

**MINUTES FROM THE
May 14-16, 2003
ELECTRICAL CONTRACTORS' LICENSING BOARD MEETING**

**The Crowne Plaza Hotel Orlando Airport
5555 Hazeltine National Drive
Orlando, FL 32812
Tel: (407) 856-0100**

The Board Meeting was called to order by Chairperson Michele Poole at 8:30 a.m.

PLEDGE OF ALLEGIANCE AND INVOCATION – Jeffrey M. Kiner

ROLL CALL- Members Present

Arnaldo L. Abreu
Pierre Bellemare
Kimberly DeBerry
Jeffrey Kiner
Roger Langer
Norman Mugford
Michele Poole, Chairperson
Lewis Roberts
Paul Sandefer
Rae Small
Clarence Tibbs

OTHERS PRESENT

Lianne Acebo, Deputy Secretary, DBPR
Anthony B. Spivey, Executive Director
Gregory Spence, Government Analyst
Rosanna M. Catalano, Assistant Attorney General
Gail Scott-Hill, Chief Professions Attorney
Suzette Bragg, Bay Park Reporting, Court Reporter

LEGISLATIVE AND RULES WORKSHOP

On May 14, 2003, the Board convened a Legislative and Rules Workshop to review the provisions of [Chapter 489, Part II, F.S.](#), and [Rule Chapter 61G6, F.A.C.](#) Highlights of the workshop included:

- Discussion on presentation of the Department's Legislative Package.
- Consideration to require national and State of Florida background checks; all applicants for licensure and BASA/FASA certification to have NCIC and FDLE background checks performed.
- Report that some alarm system contracting businesses are not performing background checks.
- Consideration to add language to Chapter 489, Part II concerning restoration of Civil Rights; required for licensure.
- Consideration to amend §489.532, F.S.
- Consideration to amend §61G6-5.003(1)(d), F.A.C.
- Consideration to amend §489.511, F.S.
- Discussion on §61G6-5.001(5), F.A.C.
- Correct scrivener's error in §61G6-5.012(1), F.A.C.
- Discussion on Worker's Compensation and Public Liability Insurance audits.
- Discussion on reducing the percentage of licensees to be audited.
- Discussion on merger of the Divisions of Professions and Regulation.
- Discussion on disciplining non-registered continuing education (CE) providers the same as unlicensed contractors.
- Consideration to strike §61G6-9.005(11), F.A.C.
- Discussion on FASA/BASA disciplinary guidelines.
- Consideration to begin rule development on §61G6-10.002(15), F.A.C.
- Consideration to strike reference to §61G6-9.05(11) from 61G6-10.002(15)(d), F.A.C.
- Consideration to require journeymen to complete CE per §61G6-12.004, F.A.C.

ECLB Proposed Legislative Changes

Section 455.213(10), F.S., - establish a rule based on "good moral character" as used in Section 489.511(4)(a), F.S., and incorporate Section 120.60, F.S., in applications.

MOTION: Mr. Mugford motioned to authorize Board Counsel to begin rule development.

SECOND: Paul Sandefer.

The Board voted on the motion. The motion passed unanimously.

Section 489.511(4)(b)2., F.S., - (b) The board may determine that an individual applying for certification is ineligible to take the examination for failure to satisfy the requirement of good moral character only if: 2. The finding by the board of lack of good moral character is supported by ~~clear and convincing competent and substantial~~ evidence.

MOTION: Mr. Mugford motioned to amend this section as shown above.

SECOND: Paul Sandefer.

The Board voted on the motion. The motion passed unanimously.

Section 489.505(14), F.S., - consideration to add a definition for “business organization.”

Ms. Scott-Hill and Ms. Catalano will review this issue and present their findings to the Board.

Section 489.503(4), F.S., - This part does not apply to: (4) Public utilities, on construction, maintenance, and development work performed by their ~~forces~~ employees and incidental to their business.

MOTION: Mr. Tibbs motioned to amend this section as shown above.

SECOND: Mr. Mugford.

The Board voted on the motion. The motion passed unanimously.

Section 489.503(1)(b), F.S., - This part does not apply to: (1) Any employee of a certificateholder, registrant, or business organization authorized to engage in contracting who is acting within the scope of the license held by that certificateholder or registrant and with the knowledge and permission of the licenseholder. However: (b) The legislative intent of this subsection is to place equal responsibility on the unlicensed business and its employees for the protection of the consumers in contracting transactions. For the purpose of this part, "employee" is defined as a person who receives compensation from, and is under the supervision and control of, an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers' compensation, all as prescribed by law, or is an employee of an employee leasing company licensed pursuant to Chapter 468, Part XI, F.S.-

MOTION: Mr. Tibbs motioned to amend this section as shown above.

SECOND: Mr. Sandefer.

The Board voted on the motion. The motion passed unanimously.

Section 489.537(3)(f), F.S., - (3) Nothing in this act limits the power of a municipality or county: ~~(f) To require that one electrical journeyman, who is a graduate of the Institute of Applied Technology in Construction Excellence or licensed pursuant to s. 489.5335, be present on an industrial or commercial new construction site with a facility of 50,000 gross square feet or more when electrical work in excess of 77 volts is being performed in order to supervise or perform such work, except as provided in s. 489.503.~~

Section 489.5335, F.S., Journeyman; requirements, reciprocity; standards — (3) To require that one electrical journeyman, who is a graduate of the Institute of Applied Technology in Construction Excellence or licensed pursuant who meets the minimum reciprocity standards of ~~to~~ s. 489.5335, be present on an industrial or commercial ~~new~~ construction site with a facility of ~~50,000~~ 10,000 gross square feet or more when

electrical work in excess of 77 volts is being performed in order to supervise or perform such work, ~~except as provided in s. 489.503.~~

MOTION: Mr. Tibbs motioned to amend the preceding sections as shown above.

SECOND: Mr. Sandefer.

The Board voted on the motion. The motion passed unanimously.

Section 489.517(1), F.S., - (1) The department shall renew a certificate or registration upon receipt of the renewal application and fee and proof of meeting all continuing education requirements, ~~however subject to the provisions of Section 455.227(3)(c), F.S.~~

MOTION: Mr. Mugford motion to amend this section as shown above.

SECOND: Mr. Tibbs.

The board voted on the motion. The motion passed unanimously.

Section 489.529, F.S., --All residential or commercial intrusion/burglary alarms that have central monitoring must have a central monitoring verification call made to the premises generating the alarm signal, prior to alarm monitor personnel contacting a law enforcement agency for alarm dispatch. ~~The central monitoring station shall make a second call to the address generating the alarm signal before dispatch.~~ However, if the intrusion/burglary alarms have properly operating visual or auditory sensors that enable the monitoring personnel to verify the alarm signal, verification calling is not required.

MOTION: Mr. Tibbs motioned to amend this section as shown above.

SECOND: Mr. Langer.

The Board voted on the motion. The motion passed unanimously.

Section 489.531(6)(c), F.S., - (c) The department, the disciplined registered contractor, or the complainant may challenge the local jurisdiction enforcement body's recommended penalty for board action to the Electrical Contractors' Licensing Board. A challenge shall be filed within ~~6090~~ days after the ~~issuance receipt~~ of the recommended penalty to the board. If challenged, there is a presumptive finding of probable cause and the case may proceed without the need for a probable cause hearing.

MOTION: Mr. Mugford motion to amend this section as shown above.

SECOND: Mr. Tibbs.

The board voted on the motion. The motion passed unanimously.

