# FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

Embassy Suites Tampa – USF 3705 Spectrum Blvd. Tampa, FL 33612 813-977-7066

February 15, 2008

## **GENERAL SESSION MINUTES**

**Board Members Present** 

Raymond Holloway, Chair Barry Kalmanson, Vice Chair

Peggy Bailey

Frank Bonuso

Joan M. Brown

Lorie Clark

Paul Del Vecchio

Carl E. Engelmeier

James Flaherty

Michelle Kane

Robert Moody Jr.

Mark Pietanza

William S. Sheehan

Robert Stewart

Jacqueline Watts

**Edward Weller** 

Don Wilford

Anthony Terhaar

## Others Present

G. W. Harrell, Executive Director, DBPR
Andy D. Janecek, Government Analyst, DBPR
Amanda Abbott, Government Analyst, DBPR
Daniel Biggins, Legal Advisor, AGO
William Oglo, Legal Advisor, AGO
Jeff Kelly, Chief Prosecuting Attorney, DBPR
Kyle Christopher, Assistant General Counsel, DBPR
Tiffany Harrington, Assistant General Counsel, DBPR
Marc Drexler, FHCRF Attorney, DBPR

The meeting was called to order by Chair, Raymond Holloway, at 8:30 am. Ms. Bailey gave the Invocation. Mr. Del Vecchio led the Pledge of Allegiance.

#### **REVIEW OF MINUTES**

The board voted unanimously to approve the following minutes:

Final Action – January 2010

## EXECUTIVE DIRECTORS REPORT – G.W. HARRELL

Mr. Harrell gave the following report:

Mr. Harrell announced that Professional Licensure Services, Inc. is challenging a rule. Mr. Del Vecchio had a sit down with Kevin Trimm, President of Professional Licensure Services and his attorney, Tim Atkinson, on this issue. Mr. Harrell announced this was after the Division of Administrative Hearings dismissed Mr. Trimm's challenge of the rule based on Mr. Trimm's lack of standing. Mr. Atkinson followed up with the challenge and forwarded an offer to reinstate the net worth requirement listed in the rule. Mr. Harrell stated Mr. Biggins would follow up with more information on that in his report.

Mr. Harrell announced the travel vouchers had been sent to the board members.

Mr. Harrell also announced that the document imaging system is still being implemented and is making sure that the software is easy to use and suits the board members needs. The Secretary decided that the Construction Board would be the first Board under the department to have a paperless meeting, and that this is being implemented in CIU, OGC, etc, throughout the entire Department.

Mr. Harrell also announced the Secretary Benson is leaving the Department in the coming weeks and is joining the Agency for Healthcare Administration.

Mr. Del Vecchio stated that last month the Secretary came to the meeting and handed out information on an audit that was being performed to check into experience verification. Mr. Del Vecchio asked Mr. Harrell if he knew the status of that audit. Mr. Harrell responded that Mr. John Washington, the Director of the Division of Regulation, is who distributed that report, but he did not know of any progress, and he would ask Mr. Washington when he returned to Tallahassee. Mr. Harrell also stated that some of those cases should be reaching Mr. Kelly, and he may be able to provide some information at future meetings.

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

#### CHAIRMAN'S REPORT - RAYMOND HOLLOWAY

Mr. Holloway gave the following report:

## PROSECUTING ATTORNEY'S REPORT – JEFF KELLY

Mr. Kelly gave the following report:

For the month of January 2008, the overall case load was 2,052, down from 2,153 in December 2007, and up from 1,686 in January 2007.

There were 656 cases to be reviewed in Legal, 249 cases set for probable cause, and 376 where probable cause had been found/administrative complaints filed. 21 cases had stipulations executed/informal hearings requested, 70 cases were ready for default, and 167 had requested formal hearings. 74 cases were referred to DOAH, 120 cases were in settlement negotiations, 144 cases were set for Board presentation, and 175 were awaiting final orders. 0 cases were under appeal and 0 cases had been reopened. For January 2008 the amount of cases closed was 237.

