

**MINUTES FROM THE  
March 13-14, 2008  
ELECTRICAL CONTRACTORS' LICENSING BOARD MEETING  
Orlando Metropolitan Resort  
Orlando, FL**

The Board Meeting was called to order by Chairman Pierre Bellemare at 8:35 a.m.

**PLEDGE OF ALLEGIANCE AND INVOCATION  
ROLL CALL**

**Members Present**

Pierre Bellemare (Chairman)  
Clarence K. Tibbs (Vice Chairman)  
Norman R. Mugford  
Roger E. Langer  
Donald C. Penner  
Paul Sandefer  
Noel Thomas  
Kenneth Hoffmann  
Brian Flaherty

**Members Absent**

Robert Bramlett - excused  
Reagan Huff - excused  
Sandra MacGowan - unexcused

**Others Present**

Anthony B. Spivey, Executive Director  
Ruthanne Christie, Government Analyst I  
Michael Flury, Esq., Assistant Attorney General  
Drew F. Winters, Esq., Assistant General Counsel  
Court Reporter – American Court Reporting, Orlando, FL, Ph: 407-896-1813

Mr. Spivey informed the members that he and staff had made several attempts to contact Ms. MacGowan to no avail. Mr. Spivey told the members he had contacted the Governor's Appointment Office for assistance.

**MOTION:** Mr. Sandefer made a motion to mark Ms. MacGowan's absences in January and March as unexcused.

**SECOND:** Mr. Tibbs  
Motion passed unanimously.

**Approval of the Agenda**

**MOTION:** Mr. Tibbs made a motion to approve the agenda.

**SECOND:** Mr. Sandefer  
Motion passed unanimously.

**Approval of the Minutes**

**MOTION:** Mr. Tibbs made a motion to approve the minutes from the January 2008 Meeting.

**SECOND:** Mr. Thomas.  
Motion passed unanimously.

**Disciplinary Cases – Drew Winters, Assistant General Counsel**

Moises Soler  
d/b/a Best Choice Electric Services  
7114 Fireside Street  
Spring Hill, FL 34606  
Motion for Waiver of Rights  
License #: ER 13013601  
Case #: 2007-009312  
Recused: Tibbs, Penner

Mr. Soler was not present nor represented by counsel. Mr. Soler was charged with violation of 489.531(1)(f), F.S., knowingly presenting a fraudulently issued competency card to the Department in order to obtain a Registration

**MOTION:** Mr. Sandefer made a motion to find a waiver of rights.

**SECOND:** Mr. Thomas.  
Motion passed unanimously.

**MOTION:** Mr. Sandefer made a motion to accept the findings of facts and conclusions of law.

**SECOND:** Mr. Thomas.  
Motion passed unanimously.

**MOTION:** Mr. Sandefer made a motion to impose a \$50,000 fine, \$128.34 costs and Revocation of the license, aggravating factors are the number of counts, willful violation and lack of response.

**SECOND:** Mr. Langer.  
Motion passed unanimously.

**APPLICATION REVIEW – Norman Mugford, Chairman**

Second Business Applications

The following applicants were present during this portion of the meeting:

Alvarez, Rafael - Forever Signs Inc; Cox, Mark - Premier Communications Group Inc; Gonzalez, Francisco - Coast To Coast Electrical Services Inc; Harvey, David - Gatlin Security And Home Entertainment Inc; Heath, Thomas - Carcaba Electric Service Inc; Hollod, James - Smarth Home Control Solution Inc; Ingrao, Michael - Ace Security & Surveillance Llc; Koster, Bernd - Degeorge Ceilings Inc; Kuhn, Timothy - Audio Tech And Associates Inc DbA Audio Excellence; Martin, Dean - Dean Martin Llc; Rivenbark, Richard - Matern Systems Inc; Shine, Gary - Shine Electric Inc; Soltez, David - On The Line Enterprises Inc; Varhol, William - Powerhouse Event Electric Inc; True, Michael - System Connections Of Florida Inc; Fischer, Charles - Techpro Security Products; Robinson, James - King III.

The Court Reporter swore in, as a group, the applicants and those persons providing testimony on behalf of the applicant. During the review each applicant and their respective designees were interviewed in turn and answered general questions concerning the business entity they wished to qualify and direct questions concerning their understanding of their responsibilities and obligations as primary qualifying agent.

Mr. Tibbs asked of the second business applicants collectively as a group:

- ~ *"Do you understand that you will be legally responsible for every job undertaken by this business?"*
- ~ *Do you understand that you will be financially responsible for every job undertaken by this business?"*
- ~ *Do you understand that you are required to approve the work done on every job undertaken by this business?"*
- ~ *Do you understand that your license is dependent upon how seriously you take these responsibilities?"*

Each applicant answered affirmatively to each of the preceding questions.