Section 489.532, F.S., - As a matter of public policy, contracts entered into on or after October 1, 1990, and performed in full or in part by any contractor who fails to obtain or maintain his or her license in accordance with this part shall be unenforceable in law ~~by the unlicensed contractor~~, and the court in its discretion may extend this provision to equitable remedies.

MOTION: Mr. Mugford motion to amend this section as shown above.

SECOND: Mr. Tibbs.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-5.001(11), F.A.C., - As used in this chapter: (11) "Experience" means informal exposure to the electrical or alarm system contracting trade wherein knowledge and skill is obtained via direct observation or participation.

MOTION: Mr. Bellemare motion to amend this rule section as shown above.

SECOND: Mr. Tibbs.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-5.003(1)(d), F.A.C., - (1) Any person desiring to take the certification examination must establish that he or she meets eligibility requirements according to one of the following criteria: (d) Has been licensed for 3 years as an engineer. Has, within the 12 years immediately preceding the filing of the application, been licensed for 3 years as a professional engineer who is qualified by education, training, or experience to practice electrical engineering.

MOTION: Mr. Tibbs motion to amend this rule section as shown above.

SECOND: Ms. Small.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-5.012(1), F.A.C., - (1) A certificate holder or registrant shall notify the Board Office within thirty (30) days of a change in name style or address from that which appears on the current certificate of or registration and shall notify the Board Office within thirty (30) days after the qualifying person has ceased to be affiliated with the qualified business organization.

Ms. Catalano will prepare notice to correct this scrivener's error.

Rule 61G6-9.005(11), F.A.C., - ~~(11) The course provider shall be responsible for filing with the Board, within 30 days after the course is concluded, a list of all licensees who attended a course between September 1, 2000 and April 30, 2001.~~

MOTION: Mr. Tibbs motion to strike this rule section as shown above.

SECOND: Mr. Sandefer.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-10.002(15)(d), F.A.C., - In imposing disciplinary penalties upon licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty corresponding to the violations set forth below absent aggravating and

mitigating circumstances and subject to the other provisions of Chapters 455 and 489, Part II: The cited statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited following the violation description. (15) Failure to comply with Chapter 489, Part II, F.S., (489.533(1)(o), F.S.): ~~(d) Failure to provide required proof of public liability insurance, required proof of workers' compensation insurance or an exemption, or required proof of continuing education in response to an audit request by the Board (61G6-5.008 and 61G6-9.011, F.A.C.). First violation: \$500 fine for each requirement to probation and fine or suspension; repeat violation: \$750 to \$1,000 fine and probation or suspension.~~

MOTION: Mr. Roberts motion to amend this rule section as shown above.

SECOND: Mr. Mugford.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-9.001, F.A.C.; - As a condition to the reactivation of an inactive license, a licensee must submit proof of the completion of twelve (12) classroom hours of continuing education which meets the criteria set forth in Rule 61G6-9.002, F.A.C. for each year of inactive status, not to exceed 48 hours within 4 years prior to reactivation.

MOTION: Mr. Tibbs motion to amend this rule section as shown above.

SECOND: Ms. DeBerry.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-10.003(1)(4), F.A.C., - When either the petitioner or respondent is able to demonstrate aggravating or mitigating circumstances to the board by clear and convincing evidence, the board shall be entitled to deviate from the above guidelines in imposing discipline upon an applicant or licensee. Absence of any such evidence of aggravating or mitigating circumstances before the hearing officer prior to the issuance of a recommended order shall not relieve the board of its duty to consider evidence of mitigating or aggravating circumstances. Based upon the following factors, the board may impose disciplinary action other than the penalties recommended above:
~~(1) The severity of the offense;~~
~~(2)(1) The degree of harm to the consumer or public;~~
~~(3)(2) The number of counts in the administrative complaint;~~
~~(4) The number of times the offenses have previously been committed by the licensee or applicant;~~
~~(5)(3) The disciplinary history of the applicant or licensee;~~
~~(6)(4) The status of the applicant or licensee at the time the offense was committed;~~
~~(7)(5) The degree of financial hardship incurred by a licensee as a result of the imposition of the fines or suspension of his practice. Any penalties imposed by the board may not exceed the maximum penalties set forth in 489.533(2), F.S.~~

MOTION: Mr. Bellemare motion to strike sub-paragraphs (1) and (4) from this rule section as shown above.

SECOND: Ms. Small.

The board voted on the motion. The motion passed unanimously.

Rule 61G6-5.003(1)(a)2.,b.,,(1)(b)2.,,(1)(c)2., F.A.C., - (1) Any person desiring to take the certification examination must establish that he or she meets eligibility requirements according to one of the following criteria:

(a) Has, within the 6 years immediately preceding the filing of the application, at least 3 years' proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent.

2. The experience required must include:

b. For an alarm contractor I, at least 40% of work that is in commercial fire alarm systems;

(b) Has, within the 8 years immediately preceding the filing of the application, at least 4 years' experience as a foreman, supervisor, or contractor in the trade for which he or she is making application. The experience must include:

2. For an alarm contractor I, at least 40% of work that is in commercial fire alarm systems;

(c) Has, within 12 years immediately preceding the filing of the application, at least 6 years of comprehensive training, technical education, or broad experience associated with an electrical or an alarm system installation or servicing endeavor. The experience required must include:

2. For an alarm contractor I, at least 40% of work that is in commercial fire alarm systems;

MOTION: Mr. Tibbs motioned to amend this rule section as shown above.

SECOND: Ms. Small.

The Board voted on the motion. The motion passed unanimously.

**PETITION FOR VARIANCE AND WAIVER – Rosanna M. Catalano,
Assistant Attorney General**

Robin L. Smith

Petition for Variance and Waiver of the Electrical Contractors' Licensing Board Rule 61G6-5.004, F.A.C., Requirement for Certified Qualifying Agent Applicant

In correspondence dated May 2, 2003 Bose Corporation petitioned the Board for variance and waiver from the requirements of [Rule 61G6-5.004, F.A.C.](#)

"...Bose Corporation is a candidate for the issuance of a low voltage electrical license from the State of Florida. All requirements have been met except for the submission of the required financial statements. Bose Corporation hereby requests a waiver from the low voltage licensing application regulations which require the submission of certain financial information including the submission of profit and loss statements from a certified public accountant...Given the status of Bose Corporation as a privately held company, it has no general duty or obligation to make its books and records available for scrutiny by the public..."

Bose Corporation was represented by Bob Fitzgerald. Mr. Smith was not present. Mr. Fitzgerald was sworn in by the court reporter. Ms. Catalano introduced the matter for the record. The Board entered into discussion regarding Bose Corporation's petition. During discussion it was discovered that the requisite financial documents had been submitted with the initial application for examination. After discussion:

MOTION: Mr. Sandefer motioned to approve a variance and waiver from Rule 61G6-5.004, F.A.C., and to approve licensure for Robin L. Smith, d/b/a Bose Corporation.

SECOND: Mr. Mugford.

The Board voted on the motion. The motion passed unanimously.

**PETITION FOR DECLARATORY STATEMENT – Rosanna M. Catalano,
Assistant Attorney General**

**Bob Hilterbrick
BACH Sign Group, Inc.
Petition for Declaratory Statement – Exemptions from Licensure**

In correspondence dated March 7, 2003 Mr. Hilterbrick petitioned the Board for a formal ruling or opinion regarding the requirement to hold a State issued license as a sign contractor.

"...My name is Robert Hilterbrick and I am Vice President/General Manager of a Florida Corporation known as BACH Sign Group, Inc. Our company is known within the "SIGN INDUSTRY" as a commercial sign broker, in other words we design, arrange the manufacture and installation of large electrical signs thru [sic] the 48 states and in Canada. We have no manufacturing or installation departments and we sub out to either state or county certified and licensed "Sign Contractors with the electrical endorsement on their license" to pull permits and install the sign under their license.