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

Andy Carl Edwards, RC0059752 – 2007063826, Revocation License Kevin J, Kelly, RR282811549 – 2007062848, Revocation of License Michael Mellone, RR0067409 – 2007065109, One year suspension, Local Board appearance, Administrative Costs of \$500 & fine payable to Brevard County in the amount of \$3.500

**Jack J. Mitchem, RC0066568** – 2007068218, License Revocation, Fine of \$14,000 payable to Escambia County.

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

# RECOVERY FUND ATTORNEY'S REPORT - MARC DREXLER

Mr. Drexler gave the following report:

Through January 31<sup>st</sup>, 2008, the total amount disbursed is \$1,214,133.72 of the original \$3.25 million. An additional \$268,422.22 has been obligated, leaving a cash balance of \$1,767,444.06.

Pending all years, the total of all claims pending is 419, with 33 of those being Division II claims. Year to date, 49 claims have been received of which 20 were ineligible. Those numbers are the same for January 2008. There were 0 recommended for denial, and 17 ready for committee review. There were 270 claims incomplete more than 180 days, and 149 were incomplete less than 180 days. 6 cases are currently under appeal.

Mr. Drexler stated that two staff members had left the Recovery Fund, but they should be fully staffed by the next board meeting.

#### ATTORNEY GENERAL'S REPORT - DAN BIGGINS/WILLIAM OGLO

#### ANTHONY APPELBECK – PETITION FOR DECLARATORY STATEMENT

Mr. Apfelbeck was present.

Mr. Biggins presented this case as a petition for a declaratory statement requesting clarification on Ch. 489.117, Florida Statutes, and Ch. 489.131, Florida Statutes, specifically asking how the board imposes discipline on registered contractors where there is no local disciplinary board. The petition was filed on December 21, 2007. The petition was noticed in the Florida Administrative Weekly on February 1, 2008.

After discussion the board voted unanimously that the petitioner had standing. The board further answered the questions in the following: the first question was answered in the negative, registered contractors are required to comply with all local licensing requirements pursuant to 489.117 (1)(b). The answer to the second question is yes, in order for the local jurisdiction to issue new certificates of competency there must be local disciplinary control, which can be provided by local agreement pursuant to 489.117 (2). The answer to the third question was yes, the Department may pursue a complaint on behalf of the Board where a local enforcement body does not have jurisdiction, pursuant to section 489.131, Florida Statutes.

#### **TED BRYANT - REQUEST FOR INFORMAL HEARING**

Mr. Bryant was present.

Mr. Biggins presented this case stating Mr. Bryant's application for a change of status of his certified roofing license was denied at the November 2007 meeting of the board because the applicant was the subject of pending discipline. As a result, the qualified business application for U.S. Roofing Services, LLC was denied for failing to have a qualifying agent. The Notice of Intent to Deny was filed in January of 2008. Mr. Bryant timely requested board reconsideration.

After discussion the board voted unanimously to send the application back to the Application Review Committee for further review.

## **BARRY DEMAY – PETITION FOR DECLARATORY STATEMENT**

Mr. Demay was present.

Mr. Biggins presented this as a petition for a declaratory statement requesting clarification on Ch. 489.105 (3)(n), Florida Statutes, specifically asking if a certified underground utility and excavation contractor is permitted with his license to construct vertical improvements, such as bulkheads, head walls, end walls, and retaining walls which are integral components of a storm water and retention system for a new development pursuant to plan which have been designed by a duly licensed engineer. The petition was filed on December 14, 2007. The petition was noticed in the Florida Administrative Weekly on February 1, 2008.

After discussion it was agreed that this petition was pulled and will reappear the following month.

# EDWARD HOBEL – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION AND PROBATION

Mr. Hobel was present.

Mr. Biggins presented this case stating Mr. Hobel is requesting the reinstatement of the stay of suspension of his license and requesting to be placed back on probation. The stay of suspension was lifted on Mr. Hobel's license for failure to submit a probation packet or appear at his scheduled probation hearing on January 10, 2008. The petition to reinstate the stay was filed in February of 2008.

After discussion the board voted unanimously to reinstate the stay of suspension and reinstate probation with one unsatisfactory appearance on Mr. Hobel's record and a \$200 citation.

#### BRIAN JOHNSON - REQUEST FOR REINSTATEMENT OF NULL & VOID LICENSE

Mr. Johnson was present.