## **RULE HEARING – Rule 61G6-10.0015, Standards of Practice**

### 61G6-10.0015 Standards of Practice.

(1) The Board establishes the following as standards of practice in electrical and alarm system contracting:

(a) An electrical or alarm system contractor shall, prior to engaging or contracting with another entity and or person for the performance of electrical or alarm system contracting as defined by Section 489.505(9), F.S., verify that the entity and or person is certified or registered with the State of Florida.

(b) An electrical or alarm system contractor shall maintain documentation of his or her verification of licensure of all entities or persons that he or she engages or contracts with for the performance of electrical or alarm system contracting as defined by Section 489.505(9), F.S. At a minimum, documentation shall include proof of the entities' or persons' current Florida certification or registration.

(c) An electrical or alarm system contractor shall pull a building permit from the local building department, prior to performing any electrical or alarm system contracting, unless otherwise exempted pursuant to Section 489.503, F.S.

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(2) It shall constitute negligence, incompetence, and/or misconduct in the practice of electrical or alarm system contracting, as set forth in Section 489.533(1)(f), F.S., for an electrical or alarm system contractor to fail to comply with the standards of practice set forth in above.

Specific Authority 489.507(3), 489.516(2), 489.531(1)(a), (e), 489.533(1)(f), (j), 455.227(1)(i), (p) FS. Law Implemented 489.503, 489.533(2), 455.227(2) FS. History–New\_\_\_\_\_.

The Board reviewed the comments of Roy Van Wyk regarding the proposed rule.

**MOTION:** Mr. Sandefer made a motion to amend the language of the rule to reflect 489.533(r), F.S.

**SECOND:** Mr. Tibbs.

**PETITION FOR DECLARATORY STATEMENT – Florida Worker's Compensation Joint Underwriting Association, Inc.**

Leo Canton with Florida Worker's Compensation Joint Underwriting Association, Inc. was present and sworn in by the court reporter.

The petition requested a statement from the Board regarding the use of temporary agency employees by Electrical Contractors, when the temporary agency uses an employee leasing company to provide the worker's compensation insurance for the employees. In the instance described the Electrical Contractor does not have worker's compensation insurance and is not directly employing the temporary employees through the employee leasing agency.

Mr. Winters referred Mr. Canton to the new statute in chapter 448 of the Florida Statutes which deals with the issue described in the Petition.

**MOTION:** Mr. Tibbs made a motion to deny the Petition for Declaratory Statement as procedurally insufficient.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

**CLARIFICATION ON PETITION FOR DECLARATORY STATEMENT – Thomas D. Botlick of Nationwide Communications Services, LLC.**

Mr. Botlick was present and sworn in by the Court Reporter.

The petition was originally considered at the January 2008 meeting. The petition requested an statement from the Board regarding application of Florida Statutes 489.503, 489.505, 489.516 and 489.533. The Petition requests the Board:

"...issue a Declaratory Statement finding that Natcomm, by agreeing to perform work for a customer that has come to it through several integrator companies to

provide IT services, including installation of low voltage cabling and its related parts, in its particular circumstances as described herein, would not subject itself to discipline pursuant to Section 489.501, *et seq.*, Part II, Florida Statutes.”

In January the Board voted to issue a declaratory statement stating that Natcomm could contract with an integrator company without violating 489.501, F.S. only if the integrator company was specifically contracted to procure the installation of low voltage cabling as an agent of the property owner.

Mr. Flury asked the Board to clarify the issue of whether the contract must be between Natcomm and the original customer or could it be between Natcomm and the integrator company if the integrator company is an agent for the original customer. The Board agreed the contract could be written between Natcomm and the integrator company as long as the integrator company confirms they are an agent for the original customer.

#### **HEARINGS NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT – Reginald Dixon, Assistant Attorney General**

##### **Timothy Morgan**

##### **Additional Business – Continuance of an original review of an application (not an appeal)**

Mr. Morgan was present and sworn in by the court reporter.

**MOTION:** Mr. Tibbs made a motion to and approve the application.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

##### **Timothy Morgan**

##### **Application Denial – Additional Business Application**

Mr. Morgan was present and sworn in by the court reporter. The application was denied at the November, 2007 meeting, a Notice of Intent to Deny was filed on December 19, 2007. Mr. Morgan timely filed an Election of Rights form requesting a hearing.

