Plumber – **approved**

Program for Resource Efficient Communities/UF

- 1st Course: Site Consideration and Passive Design Options – **approved**
- 2nd Course: Construction Operation to Reduce Environmental Impact – **approved**
- 3rd Course: Indoor Environmental Quality – **approved**
- 4th Course: The Occupational & Safety Health Act: An Overview for Building Professionals - **approved**
- 5th Course: Building Envelope – **approved**

6th Course: Cooling Load Analysis – **approved**
7th Course: Moisture Control Checklist – **denied**
8th Course: HVAC/IEQ Cast Studies – **approved**

Building Officials Association of Florida (BOAF)

1st Course: 2004 FBC Laws and Rules (2007 program) – **pulled**
2nd Course: The Role of the Building Official in Enforcing Florida's Construction Lien Law - **approved**

Program for Resource Efficient Communities/UF

1st Course: My Safe Florida Home – Wind Mitigation and Certification - **approved**

The Board voted unanimously to accept the recommendations of this committee.

RECOVERY FUND/FINANCE COMMITTEE – JOAN M. BROWN

Ms. Brown gave the following report:

00-C0090 (Motion to Vacate Order) – Motion to Vacate the Order
03-C0024 (2005042401) – Denied
03-C0065 (2004042969) – Denied
2004009434 – \$2,277
2006021943 – Denied
2006026390 – Denied
2006039741 – \$18,968.97
2006045444 - \$25,292.76
2006045453 - \$13,507
2006047287 – Denied
2006049894 - \$15,500
2006056912 – \$10,095.85
2006056399 - \$22,225
2006057021 – Denied
2006064808 - \$5,600
2006069513 - \$6,855.77
2007005236 - \$3,451
2006063222 – Denied

A total of \$123,773.28 was awarded.

With no further discussion the board voted unanimously to approve this report.

PROBATIONS COMMITTEE – CARL ENGELMEIER

Mr. Engelmeier gave the following report:

Juan Gonzalez (CFC 37086)

Result: Satisfactory

Roger Griffis (CGC 24765)

Result: Continued 30 days

Robb C. Imperato (CGC 57221)

Result: Satisfactory

Thomas F. Mendez (CGC 46376)

Result: Satisfactory

Claudia Isabella Mendoza (CGC 1505446)

Result: Satisfactory

Robert Lee Merickle (CPC 55619)

Result: Unsatisfactory

Rock Miller (CPC 56698)

Result: Satisfactory

Ray Rey (CFC 57546)

Result: Satisfactory

Khosrow Taymouri (CCC 56899 & CGC 41851)

Result: Satisfactory

Paul George Thomas (CGC 1510844)

Result: Satisfactory

Kellie L. Wagner (CBC 59242)

Result: Satisfactory

Lawrence Bellinger (CPC 32554)

Result: Unsatisfactory

Kerri L Cimaglia (CRC 57634)

Result: Stay of Suspension lifted

Fernando Gomez Pina (CGC 2540)

Result: Unsatisfactory

Wayne P. MacDonald (CGC 61895)

Result: Stay of Suspension lifted

Angelo Rene Rodgers (CCC 51559)

Result: Satisfactory

Clarence Williams (CGC 28851)

Result: Satisfactory

With no further discussion the board voted unanimously to approve this report.

APPLICATION REVIEW COMMITTEE – JACQUELINE WATTS

Ms. Watts gave the following report:

Applications Approved

Fisher, Kelley C
Pessolano, Vincent
Saxon, Ellis – Probation until satisfaction of lien
Franklin, Barry
Hickman, Richard
Presti, Philip
Stricker, Adam

Applications Denied

Seabourn, Riliegh
Witkowski, Thomas
Tiblis, Lawrence
Behncke, Oscar
Kinard, Samuel
Massaro, John

Applications Withdrawn

Fox, Michael

Ratification of Financially Responsible Officer List – March 21, 2007

Ratification of Grandfather List – March 21, 2007

With no further discussion the board voted unanimously to approve this report.

RULES/PUBLIC/LEGISLATIVE COMMITTEE – BARRY KALMANSON

Mr. Kalmanson gave the following report:

The following Rules have been **Developed:**

61G4-15.001 (5) Qualification for Certification

61G4-15.005 Requirements for Certification and Registration

61G4-15.006 Financial Responsibility, Definition, Grounds for Denial

61G4-15.0021 Certification and Registration of Business Organizations

61G4-12.021 Committee Structure

The following Rules have been **Noticed:**

61G4-16.009 Examination and reexamination

61G4-18.001 (2) 3 hours of CE devoted to laws and rules

Discussion also occurred about probation and the rules for lifting/reinstating the stay of suspension.

With no further discussion the board voted unanimously to approve this report.

AD HOC FINANCIAL MISCONDUCT COMMITTEE – PAUL DEL VECCHIO

Mr. Del Vecchio gave the following report:

The Laws and Rules rule for continuing education is proceeding through the process. The Bureau of Education and Testing is working with the testing vendor to make sure the exams have sufficient laws and rules question.

Progress also occurred in developing a rule that will establish new financial responsibility criteria and it will be based on a credit scores and bonding.

Mr. Weller brought up two topics for the Ad Hoc Committee to look into. The first is the issue of applicants being allowed to take the test before knowing if they're qualified for the license. The second issue relates to the verification of experience and the issues that have come about of fraudulent experience verification. Mr. Harrell responded to the first issue stating that it is much easier to take the test then have an application approved, as opposed to having an application approved and the applicant then not being able to pass the test. It saves the applicant money as well, as the application fee is significantly higher than the exam fee.

A motion was made and seconded to add this issue to the next month's Ad Hoc Committee meeting. The board voted unanimously in agreement.

With no further discussion the board voted unanimously to approve this report.

OLD BUSINESS

No Old Business was discussed.

NEW BUSINESS

Ms. Watts brought up the issue that some of the big box stores are mediating complaints between consumers and contractors and Ms. Watts would like a record of these complaints on public record. A lot of the time these stores are acting as the primary contractor and hiring unlicensed contractors and then if there is a problem they mediate the complaint before it makes it to the Department. Mr. Harrell mentioned that he is familiar with these issues and the big box stores have become pretty savvy in dealing with these issues, and most of the time they have a plethora of qualifying agents.

Mr. Holloway mentioned that he spoke with Mike Blankenship and that he would appear at a future meeting to say hello to everyone and that he was making a nice recovery.

Mr. Del Vecchio stated he received a letter from the Governor's office in which Mr. Blankenship, and others, agreed to serve as a Division II board in which all of the board members had to recuse themselves from.

ADJOURNMENT

With no other business to discuss the meeting was adjourned.