Mr. Biggins presented this case as a request by Mr. Johnson to reinstate his certified general contractor's license. Mr. Johnson's license went Null & Void in August of 2004. The petition to reinstate the license was filed in October of 2007.

After discussion the board voted unanimously to deny the request for reinstatement for failing to establish a hardship.

# SAMUEL MCDONALD – REQUEST FOR REINSTATEMENT OF STAY OF SUSPENSION AND PROBATION

Mr. McDonald was not present.

Mr. Biggins presented this case stating the Mr. McDonald is requesting the reinstatement of the stay of suspension of his license and requesting to be placed back on probation. The stay of suspension was lifted on Mr. McDonald's license for failure to submit a probation package or appear at this scheduled probation hearing in October 2007. The petition to reinstate the stay was filed in November of 2007.

After discussion the board voted unanimously to deny the request to reinstate the stay of suspension.

#### SAMUEL ROLLINS - REQUEST FOR INFORMAL HEARING

Mr. Rollins was present.

Mr. Biggins presented this case stating Mr. Rollins' application for initial licensure as a certified building contractor was denied at the November 2007 meeting of the board for failure to demonstrate the required experience and failure to provide proof of good moral character. As a result, the qualified business application for Rollins S&T Design and Construction, Inc. was denied for failing to have a qualifying agent. The Notice of Intent to Deny was filed in February of 2008. Mr. Rollins timely requested board reconsideration.

After discussion the board voted unanimously to uphold the denial of the application.

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

## **COMMITTEE REPORTS**

## ADDITIONAL BUSINESS ENTITIES COMMITTEE - MARK PIETANZA

Mr. Pietanza gave the following report:

#### APPROVED (15)

Barnhart, Kevin

Barnwell, Timothy

Brocious, Scott

Brown, Michael

Dolan, Robert

Fenn, Ronald

Henderson, George

Hollingsworth, Turner

Hunter, Sarah

Mancini. Daniel

Michelbrink, Daniel

Mullins, Terrence

Niles, Richard

Perillo, Randy

Rohde, Richard

#### DENIED (3)

Brown, Deron

Rodriguez, Melissa

Rodriguez, Melissa

## CONTINUED (2)

Gamel, Bennett – 30 days

Rufin, Omelio - 30 days

## WITHDRAWN (1)

Van Wart, Joseph

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

#### EXAMS/CE/PUBLIC AWARENESS COMMITTEE – JAMES FLAHERTY

Mr. Flaherty gave the following report:

**Lorman Business Center, Inc.** 

1<sup>st</sup> Course: The Hidden Risks of Green Buildings How to Prevent Your First Green Building From Becoming Your Last – approved (6.5 hours, no business)

#### **Contractors Exam School**

1<sup>st</sup> Course: Laws and Rules – approved

## **Cam Tech School of Construction, Inc.**

1<sup>st</sup> Course: Advanced 2004 Accessibility – approved

2<sup>nd</sup> Course: Practical Business Strategies for Contractors – Part I – **approved** 3<sup>rd</sup> Course: Practical Business Strategies for Contractors – Part II – **approved** 4<sup>th</sup> Course: Practical Business Strategies for Contractors – Part III – **approved** 

## **Educational Training, Inc.**

1st Course: Laws and Rules, Issues through Planning – approved

## Coast Software, Inc. d/b/a Coastinteractive.com

1<sup>st</sup> Course: Continuing Education Requirements for Florida Licensed Contractors -

2<sup>nd</sup> Course: Hurricane Mitigation Retrofits for Existing Site-Built Residential Structures - approved

# **Aquatic Training Institute**

1st Course: ATI Reviews of Florida Laws for Pool Contractors – approved

# Florida Refrigeration & Air Conditioning Contractors Association

1<sup>st</sup> Course: Workers Comp Insurance – Understanding the Experience Modifier - approved

2<sup>nd</sup> Course: What Your Financial Statement Says About Your Company – approved

3<sup>rd</sup> Course: The New Refrigerants – approved

4<sup>th</sup> Course: Increasing Field Productivity – Best Practices Lab – approved