**MOTION:** Mr. Tibbs made a motion to continue the hearing to the next meeting.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

##### **Douglas Kirk**

##### **Application Denial – Unlimited Electrical Contractor's Examination Application**

Mr. Kirk was present and sworn in by the court reporter. The application was denied at the January, 2008 meeting, a Notice of Intent to Deny was filed on

March 3, 2008. Mr. Kirk timely filed an Election of Rights form requesting a hearing.

**MOTION:** Mr. Tibbs made a motion to reverse the denial.

**SECOND:** Mr. Langer.

Motion passed unanimously.

**John McComb**

**Application Denial – Additional Business Application**

Mr. McComb was present and sworn in by the court reporter. The application was denied at the January, 2008 meeting, a Notice of Intent to Deny was filed on March 3, 2008. Mr. Kirk timely filed an Election of Rights form requesting a hearing.

Ms. Christie informed the Board that the Notice to Mr. McComb for the January meeting was sent to the incorrect address.

**MOTION:** Mr. Sandefer made a motion to reverse the denial.

**SECOND:** Mr. Tibbs.

Motion passed unanimously.

**Michael Oberstein**

**Application Denial – Endorsement Application**

Mr. Oberstein was present and sworn in by the court reporter. The application was denied at the January, 2008 meeting, a Notice of Intent to Deny was filed March 4, 2008. Mr. Oberstein timely filed an election of Rights form requesting reconsideration and a formal hearing.

**MOTION:** Mr. Langer made a motion to deny the request for reconsideration and refer the matter to the Division of Administrative Hearings.

**SECOND:** Mr. Tibbs.

Motion passed unanimously.

**Timothy Allen Bruno**

**Application Denial – Registered Alarm System Contractor I Application**

Mr. Bruno sent in a request for a continuance.

**MOTION:** Mr. Tibbs made a motion to continue the application to the next meeting.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

**Ryan Lewis**

**Application Denial – Limited Energy Examination Application**

Mr. Lewis was not present. Ms. Christie informed the Board that the meeting notice to Mr. Lewis was not sent timely.

**MOTION:** Mr. Tibbs made a motion to continue the application to the next meeting.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

### **Angelea Carroll**

#### **Application Denial – Alarm I Contractor’s Examination Application**

Ms. Carroll was present and sworn in by the court reporter. The application was denied at the January, 2008 meeting, a Notice of Intent to Deny was filed on March 3, 2008. Ms. Carroll timely filed an Election of Rights Form requesting a hearing.

**MOTION:** Mr. Tibbs made a motion to reverse the denial and approve the application.

**SECOND:** Mr. Sandefer.

Motion passed unanimously.

### **RECONSIDERATIONS – Reginald Dixon, Esq., Assistant Attorney General**

#### **Blair Kaluahine – Application for Initial Registration**

Mr. Kaluahine’s application was denied at the January 2007 meeting, a notice of intent to deny had not been filed.

**MOTION:** Mr. Langer made a motion to uphold the denial.

**SECOND:** Mr. Flaherty

Motion failed with 2 in favor and 6 opposed.

**MOTION:** Mr. Tibbs made a motion to reverse the denial and approve the application with 1 year of probation.

**SECOND:** Mr. Thomas

Motion passed with 6 in favor and 2 opposed.

(Reconsideration was held at the end of application review on Thursday March 13, 2008)

#### **Matthew Downey – Application for Initial Registration**

Mr. Downey’s application was denied at the January 2007 meeting, a notice of intent to deny had not been filed.

**MOTION:** Mr. Langer made a motion to reverse the denial and approve the application.

**SECOND:** Mr. Tibbs.

Motion passed unanimously.

**PROSECUTING ATTORNEY'S REPORT – Drew F. Winters, Esq., Assistant General Counsel**

Mr. Winters directed the Board's attention to the details of the report which was distributed to the members. The report included the following case information as of March 11, 2008.

- 10 cases assigned to Legal after investigation
- 14 cases set for Probable Cause presentation
- 12 cases where an Administrative Complaint has been filed
- 0 case where Probable Cause was found
- 0 cases awaiting outside action
- 0 cases requesting a Formal Hearing
- 0 cases sent to consultant / expert
- 4 cases set for Board presentation
- 1 case referred to DOAH
- 0 cases awaiting Final Order
- 2 cases for settlement negotiations
- 1 case ready for default
- 0 cases for Stipulation or Request for Informal Hearing
- 1 cases requiring supplemental investigation
- 1 case pending informal hearing
- 46 total cases in Legal
- 7 cases a year old or more

**UNLICENSED ACTIVITY REPORT – Drew F. Winters, Esq., Assistant General Counsel**

Mr. Winters directed the Board's attention to the details of the report which was distributed to the members. The report included the following case information as of January 2008.