The local installers we have hired, then make application to install electrical signs that we either supply or have manufactured by them to be installed on the building or grounds of the business. The sign contractor we hire has no connection with our client other than to perform services we contract for directly in either manufacturing or installing the sign, and file all appropriate applications required by the local government for the zoning and sign installations...It is our opinion and that of our attorneys and accountants that we have met all requirements as required by the State of Florida for the legal operation of our business.

We would like to request at this time a formal ruling or opinion from your offices as to the need for our firm to hold a State issued license as a sign contractor..."

Mr. Hilterbrick was present and sworn in by the court reporter. Ms. Catalano introduced the matter for the record. Ms. Catalano recommended the Board not address Mr. Hilterbrick's request because it was not a properly formatted petition for declaratory

statement. Ms. Catalano recommended the Board allow her to address Mr. Hilterbrick's concerns in a letter to be drafted at a later date.

PROSECUTING ATTORNEY REPORT – Gail Scott-Hill, Chief Attorney

Ms. Scott-Hill directed the Board's attention to her report provided in the meeting agenda. Details of the report included the following as of April 22, 2003:

- 13-cases in the Office of the General Counsel
- 0-cases awaiting outside action
- 6-cases set for Probable Cause
- 3-cases set for board presentation
- 2-cases where an Administrative Complaint has been filed
- 1-case requesting an Informal Hearing
- 2-cases where Formal Hearings have been requested
- 0-cases for Default
- 1-case referred to DOAH
- 0-cases awaiting Final Order

Ms. Scott-Hill directed the Board's attention to the Unlicensed Activity Report provided at the meeting. Details of the report included the following as of May 15, 2003:

- 1-case in the Office of the General Counsel
- 3-cases awaiting outside action
- 0-cases set for Probable Cause
- 0-cases set for board presentation
- 5-cases where an Administrative Complaint has been filed
- 1-case requesting an Informal Hearing
- 2-cases where Formal Hearings have been requested
- 4-cases for Default
- 0-case referred to DOAH
- 8-cases awaiting Final Order

Ms. Scott-Hill also reported that Leon M. Biegalski, Esq., was no longer serving as Acting General Counsel, DBPR and that, Nancy Camiglia had been appointed as General Counsel, DBPR.

DISCIPLINARY CASES – Gail Scott-Hill, Chief Attorney

Julio Manuel Gonzalez

EG 000072

Case No.: 2001-07564

Motion for Default and Final Order

Recused: Mugford, Kiner & Small

On December 3, 2002, the Department filed an Administrative Complaint in Case No.: 2001-07564 charging the respondent with a violation of [Section 489.533\(1\)\(f\), F.S.](#), by committing fraud, deceit, negligence, incompetency, or misconduct in the practice of electrical contracting. The respondent failed to file

an Election of Rights form. On April 22, 2003, the Department attempted to serve a Motion for Default and Final Order.

The Department recommended that the Board enter a Final Order finding that the respondent violated the provisions of [Chapter 489, Part II, F.S.](#), and the imposition of one or more of the following penalties: place on probation, reprimand the license, revoke, suspend, deny the issuance or renewal of the certificate or registration, require correction, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, assess costs associated with investigation and prosecution, impose any or all penalties delineated within [Section 455.227\(2\), F.S.](#), and/or any other relief that the Board is authorized to impose pursuant to Chapters 489 and 455, F.S., and/or the rules promulgated thereunder.

Mr. Gonzalez was neither present nor represented by counsel. His license is NULL and VOID. After consideration of the complete record, the Board took the following action:

MOTION: Mr. Roberts motion to find Mr. Hardy in default.

SECOND: Mr. Tibbs.

The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Tibbs motioned to adopt the Allegations of Fact as the Findings of Fact and the Charges of Fact as the Conclusions of Law as alleged in the Administrative Complaint.

SECOND: Mr. Roberts.

The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Bellemare motion to assess a penalty of payment of restitution in the amount of \$2,879.76, \$471.59 investigative costs, a \$1,500 administrative fine and Mr. Gonzalez must personally appear before the board should he reapply for licensure.

SECOND: Mr. Tibbs.

The Board voted on the motion. The motion passed unanimously.

Steve M. Cunningham

EF 0000931

Case No.: 2002-005624

Motion for Hearing Not Involving Disputed Issues of Material Fact

Recused: Mugford, Kiner & Small

On December 3, 2002, the Department filed an Administrative Complaint in Case No.: 2002-005624 charging the respondent with a violation of [Section 489.533\(1\)\(f\), F.S.](#), by committing fraud, deceit, negligence, incompetency, or misconduct in the practice of electrical contracting. On January 14, 2003 respondent file an Election of Rights form electing not to dispute the material

facts alleged in the Administrative Complaint and requested to be heard on the conclusions of law and issue of penalty.

The Department recommended that the Board enter a Final Order finding that the respondent violated the provisions of [Chapter 489, Part II, F.S.](#), and the imposition of one or more of the following penalties: place on probation, reprimand the license, revoke, suspend, deny the issuance or renewal of the certificate or registration, require correction, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, assess costs associated with investigation and prosecution, impose any or all penalties delineated within [Section 455.227\(2\), F.S.](#), and/or any other relief that the Board is authorized to impose pursuant to Chapters 489 and 455, F.S., and/or the rules promulgated thereunder.

Mr. Cunningham was neither present but not represented by counsel. Mr. Cunningham was sworn in by the court reporter. After consideration of the complete record, the Board took the following action:

MOTION: Mr. Bellemare motioned to adopt the Findings of Fact and the Conclusions of Law as alleged in the Administrative Complaint.

SECOND: Mr. Tibbs.

The Board voted on the motion. The motion passed by a vote of 7 in favor and 1 opposed.

MOTION: Mr. Bellemare motion to assess a penalty of \$434.74 investigative costs, a \$500 administrative fine all payable within 90-days from the entry of the Final Order.

SECOND: Mr. Roberts.

The Board voted on the motion. The motion passed unanimously.

Ronald Getz
EF 0000560
Case # 2002-003847
Motion for Informal Hearing
Recused: Mugford, Kiner & Small

On February 20, 2003, the Department filed an Administrative Complaint in Case No.: 2002-003847, charging the respondent with a violation of [Section 489.533\(1\)\(a\), F.S.](#), by violating Chapter 455, F.S., and a violation of [Section 489.533\(1\)\(a\), F.S.](#), by committing fraud, deceit, negligence, incompetency, or misconduct in the practice of electrical contracting. The respondent timely filed an Election of Rights form on electing not to dispute the material facts alleged in the Administrative Complaint and requested to be heard on the conclusions of law and issue of penalty.

The Department recommended that the Board enter a Final Order finding that the respondent violated the provisions of [Chapter 489, Part II, F.S.](#), and the imposition of one or more of the following penalties: place on probation, reprimand the license,

revoke, suspend, deny the issuance or renewal of the certificate or registration, require correction, impose an administrative fine not to exceed \$5,000 per violation, require continuing education, assess costs associated with investigation and prosecution, impose any or all penalties delineated within [Section 455.227\(2\), F.S.](#), and/or any other relief that the Board is authorized to impose pursuant to Chapters 489 and 455, F.S., and/or the rules promulgated thereunder.

Mr. Getz was present but not represented by counsel. Mr. Getz was sworn in by the court reporter. After consideration of the complete record, the Board took the following action:

MOTION: Mr. Bellemare motioned to adopt the Findings of Fact and the Conclusions of Law as alleged in the Administrative Complaint.