5<sup>th</sup> Course: Troubleshooting Compressor Longevity and Performance Efficiency -

approved

6<sup>th</sup> Course: Drawing the Line Between Responsible Mix-Matching and Irresponsible Mix-Matching – **approved** 

7<sup>th</sup> Course: Residential and Commercial Energy Code Calculations – approved

8<sup>th</sup> Course: Proving, Pricing, and Defending Differing Site Condition Claims – approved

9<sup>th</sup> Course: How to Win the Fight on Change Orders and Claims – approved

## **Hanley Wood Exhibitions**

1st Course: What are the Real Costs of Doing Business? - denied

2<sup>nd</sup> Course: A Project Manager's Guide to the Financial Stuff – approved

3rd Course: QuickBook Basics - approved

4<sup>th</sup> Course: Unknown to Known: Relationship Marketing – **denied** 

5<sup>th</sup> Course: Sales Process: Call to Close – approved

6<sup>th</sup> Course: Lead Carpenter Training – approved

7<sup>th</sup> Course: Self-Management Equals Time Management – **denied** 

8<sup>th</sup> Course: How Marketing is Like Fishing – **denied** 

9<sup>th</sup> Course: Creating Win-Win Relationships with Subs – **denied** 

10<sup>th</sup> Course: Business Plan Development – approved

11th Course: Selling Value, Not Price – denied

12<sup>th</sup> Course: Real Strategies from the Sales Field – **denied** 

13<sup>th</sup> Course: Growing Your Business without Growing our of Business – **denied\** 

14<sup>th</sup> Course: Functioning Area Approach to Deck Design – **denied** 

15th Course: Using MS Excel to it's Maximum – approved

16<sup>th</sup> Course: On Generating Referrals – **denied** 17<sup>th</sup> Course: Mark-Up and Margins – **approved** 

18th Course: 5 Key ways to Know Your Numbers are Correct – approved

19<sup>th</sup> Course: Getting Started in the Deck Business – **denied** 

20<sup>th</sup> Course: Building Code for Building Decks – **denied** 

# Pontifax Corp.

1<sup>st</sup> Course: Seminar – approved

#### G. Michael Starks

1<sup>st</sup> Course: Structural Masonry Design – approved

#### **Quorum Services, LLC**

1<sup>st</sup> Course: Electrical Job Site Safety – approved

2<sup>nd</sup> Course: Trench and Excavation Safety – **approved** 

3<sup>rd</sup> Course: 2004 Florida Building Code Chapter 10 Means of Egress – **approved** 4<sup>th</sup> Course: Understanding Flood Control Regulations for Contractors and Code

Enforcement – approved

5<sup>th</sup> Course: The Design and Construction Requirement of the Fair Housing Act -

approved

6<sup>th</sup> Course: 2004 Florida Building Code Chapter 3 Use and Occupancy Classification -

approved

## Gilbert & Kaufman, P.A.

1<sup>st</sup> Course: Construction Lien Seminar – approved

#### **Contractors Exam School**

1<sup>st</sup> Course: Wind Loss Mitigation Strategies – approved

2<sup>nd</sup> Course: Construction Trade Technical Review – approved

# American Construction School, Inc.

1<sup>st</sup> Course: Ethics for Construction – approved

2<sup>nd</sup> Course: Manufactured Building – approved

#### H.G. & Associates

1<sup>st</sup> Course: Construction Contracting Laws & Rules – approved

#### **Universal Inspection Service, Inc.**

1st Course: Changes of the New Florida Building Code – denied

## **Construction Service Enterprise, Inc.**

1<sup>st</sup> Course: Wind Mitigation Methodology – Section 533.844 F.S. – approved

#### Florida Home Builders Association

1<sup>st</sup> Course: Construction Scaffold Safety – approved

2<sup>nd</sup> Course: Residential Construction Fall Protection – **approved** 3<sup>rd</sup> Course: Commercial Construction Fall Protection – **approved** 

# Florida Wood Council

1<sup>st</sup> Course: Making Sense of Green Building Program Requirements for Contractors and Design – **approved** 

 2<sup>nd</sup> Course: Designing and Building/Construction of Green Projects – approved
 3<sup>rd</sup> Course: What Building Designers and Contractors Should Know about Wood Trusses – approved