SECOND: Mr. Tibbs.

The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Bellemare motioned to assess a penalty of \$215.76 investigative costs, a \$2,500 administrative fine on Count I and a \$1,000 administrative fine and 1-year suspension on Count II, with payments to be made in 24 consecutive payments to be made every 30 days from the effective date of the entry of a Final Order.

SECOND: Mr. Tibbs.

The Board voted on the motion. The motion passed unanimously.

MINUTES FROM THE March 20-21, 2003 BOARD MEETING

Ms. Catalano stated page 2 of the March 20-21, 2003 minutes should be corrected as noted below:

“D.O.A.H CASE NO.: 02-1322; KEVIN HARRINGTON V. DBPR – Gail Scott-Hill, Chief Attorney

The Honorable Jeff B. Clark, Administrative Law Judge (ALJ), in this case filed the Recommended Order on January 10, 2003, pursuant to D.O.A.H. Case No.: 02-1322. Rosemary H. Hayes, Esq., counsel for Mr. Harrington, petitioner, filed the Exceptions to the ALJ's Recommended Order, on January 23, 2003. Ms. Scott-Hill acted as Board Counsel during the review of this case. Ms. Catalano presented the case to the board. Neither the petitioner nor his counsel was present for the proceedings.

The board members all indicated that they had received and reviewed the full record concerning this case. Ms. [Catalano Scott-Hill](#) recommended the board adopt the ALJ's Recommended Order. Ms. [Catalano Scott-Hill](#) further noted that the Exceptions filed in this case were not properly formatted and not related to the...

MOTION: Mr. Sandefer motioned to approve the minutes as corrected.

SECOND: Ms. Small.

The Board voted on the motion. The motion passed unanimously.

LEGISLATIVE COMMITTEE REPORT – Clarence Tibbs

No report. The Committee covered much of its business during the Legislative and Rules Workshop.

RULES COMMITTEE REPORT – Kim DeBerry

The Rules Committee reviewed the proposed Probationary Quarterly Reporting Form; Rule 61G6-10.002, F.A.C., Violations and Penalties, and Rule 61G6-10.003, F.A.C., Aggravating or Mitigating Circumstances. Highlights of discussion included:

MOTION: Ms. Small motioned to have Board Counsel begin rule promulgation to adopt the proposed Probationary Quarterly Reporting Form.

SECOND: Ms. DeBerry.

The Committee voted on the motion. The motion passed unanimously.

➤ *Rule 61G6-10.003(1)(4), F.A.C., -* When either the petitioner or respondent is able to demonstrate aggravating or mitigating circumstances to the board by clear and convincing evidence, the board shall be entitled to deviate from the above guidelines in imposing discipline upon an applicant or licensee. Absence of any such evidence of aggravating or mitigating circumstances before the hearing officer prior to the issuance of a recommended order shall not relieve the board of its duty to consider evidence of mitigating or aggravating circumstances. Based upon the following factors, the board may impose disciplinary action other than the penalties recommended above:

- (1)The degree of harm to the consumer or public;
- (2)The number of counts in the administrative complaint;
- (3)The disciplinary history of the applicant or licensee;
- (4) The status of the applicant or licensee at the time the offense was committed;
- (5) The degree of financial hardship incurred by a licensee as a result of the imposition of the fines or suspension of his practice. Any penalties imposed by the board may not exceed the maximum penalties set forth in 489.533(2), F.S.

MOTION: Mr. Bellemare motion to strike sub-paragraphs (1) and (4) from this rule section as shown above.

SECOND: Ms. Small.

The Committee voted on the motion. The motion passed unanimously.

➤ The Committee reviewed a list of rules that currently do not provide for disciplinary guidelines. The Board initially reviewed these items in September

of 2002. The Committee considered each item and made the following recommendations for range of penalty:

1. Violation of 489.533(1)(o) by 489.518
Rec: Add to 61G6-10.002(15)
First violation: \$100 to \$250 fine
Repeat violation: \$500 to \$1,000 fine to probation, suspension or revocation
2. Violation of 489.533(1)(o) by 489.5185
Rec: Add to 61G6-10.002(15)
First violation: \$100 to \$250 fine
Repeat violation: \$500 to \$1,000 fine to probation, suspension or revocation
3. Violation of 489.533(1)(o) by 489.521
Rec: Add to 61G6-10.002(15)
The Rules Committee will review and bring to the Board in November
4. Violation of 489.533(1)(o) by 489.529
Rec: Add to 61G6-10.002(15)
First violation: \$100 to \$250 fine
Repeat violation: \$250 to \$500 fine to probation, suspension or revocation
5. Violation of 489.533(1)(o) by 489.531
Rec: Add to 61G6-10.002(15)
**May want to break down by 489.531 subsections*
The Rules Committee reviewed in November 2002*
6. 455.227(1)(b) Intentionally violate rule
Rec: Add to 61G6-10.002(1)
First violation: \$250 to \$1,000 fine
Repeat violation: \$1,000 to \$5,000 fine to probation, suspension or revocation
- ~~7. 455.227(1)(c) Crime related to practice~~
~~Rec: Add to 61G6-10.002(1) or add 455.227(1)(f) to 61G6-10.002(3)~~
~~Add citation from 455.227 to Rule 61G6-10.002(4)~~
- ~~8. 455.227(1)(f) License discipline~~
~~Rec: Add to 61G6-10.002(1) or add 455.227(1)(f) to 61G6-10.002(3)~~
~~Add citation from 455.227 to Rule 61G6-10.002(3)~~
9. 455.227(1)(h) Attempt to obtain, obtain
Add citation from 455.227(1)(h) to

~~renew license by bribery, fraud, Dept. error~~ — ~~Rule 61G6-10.002(2)~~
~~Rec: Add to 61G6-10.002(1) or add~~
~~455.227(1)(h) to 61G6-10.002(2)~~

10. ~~455.227(1)(j) Aid, assist, procure, employ~~ — ~~Add citation from~~
~~455.227(1)(j) to~~
~~advise, unlicensed person/entity to practice~~ — ~~Rule 61G6-10.002(11)~~
~~in violation of Ch. 455, 489, or Board/Dept.~~
~~rules~~
~~Rec: Add to 61G6-10.002(1) or add~~
~~455.227(1)(j) to 61G6-10.002(11)~~

11. ~~455.227(1)(l) Make/file false report;~~ — ~~Add citation from~~
~~455.227(1)(l) to~~
~~intentional/negligent failure to file required~~ — ~~Rule 61G6-10.002(5)~~
~~report or record or obstruct 3rd party from~~
~~doing so~~
~~Rec: Add to 61G6-10.002(1) or~~
~~add 455.227(1)(l) to 61G6-10.002(5)~~

12. ~~455.227(1)(n) Influence client for~~ — ~~Add citation from~~
~~455.227(1)(n) to~~
~~financial gain~~ — ~~61G6-10.002~~
~~Rec: Add to 61G6-10.002(1)~~

13. ~~Add citation to 455.271 to~~ — ~~Add citation to 455.271 to~~
~~61G6-10.002(8)~~ — ~~61G6-~~
~~10.002(8)~~

Ms. Scott-Hill recommended removing items No.3, 5 and 6 as they were addressed in §455.227(3), F.S.

MOTION: Ms. Small motioned to strike items No.7 through and including No.13.

SECOND: Mr. Bellemare. The Board voted on the motion.

The motion passed unanimously.

MOTION: Mr. Bellemare motioned to have Board Counsel begin rule promulgation for rule 61G6-10.002, F.A.C.

SECOND: Ms. DeBerry.

The Committee voted on the motion. The motioned passed unanimously.

FINANCIAL BUDGET LIAISON – Clarence Tibbs

The board reviewed the March 31, 2003 and 2002, Unlicensed Activity Account Financial Report and the March 31, 2003 and 2002, Operating Account Financial Report. Highlights of discussion included:

- An Operating Account of \$349K ending March 31, 2003.
- An Operating Account of \$1.3M ending March 31, 2002.
- The Operating Account shortfalls were attributed to the License Renewal Fee Waiver, Legislative Sweeps and payments to Accenture.
- The next renewal cycle (2004-2006) may provide cash infusion for the Board.
- Concern of having enough funds to operate the Board until August 2004.

UNLICENSED ACTIVITY (ULA) REPORT – Kimberly DeBerry

Ms. DeBerry reported on her activities concerning the Unlicensed Activity Committee. Highlights of discussion included:

- Letter of thanks and acknowledgement to Jim Varnado, Director, Division of Professions and Regulation.
- Telephone conversation with Steve Yarbrough, Regional Program Administrator for the Division of Professions and Regulation's Miami office.
- Inquiry regarding availability of funds to aggressively pursue unlicensed activity.
- Discussion concerning the City of Boca Raton, requiring UL Certification for fire alarm installations and inspections.

PROBATION COMMITTEE – Paul Sandefer

The Committee reviewed the probation in Case No.: 95-09436, DBPR v. Bryan Williams; and Case No.: 2000-06427, DBPR V. Jesus Alonso. In each case the Committee deemed that the probationers were in compliance with the terms of their respective probation.

MOTION: Mr. Mugford motioned to approve the probationary reports submitted in each respective case.

SECOND: Mr. Sandefer.

The Committee voted on the motion. The motion passed unanimously.

EXAMINATION COMMITTEE REPORT – Clarence Tibbs

The Examination Committee reviewed the March 11, 2003 Examination Summary and March 11, 2003 Post-Exam Review Report. Highlights of discussion included:

- Mr. Kiner attended the Post-Exam Review and recommended that each Board member attend at least one session.
- 49 of 102 candidates received passing scores.
- July 8, 2003 exam will be based on the 2002 [National Electric Code \(NEC\)](#).
- [National Fire Protection Association \(NFPA\)](#) has two (2) reference books on back order. The references are RN13 - NFPA 101-Life Safety Code; and RN14 - Fire Alarm Signaling Systems Handbook, 2nd Edition, 1994. These references will not be available until April 30, 2003 and June 30, 2003, respectively. BET will remove them from the reference list for the July 8, 2003 exam. A flier will be sent to exam candidates along with their admissions cards explaining the situation.

- There are now two (2) publishers for [OSHA Regulation References, Code of Federal Regulations, Title 29, Part 1926](#) ; the [Occupational Safety and Health Administration](#) in Washington, D.C.; and [mancom.com](#), available via the Internet. Either publication can be used.

ENDORSEMENT COMMITTEE REPORT – Jeff Kiner

The Endorsement Committee reviewed the Endorsement/Reciprocity Matrix. Highlights of discussion included:

- The Committee recommended that the board develop an arrangement of open dialogue with the different states the board reciprocates with, concerning discipline.
- The Committee recommended the Central Intake Unit (CIU) sends letters to applicants from states that Florida does not reciprocate with, or endorse, explaining that their applications cannot be approved.

APPLICATION COMMITTEE REPORT – Jeffrey M. Kiner

The Application Committee reviewed over fifty (50) applications for examination and licensure. The Committee also reviewed memorandum from Ms. Catalano regarding fluid membership on application committee and Sunshine Law. Highlights of discussion included:

- The Board can change the membership of its committees as frequently as its wants.
- The Board can have several application committees consisting of rotating members.
- The Board can also have the same person on several committees.
- The Board (Committee) can use worksheets when reviewing an application; however, the worksheets must be kept with the application file and become public record.
- An additional license (i.e., an “A” license) is non-transferable and requires an application to qualify an additional business entity.
- The Board must review ALL transfer applications and second business applications.

Also present during the application review was Rance Broderick along with his attorney, Robert A Crabill, Esq., and CFO, Mr. MacFarland.

Messrs. Broderick and MacFarland, were sworn in and provided testimony concerning Mr. Broderick’s application to qualify a new business entity, Regency Electric Company, Inc. After testimony and discussion:

MOTION: Ms. Poole motioned to approve Mr. Broderick’s application to qualify Regency Electric Company, Inc.

SECOND: Mr. Sandefer.

The board voted on the motion. The motion passed by a vote of 9 in favor, 1 opposed and 1 abstained.

Mr. Kiner presented the list of **Approved/Approved Contingent Applications**.
The Board voted unanimously to accept the list of Approved/Approved
Contingent Applications – all categories.

Exam Candidates

Unlimited Electrical Contractor

- | | |
|------------------------|---------------------|
| 1. Bulfin, Daniel | 7. Robless, Douglas |
| 2. Cavnar, John | 8. Sinanis, Spiro |
| 3. Garza, Mario | 9. Thrasher, Scott |
| 4. Parker, Kevin | 10. Vogler, Perry |
| 5. Piazza, Christopher | 11. Maya, Carlos |
| 6. Ranello, Charles | |

Alarm System Contractor I

- | | |
|-------------------|--------------------|
| 1. Glaze, Ronald | 5. Smith, Joseph |
| 2. Kirk, David | 6. White, Nicholas |
| 3. Manza, Richard | |
| 4. Moore, Edward | |

Alarm System Contractor II

- | | |
|--------------------|------------------------|
| 1. Ben-David, Ran | 3. Kolakowski, Timothy |
| 2. Halterman, John | |

Specialty Contractor
Residential

1. Smith, Shawn

Utility

1. Riley, Michael
2. Summers, George

Sign Specialty

1. Dehavens, Williams
2. Rentschler, Thomas
3. Townsend, Alan

Limited Energy

- | | |
|---------------------|--------------------|
| 1. Mayer, Joseph | 6. Switzer, Robert |
| 2. Miceli, John | 7. Urbas, Michael |
| 3. Patneaude, Bruce | 8. Virgin, Lisa |
| 4. Smith, Shawn | 9. Walcott, Vernon |
| 5. Strelitz, Marc | |

Business Entity

1. Christopher H. Burch (Reconsideration)

Additional Business Entities

- | | |
|------------------------|--------------------------|
| 1. Bellissimo, Charles | 8. Firnchild, Thomas B |
| 2. Bellissimo, Charles | 9. Hovarter, Frederick H |
| 3. Bexley, Robert | 10. Pollock, Daniel B |
| 4. Carr, William | 11. Puglisi, Daniel G |
| 5. Carr, David Paul Jr | 12. Salvesen, Selmer M |
| 6. Cheek, Rick E | 13. Waugh, William H |
| 7. Ehrenkrantz, Lee | 14. Wintz, Harold |

Endorsements

1. McCarthy, Patrick

Transfers

- | | |
|------------------------|----------------------|
| 1. Blount, Tommy | 5. Pertuit, Brian J |
| 2. Borderick, F. Rance | 6. Robinson, James D |
| 3. Heins, William S | 7. Saunders, David |
| 4. Hughes, Melvin E | |

Certification of Registered Contractors

1. Murray, Charles

During review of the Approved Applications Lists, discussion ensued concerning the application to transfer a certified license of Dawn R. Johnson and the application to qualify a new business entity Regency Electric Company, Inc., (revisited). Ms. Poole was recused during the discussion of Ms. Johnson's application and Mr. Sandefer and Ms. DeBerry were recused during the discussion concerning Mr. Broderick's application. After discussion the Board determined that Ms. Johnson's application was inappropriate and should be an application to qualify an additional business.