4<sup>th</sup> Course: Building a Better House – Moisture and Mold Management – approved
 5<sup>th</sup> Course: Prevention of High Wind and Water Intrusion through Design and Construction – approved

6<sup>th</sup> Course: Designing and Building with Traditional Coastal Elements – approved

## Gold Coast School of Construction, Inc.

1<sup>st</sup> Course: The Principles of Florida Statutes & Rules (Internet Version) – approved

## Smith, Currie, & Hancock, LLP

1<sup>st</sup> Course: Practical Construction Documentation for Florida Contractors – approved

## **Building Officials Association of Florida**

1<sup>st</sup> Course: Florida Construction Law – **approved** 2<sup>nd</sup> Course: Wind Mitigation Training – **approved** 3<sup>rd</sup> Course: Florida Laws and Rules – **approved** 

## **Tom Prpich Consultant**

1<sup>st</sup> Course: Wind Mitigation Retrofits – **denied** 

#### **PGT Industries**

1<sup>st</sup> Course: Water Infiltration – **approved** 2<sup>nd</sup> Course: Retrofit Installation – **approved** 

#### **Contractors Educational Services**

1<sup>st</sup> Course: Wind Mitigation – Protecting Openings – approved

2<sup>nd</sup> Course: Wind Mitigation – Protecting Openings (Internet Version) – approved

3<sup>rd</sup> Course: Construction Laws I (Internet Version) – **approved** 4<sup>th</sup> Course: Construction Laws II (Internet Version) – **approved** 

### Florida Refrigeration & Air Conditioning Contractors Association

1<sup>st</sup> Course: Small Duct High Velocity System – **approved** 2<sup>nd</sup> Course: Reverse Cycle Chiller Basics – **approved** 

#### Academy of Construction, Health, and Safety, Inc.

1<sup>st</sup> Course: Laws and Rules – approved

2<sup>nd</sup> Course: Wind Mitigation Methodologies – approved

# Media Factory, Inc.

Department of Business & Professional Regulation Construction Industry Licensing Board Meeting Minutes February 2008 Page 9 of 14 1<sup>st</sup> Course: Wind Mitigation Methodologies – approved

## **Cutstone Learning, Inc.**

1<sup>st</sup> Course: Wind Mitigation – approved

2<sup>nd</sup> Course: Construction Core Requirements – approved (revise timeline)

# Contractors Continuing Education Systems, LLC

1<sup>st</sup> Course: Advanced 2004 Accessibility – approved

# Mixner & Company, CPA

1<sup>st</sup> Course: Strategic Tax and Financial Statement Planning for Contractors Who Need Bonding – **approved** 

## **Boss Construction School, Inc.**

1<sup>st</sup> Course: Wind Mitigation Retrofits – approved

2<sup>nd</sup> Course: Understanding Construction Design – **approved** 

## **EWC Controls, Inc.**

1<sup>st</sup> Course: Forcing Air Zone Application and Installation – **approved** 

#### Becker & Poliakoff, P.A.

1<sup>st</sup> Course: Advanced Administrative Building Code Course – approved

2<sup>nd</sup> Course: Construction Law & Current Issues – approved

## RECOVERY FUND/FINANCE COMMITTEE - JOAN M. BROWN

Ms. Brown gave the following report:

2007006169 - \$50,000 2007010793 - \$25,000

2007011566 - \$25,000

2007012751 - \$23,254.94

2007018206 – \$17,350

2007019189 - \$50,000

2007020624 - \$20,120

2007023379 - \$24,421

2007023552 - \$22,533

2007025643 - \$25,000

2007026890 - \$7,447.03

2007029408 - \$50,000

2007029416 - \$50,000

2007037484 - \$29,176.12

2007038065 - \$25,000

2007042056 - \$24,000

2007026194 - Denied

A total of \$468,302.09 was awarded.