MOTION: Mr. Tibbs motioned to deny Ms. Johnson's application on the grounds that it was not a proper application to qualify an additional business entity.

SECOND: Mr. Kiner.

The Board voted on the motion. The motion passed unanimously. The Board voted again on Mr. Broderick's application. The application was approved by a vote of 6 in favor and 1 opposed, with 2 members recused and 1 abstained.

Mr. Kiner presented the list of **Denied Applications**. The Board voted unanimously to accept the list of Denied Applications – all categories.

Exam Candidates

Unlimited Electrical Contractor

Franco, Rinaldo; **DENIED – 61g6-5.003(3)(b), F.A.C., W-2S SUBMITTED DO NOT SUPPORT WAGES THAT WOULD REFLECT 3 YEARS EXPERIENCE.**

Giesler, Eric J; - **DENIED – PER 61G6-5.004, F.A.C., OWENS ONLINE IS NOT A RECOGNIZED CREDIT BUREAU; NEED A CERTIFIED FINANCIAL REPORT.**

Hernandez, Raul; **DENIED – PER 489.511, F.S., DID NOT WORK FOR A CONTRACTING BUSINESS.**

Alarm System Contractor I

Johnson, Jeremy; **DENIED – 61G6-5.004, F.A.C., FINANCIAL STATEMENT NEEDS CLARIFICATION OF THE \$228,000 OTHER CURRENT ASSETS, \$10,000 OTHER ASSETS, FACE VALUE OF LIFE INSURANCE POLICIES ARE NOT ASSETS ONLY CASH VALUE OF POLICY, DWELLING IS NOT AN ASSET.**

Morrisette, Norman; **DENIED – LACK OF MORAL CHARACTER PER 489.511(4)a.,(1)(2), F.S.; JOB LIST DOES NOT SUPPORT SUFFICIENT EXPERIENCE IN THE REQUIRED COMBINATION; ANSWERED YES TO FINANCIAL RESPONSIBILITY QUESTIONNAIRE ITEM #2.**

Youssef, Sameh; **DENIED – 489.511 (2)(c); EXPERIENCE IS NOT TYPICALLY USED COMMERCIAL SETTING.**

Alarm System Contractor II

Crow, Bradley; **DENIED – JOB HISTORY DOES NOT REFLECT REQUIRED EXPERIENCE REQUIRED PER CHAPTER 489.511(2)a.,3., F.S.**

Greengrass, David; **61G6-5.004(2), F.A.C. DENIED – ASSETS NOT LISTED, I.E., LIFE INSURANCE, CASH VALUE.**

Perodim, Gam; **DENIED – PER 489.511(2)(a),3.,e., APPLICANT HAS NEVER WORKED FOR A CONTRACTOR HIS EMPLOYMENT HAS BEEN WITH CIRCUIT CITY; PER 61G6-5.003(3)(4), F.A.C., FINANCIAL STATEMENT SHOWS A NEGATIVE NET WORTH.**

Specialty Contractor

Residential

Ackley, Douglas; **61G6-5.003, F.A.C., DENIED – DUE TO JOB EXPERIENCE AND W-2 FORMS FOR 2000-2001 LIST THAT THE EMPLOYER WAS J&M HEATING AND COOLING, INC., AND THEY DID NOT HAVE A QUALIFIER UNTIL 2002 JAMES McINTIRE UNDER LICENSE EC 13001306 UNLESS THEY HAD ONE PRIOR.**

Limited Energy

Black, John; **61G6-5.003(3), F.A.C., DENIED – W-2s or W-4 FORMS NOT LISTED; WORK EXPERIENCE BACK UP NOT GIVEN; PERMITS ARE REQUIRED; LIEN NOT SATISFIED.**

Johnson, Scott; **DENIED – FINANCIAL RESPONSIBILITY QUESTIONNAIRE PER 61G6-5.004(4), F.A.C.; LACKS FINANCIAL REponsibility PER 61G6-5.005(3), F.A.C.**

Additional Business Entities

Vilchez, Alfredo; **DENIED – BANKRUPTCY DEBT STILL OWED; 2 DIFFERENT FINANCIAL REPORTS; CREDIT REPORT IS ASSOCIATED CREDIT A RECOGNIZED COMPANY?**

ENDORSEMENTS

Burnett, McVorrان; **DENIED – NEW JERSEY IS NOT AN APPROVED STATE FOR ENDORSEMENT.**

Horn, James T; **DENIED – NEW JERSEY USES EXPERIOR, FLORIDA DOES NOT ENDORSE THE TEST.**

Poe, Eddie D; **DENIED – ALABAMA IS NOT APPROVED FOR ENDORSEMENT.**

Sims, James Carlton; **DENIED – LOUISIANA IS NOT APPROVED FOR ENDORSEMENT.**

TRANSFERS

Johnson, Dawn; **DENIED – SHOULD BE AN ADDITONAL BUSINESS ENTITY.**

CONTINUING EDUCATION COMMITTEE – Arnaldo L. Abreu

Mr. Abreu presented the lists of **CE Courses and FASA Courses Approved/Approved Contingent**. The Board voted unanimously to accept the list of CE Courses and FASA Courses Approved/Approved Contingent.

CE Applications

A. Koning Enterprises Inc, dba Contractors Institute

1. Basic and Advanced AutoCAD in the Construction Professions
2. Computer Aided Residential Drafting (CARD)
3. Computer Accounting – **TABLED UNTIL JULY 2003 MEETING; WORK PLACE SAFETY, 489.517,(4)(B), F.S., - 1 HOUR SAFETY DOES NOT SHOW IN SYLLABUS ATTACHED.**
4. Design Considerations for Code Compliance
5. Computer Applications & Programs Used

B. Palm Construction School, Inc.

1. OSHA 10 Hour Competency Training – **APPROVED FOR 10 HOURS SAFETY**

2. Required CE Subjects 2003-2004 – **APPROVED FOR 1 HOUR BUSINESS, 1 HOUR WORKERS' COMPENSATION, 1 HOUR SAFETY**

C. Florida Home Building Association

1. Superintendent (RCS)-Hiring, Training & Supervision – **APPROVED FOR 4 HOURS BUSINESS**

D. FL. Department of Community Affairs

1. June 30th 2003 Code Changes

Reconsideration of Continuing Education Applications

A. Contractors Educational Services (Reconsideration from March 21, 2003)

1. Principal Economic and Legislative Contracting Issues

B. Association of Skilled Trades (Reconsideration from March 21, 2003)

1. Electrical Contractor Continuing Education

C. WaterPik Technologies dba Jandy Industries (Tabled from March 21,2003)

1. Pool and Spa Heater School – **APPLICATION WITHDRAWN**
2. Digital Controls for Pools and Spas – **APPLICATION WITHDRAWN**

Mr. Abreu presented the lists of **CE Courses and FASA Courses Denied**. The Board voted unanimously to accept the list of CE Courses and FASA Courses Denied.

CE Applications

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

1. Computer Accounting – **TABLED UNTIL JULY 2003 MEETING; WORK PLACE SAFETY, 489.517,(4)(B), F.S., - 1 HOUR SAFETY DOES NOT SHOW IN SYLLABUS ATTACHED**

E. Florida Home Building Association

1. Superintendent (RCS)-Safety and Security; **DENIED – COURSE CONTENT DOES NOT REFLECT COURSE CATEGORIES REQUESTED. ALL CONTENT SEEMS TO REFLECT WORKPLACE SAFETY.**

2. Safety Management; **DENIED – COURSE SYLLABUS DOES NOT SUPPORT COURSE CATEGORY.**

C. Image Vault

1. Digital Video College; **DENIED – LACK OF COURSE PROVIDER AND OWNERSHIP OF MATERIAL ALSO INSTRUCTOR QUALIFICATIONS PER 61G6-9.007, F.A.C.**

Reconsideration of Fire Alarm System Application

A. Hi Rise Safety (**Reconsideration** from January 24,2003 meeting)

1. Advanced Fire Alarm Systems Technology-Internet; **DENIED – COURSE SYLLABUS DOES NOT SUPPORT NUMBER OF HOURS REQUESTED.**

Reconsideration of Continuing Education Applications

- A. WaterPik Technologies dba Jandy Industries (**Tabled** from March 21,2003)
 1. Pool and Spa Heater School - **APPLICATION WITHDRAWN**
 2. Digital Controls for Pools and Spas - **APPLICATION WITHDRAWN**

GENERAL SESSION

No discussion

OLD BUSINESS

The Board reviewed matters that had been addressed during the March 2003 meeting. Highlights included:

- Correspondence to Joseph A. Abraham, ABC Electric Service, Inc., concerning emergency registration.
- Correspondence to Les Harvey, Central Vacuum Design, concerning emergency registration.
- Correspondence to Jeff Wilhite, Ocean Electric, Division of Ocean Air, concerning emergency registration.
- Correspondence to Glenn D. Brown, SimplexGrinnel, L.P., concerning scope of work for Registered Electrical Contractors and Certified Alarm System Contractor I.
- Correspondence to Contractors Exam School concerning misinformation distributed in their promotional mailing.

NEW BUSINESS

- The Board reviewed correspondence from Gerardo Vilas requesting an upgrade in licensure from Certified Specialty Electrical Contractor to Certified Alarm System Contractor I.
- The Board reviewed a request from Jed Mitchell, Thrift Electric, to invoke §489.523, F.S.
- The Board reviewed correspondence from Donald R. Montgomery concerning certification of his registered license number ER 0005403.
- The Board reviewed correspondence from the City of Boca Raton, FL regarding the requirement for electrical and alarm contractors to be UL certified before being allowed to pull a permit for installation of an alarm system.
- The Board considered a request from Board Counsel to reconsider the application of Steve Borgman for Certified Electrical Contractor Examination.

In a fax dated April 30, 2003 Mr. Vilas, a licensed Professional Engineer, wrote:

“...This is to request from the Electrical Contractors Licensing Board, an upgrade to Electrical Contractor License EF...During the past 4 years I have been involved in the design of Fire Alarm Systems for Florida Safeguard, Inc...The scope of work included but was not limited to: equipment application, system design, electrical load calculations, installation procedures, Electrical Fire plans signed and sealed in my professional capacity as Electrical Engineer, and field inspections...please take into consideration the licenses I already have, as well as my years of experience in this field...”

After consideration of the facts the Board took the following action.

MOTION: Mr. Sandefer motioned to have Board staff inform Mr. Vilas that he must complete and pass the certification examination for Certified Alarm System Contractor I.

SECOND: Mr. Bellemare.

The Board voted on the motion. The motion passed unanimously.

In fax dated May 12, 2003 Mr. Mitchell wrote:

"...We have recently lost James Thrift due to death. He was president and qualifying agent for the company...The company is presently finishing the last of Jim's work under his license. The company has several contracts that can be obtained if they can be permitted. Jed Mitchell has joined the company to manage and purchase the company. He is a certified electrical contractor that is presently qualifying C. J. Sales and Services of Ocala, Inc...I am requesting at this time that you consider a prompt transfer of my license from C. J. Sales to Thrift Inc. This would allow the company to start work right away and to be more competitive in the bidding process to receive more contracts due to the higher qualification of my license. Without being able to permit jobs, the business will not be able to continue. At this time we employ eleven employees who are requested to do work for many local contractors. We have several jobs pending due to permitting that need to begin right away. I would appreciate you immediate attention and consideration to the situation at hand..."

After consideration of the request the Board took the following action.

MOTION: Mr. Sandefer motioned to invoke §489.523, F.S., granting an Emergency Registration to Jed Mitchell, Thrift Electric, Inc.

SECOND: Mr. Bellemare.

The Board voted on the motion. The motion passed unanimously.

In a fax dated May 11, 2003, Mr. Montgomery wrote:

"...I am a registered electrical contractor ER 0005403 (inactive). I took my competency exam in Pinellas County in March of 1977...I am now trying to grandfather my ER to EC and reactivate my registration. I called the Pinellas Electrical Board to reactivate my competency card and found out they want \$775.00 plus a current insurance certificate. I also found out that the test I took in 1977 was a 'Harvey J. Booth test' and the State would not recognize this test because the company is no longer in business and all the records and copies of the test were lost in a fire...I have been an electrical contractor in the state of Florida continuously for over 20yrs...I find it personally and financially unsettling that at this time I can no longer practice the trade at which I have spent my life learning. I will gladly take the 28 hours of continuing education, and provide the board with the required financial information and provide the proper insurances. I appeal to you and the board for direction and help in this matter..."

Mr. Montgomery was present and sworn by Mr. Spivey. The Board entered into discussion with Mr. Montgomery. After discussion and consideration of the facts, the Board encouraged Mr. Montgomery contact a local building official to verify his examination history and proceed with the application process to "grandfather" his registered license.

Bob Neely, Executive Director, [Alarm Association of Florida, Inc.](#), reported to the Board that the City of Boca Raton had passed an ordinance requiring electrical and alarm contractors to be UL certified before being allowed to pull a permit for installation of an alarm system. Mr. Poole read a portion of the ordinance for the Board.

“ Sec. 7-63. Fire alarm permit--Required.

In addition to satisfactory completion of the application required in section 7-64, a fire alarm permit for an installation at a non-single-family residential location may be issued to an applicant only if it is demonstrated that the fire alarm is installed by an alarm business under current fire-rescue services department, fire alarm code standards, and only if the installation is of equipment which is approved by UL (Underwriters' Laboratories), FM (Factory Mutual), or an approved testing laboratory for its intended usage.

J. Contractor Qualifications.

Contractors wishing to obtain an installation permit shall meet these requirements:

- 1. The qualifier shall possess a State of Florida EF or EC license.*
- 2. The contractor shall be registered with the City of Boca Raton Licensing Division.*
- 3. For installation permits for new fire alarm systems issued on or after July 1, 1996 the primary contractor shall be identified. Primary contractors shall be UL Listed as a Central Station or a Local Company, or FM approved.”*

Ms. Poole stated that the City of Boca has interpreted this language to mean that licensees who are not UL Certified, or trained to UL specifications cannot contract for the installation of alarm systems in the City of Boca Raton and some other areas as well. Mr. Neely, concurred and added that many counties were adopting this requirement.

Some Board members stated that the UL Certification applied to the installation only.

Mr. Mugford read into the record:

“...You must submit [sic] a copy of the five (5) page application for a UL Certificate (based on installation permits for new fire alarm systems issued on or after July 1, 1996), along with the faxed verification from UL with the issued FC number from UL, or an FM Placard in accordance with NFPA 72 4-3...”

Mr. Mugford stated that this language meant that an alarm contractor, an EC contractor, cannot install the alarm system unless they have five (5) page application for a UL Certificate.

Mr. Spivey will contact the City of Boca Raton to clarify this issue.