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

Department of Business & Professional Regulation Construction Industry Licensing Board Meeting Minutes February 2008 Page 10 of 14

#### PROBATION COMMITTEE - CARL ENGELMEIER

Mr. Engelmeier gave the following report:

Ball, William, CGC036194

Result: Satisfactory

Brenneman, Kent, CPC057225

Result: Satisfactory

Carter, James, CGC031396

Result: Satisfactory

**Debolt, Heather, CBC058193 & CPC1456756** 

Result: Unsatisfactory

Motion was passed to investigate her for brokering her license.

Gaul, David, CAC1815055

Result: Satisfactory

Igou, William, CBC1254550

Result: Satisfactory

Kontny, Todd, CMC1249643, CFC1427114

Result: Satisfactory

Kuntz, Wayne, CBC022190, CCC057335

Result: Satisfactory

Mancini, John, CGC037419

Result: Satisfactory

Natanson, Gary, CGC052834

Result: Unsatisfactory

Oltmann, Richard, CGC014487

Result: Satisfactory

Pane, Troy, CGC022901

Result: Satisfactory contingent upon his workers comp being corrected

**Evans, Thomas,** CGC034908 Result: Stay of Suspension lifted

Nichols, James, CBC014487

Result: Satisfactory

Tummolo, Raymond, SCC056738

Result: Satisfactory

Valladares, Jose, CGC1511678

Result: Satisfactory

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

#### APPLICATION REVIEW COMMITTEE – JACQUELINE WATTS

Ms. Watts gave the following report:

## APPROVED (4)

Angel, Adrian – Probation until criminal probation is satisfied Beasley, Raymond Derleth, Robert Hierrezuelo, Roberto – 2 years probation

#### DENIED (1)

Lambek, Lawrence

#### CONTINUED (5)

Howen, Justin – 30 days Lose, Jose – 60 days Palomino, Alberto – 60 days Rubino, Michael – 60 days Smith, Wayne – 30 days

#### WITHDRAWN (1)

Rubio, Sergio

The board voted unanimously to ratify the list of Financially Responsible Officers.

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

#### AD HOC LICENSURE QUALIFICATIONS COMMITTEE - PAUL DEL VECCHIO

Mr. Del Vecchio gave the following report:

A review of the following Employment Verification Documents occurred.

- W-2, Wage, and Tax Statements, IRS
- Form 940, Employers Annual Federal Unemployment (FUTA) Tax return, IRS
- Form 941, Employers Quarterly Federal Tax Return, IRS
- UCT-6, Employers Quarterly Report, Florida Department of Revenue

#### RULES/PUBLIC/LEGISLATIVE COMMITTEE - BARRY KALMANSON

Mr. Kalmanson gave the following report:

The following Rules have been **Developed:** 

61G4-15.001 Qualification for Certification

61G4-15.028 Precision Tank Testers

61G4-15.029 Tank Lining Applicators

61G4-15.032 Certification of Swimming Pool Specialty Contractors

61G4-16.0021 (1) Written Examination for Swimming Pool Specialty Contractors

61G4-16.001 Examination Requirements 2/1/08

The following Rules have been **Noticed:** 

61G4-18.002 Definitions

61G4-18.003 Registration of Course Providers

61G4-18.004 Approval of Continuing Education Courses

61G4-21.002 Definitions

61G4-21.003 Filing Claims

61G4-21.004 Claims Review

61G4-21.005 Payment of Claims

61G4-21.006 Collection Efforts

The following Rules have been Adopted:

61G4-12.011 Definitions

61G4-15.0021 Certification and Registration of Business Organizations

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

## **OLD BUSINESS**

Mr. Del Vecchio asked the status of the schedule for running a dual meeting on Thursday. Mr. Harrell stated he does not have the progress of that report right now and that it has proven to be difficult in the past, but in the meantime there will not be a breakout room and the meeting will be conducted in one meeting room.

#### **NEW BUSINESS**

Mr. Kalmanson asked that the board members be provided new statute/rule books because the one he has is over a year old. Mr. Harrell stated he will have 20 copies of the statute book printed for the board members.

Mr. Harrell announced that the Department of Community Affairs was present at the board meeting and provided a Final Report from the Building Codes Education and Outreach Council in which the continuing education course applications would be updated and consolidated to provide a more efficient way of reviewing the courses and approving/denying them.

With no further business the board voted to approve this report and adjourn the meeting.

#### **ADJOURNMENT**