On May 5, 2003, Steve J. Borgman timely submitted an Election of Rights form requesting a hearing and to supplement his application for Certified Electrical Contractor examination. Mr. Borgman's application was initially reviewed by the Board on November 20, 2003 at a duly noticed public meeting of the Board in Tallahassee, FL and denied on the grounds that the application failed to establish the requisite experience pursuant to §489.511, F.S. A subsequent review of the application was performed by the Board on March 21, 2003 at a duly noticed public meeting of the Board in Tampa, FL during which Mr. Borgman was not present and the Board voted to uphold its previous denial on the grounds that Mr. Borgman failed to establish eligibility with the supplemental materials he filed, pursuant to § 489.511(3)(a), F.S., and a lack of independent verification of Mr. Borgman's work experience.

Ms. Catalano requested the Board diligently reviews Mr. Borgman's application and reconsiders its denial. After discussion and consideration the Board elected to uphold its previous denial.

MOTION: Mr. Sandefer motioned to affirm the denial of Mr. Borgman's application.

SECOND: Mr. Abreu.

The Board voted on the motion. The motion passed with 6 in favor, 3 opposed and 2 abstained.

BOARD COUNSEL'S REPORT – Rosanna M. Catalano, Asst. Attorney General

Ms. Catalano reported to the Board on several issues. Highlights of her report included:

- Discussion on Restoration of Civil Rights.
- Correspondence to Tim Olcott, RAMS/RPG concerning status of leased employees when they are performing duties which require licensure.
- Discussion on §489.5335 and §489.537(3)(f), F.S.
- Discussion on amendments to Rules 61G6-4.019 and 61G6-5.002, F.A.C.
- Discussion on amendments to Rule 61G6-7.001, F.A.C.
- Discussion on history of Rule 61G6-9.001, F.A.C.
- Correspondence to William M. Gay, Gay Constructors, Inc., concerning doing business as an Employee leasing Company and Workers' Compensation Coverage.

Concerning Restoration of Civil Rights, Ms. Catalano informed the Board:

"...My interpretation of the statutes is that the Board can deny someone a license if his/her civil rights have not been restored."

'112.011(1)(b), F.S.

Except as provided in s. 775.16, a person whose civil rights have been restored shall not be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a license, permit, or certificate is required to be issued by the state, any of its agencies or political subdivisions, or any municipality solely because of a prior conviction for a crime. However, a person whose civil rights have been restored may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the specific occupation, trade, vocation, profession, or business for which the license, permit, or certificate is sought.

*U.S. Department of Justice
Civil Rights Division' ..."*

In a letter dated March 27, 2003, to Tim Olcott, RAMS/RPG Ms. Catalano wrote:

"...I serve as legal counsel to the Florida Electrical Contractors' Licensing Board and can only provide the Board with legal advice. However, attached please find a copy of section 468.534 of the Florida Statutes which addresses the status of leased employees when they are performing duties which require licensure. It should be noted that Florida law makes a distinction between "Employee Leasing Companies" and "Temp Agencies." The Florida Electrical Contractors' Licensing Board promulgates rules governing the profession of electrical contractors and has the ability to interpret those rules. Any

questions you have concerning the role or duty of a licensed Employee Leasing Company should be directed to the Florida Board of Employee Leasing Companies at (850) 487-8304..."

At the March 20-21, 2003 meeting of the Board, some questions were raised concerning the interpretation of §489.5335 and §489.537(3)(f), F.S. Ms. Catalano reported to the Board:

"...489.5335, F.S. Journeyman; reciprocity; standards.-- Although the title of this statute has the word "standards," the word applies to the criteria required to receive reciprocity amongst the different counties/municipalities around the state of Florida. I don't believe the word "standards" means that the statute outlines the "standards" by which a journeyman can perform his duties. The semicolon does not change my interpretation because according to the American Heritage Dictionary of the English Language, 4th Edition (2000), a semicolon is a mark of punctuation used to connect independent clauses and indicating a closer relationship between the clauses than a period does. Thus, the semicolon shows that "reciprocity" and "standards" are closely related.

489.537(3)(f), F.S. Application of this part. -- This subsection applies to the powers of a municipality or county. A municipality or county can require that one electrical journeyman (who is either a graduate of the Institute of Applied Technology in Construction Excellence or licensed under 489.5335) be present on an industrial or commercial new construction site with a facility of 50,000 gross square feet or more when electrical work in excess of 77 volts is being performed in order to supervise or perform such work. However, if the "journeyman" is performing work that falls under one of the exemptions in 489.503 or meets the criteria of one of the exemptions in 489.503, then the power of the municipality/county is curbed by 489.503..."

Ms. Catalano reported that amendments to Rules 61G6-4.019 and 61G6-5.002, F.A.C., were filed on April 23, 2003 and would become effective on May 21, 2003.

Ms. Catalano reported the amendment to Rule 61G6-7.001, F.A.C., was adopted on April 10, 2003 and would become effective on April 30, 2003.

At the March 20-21, 2003 meeting, the Board asked Ms. Catalano to research the history of Rule 61G6-9.001, F.A.C. Ms. Catalano reported the following:

"...At the March 2003 meeting, the ECLB wanted to know when the 48 hour cap was eliminated from Rule 61G6-9.001. This question came up during the Petition for Variance/Waiver filed by Mr. Dominic Pipia. Rule 61G6-9.001 discusses the continuing education requirement for reactivation of a license. After some research, we found that the language "not to exceed forty-eight (48) hours or four (4) years" was deleted from the rule on 12-27-2000..."

In a letter to William M. Gay, M. Gay Constructors, Inc., Ms. Catalano wrote:

"...I serve as legal counsel to the Florida Electrical Contractors' Licensing Board and can only provide the Board with legal advice. However, attached please find a copy of section 468.534 of the Florida Statutes which addresses the status of leased employees when they are performing duties which require licensure. It should be noted that Florida law makes a distinction between "Employee Leasing Companies" and "Temp Agencies." Employee Leasing Companies are licensed by the State of Florida through the Department of Business and Professional Regulation. Chapter 468 of the Florida Statutes covers Employee Leasing Companies. In order to determine whether a company you are doing business with is a licensed Employee Leasing Company you can contact the Florida Board of Employee Leasing Companies at (950) 487-8304.

Section 489.510 of the Florida Statutes requires an Electrical Contractor to provide evidence of workers' compensation coverage and Rule 61G6-5.008 of the Florida Administrative Code outlines the requirements for the workers' compensation insurance coverage..."

EXECUTIVE DIRECTOR'S REPORT – Anthony B. Spivey

Mr. Spivey made his report to the board. Highlights of Mr. Spivey's report included:

- Mr. Spivey discussed the random audit of licensees' insurance requirements per Section 489.515(3)(a), F.S. Mr. Spivey stated that he had briefly discussed the matter with Mr. Varnado, Division Director. Mr. Spivey will be advise the Board after more detailed discussions with Mr. Varnado.
- Mr. Spivey discussed the newsletter article regarding the use of employee leasing companies and temporary help agencies. The article distinguishes the different circumstances of when an electrical contractor may consider the use of services from either of the companies.
- Mr. Spivey stated he will Contact the City of Boca Raton regarding a local requirement of electrical and alarm contractors to be UL certified before being allowed to pull a permit for installation of an alarm system.
- Mr. Spivey reminded the board members to make sure their hotel invoices reflected a "0-balance."

CHAIRPERSON'S REPORT - Michele Poole

Ms. Poole wished everyone a safe return trip. Mr. Mugford acknowledge and commended the work done by board staff and extended thanks on behalf of the Board.

Motion was made by Mr. Abreu to adjourn. Motion passed unanimously.