- 45 cases in OGC
- 1 cases awaiting further investigation / expert report
- 0 cases awaiting Probable Cause determination
- 8 cases Probable Cause Found
- 31 cases where an Administrative Complaint has been filed
- 1 cases requesting an Informal Hearing
- 0 cases requesting a Formal Hearing
- 3 cases for default / failed to respond to AC
- 1 cases hearing held; awaiting final order
- 0 cases referred to DOAH
- 0 cases on appeal

## LEGISLATIVE REPORT

Mr. Bellemare nominated Brian Flaherty to chair the Legislative Committee.

### RULES REPORT – Clarence K. Tibbs

Mr. Flury provided the Board with a rules report updating the status of the following rules:

61G6-4.019 rule development published 1/18/2008  
61G6-5.0061 rule tolled 11/19/2007  
61G6-10.0015 notice published 12/21/2007, rule hearing requested  
61G6-10.0065 rule tolled 11/20/2007  
61G6-10.008 effective 11/25/2007

Ms. Christie asked the Board to consider changing the rule 61G6-5.008.

Proposed Language:

#### **61G6-5.008 Public Liability and Workers' Compensation Insurance.**

(1) As a prerequisite to the initial issuance, or a change in the status of an active certificate or registration, the applicant shall ~~submit evidence the applicant has obtained~~ attest the applicant will obtain public liability and property damage insurance, in the amounts stated herein ~~in the form of a Certificate of Insurance~~. It shall be a violation of this rule for any licensee to fail to continually maintain liability and property damage insurance in amounts set forth herein. The Certificate of Insurance shall be prepared by an insurance agency and must contain the following information:

- (a) Date that the Certificate of Insurance was issued.
- (b) Name of Insurance Agent.
- (c) Name of Insured must reflect the exact name of the entity qualified by the applicant.
- (d) Name of Insurance Company.
- (e) Policy number must be on the Certificate. Binder numbers of copies of policies will not be acceptable.
- (f) Effective date of policy.
- (g) Expiration date of policy.
- (h) The minimum amount of liability and property damage insurance required as a prerequisite to the issuance of a certificate or registration or registered license, as listed below:

1. Liability Insurance: (including completed operations and products)	\$100,00/per person \$300,000/per occurrence and
2. Property Damage Insurance (including completed operations and products)	\$500,000 or
3. Minimum combined single limit policy	\$800,000

(i) Certificate holder must be the Department of Business and Professional Regulation, the Electrical Contractors' Licensing Board.

(j) The cancellation notice shall stipulate that, should the public liability and property damage coverage, described above, be cancelled before the expiration date, the issuing company will mail a thirty day written notice to the Certificate Holder named on this Certificate.

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(k) The agent's signature.

(l) The licensee's correct license number.

(2) As a prerequisite to the initial issuance, or a change in the status of an active certificate or registration, the applicant shall attest the applicant will obtain workers' compensation insurance or an appropriate exemption pursuant to Chapter 440, F.S. ~~submit evidence the applicant has obtained workers' compensation insurance in the form of a Certificate of Insurance or an appropriate exemption pursuant to Chapter 440, F.S.~~ It shall be a violation of this rule for any licensee to fail to continually maintain workers' compensation coverage or an appropriate exemption as required.

(3) The insurance shall, at all times, be carried in the name of the licensee or the business name appearing on the licensee's certificate or registration.

(4) By applying for renewal, each certificateholder or registrant certifies that he or she has continually maintained the required amounts of public liability and property damage. To verify each certificateholder or registrant has continually maintained the required amounts of public liability and property damage, as well as workers' compensation coverage or appropriate exemption pursuant to Chapter 440, F.S., the Board will conduct random sample audits of at least 10% of the total number of certificates and registrants. Upon written request by the Board, each selected licensee must within thirty days submit proof of coverage, in the form of an original Certificate of Insurance, showing the licensee has obtained and continually maintained the proper amount of public liability and property damage insurance, as well as workers' compensation coverage or appropriate exemption pursuant to Chapter 440, F.S., within the specified time period set forth in the Board's request.

(5) Failure to comply with the Board's request to submit proof of coverage, which meets the requirements of the Board, will be a violation of this rule.

*Specific Authority 489.507(2), 489.510, 489.511(4), 489.515 FS. Law Implemented 489.507(2), 489.510, 489.511(4), 489.515, 489.517(5), 489.537 FS. History—New 1-2-80, Formerly 21GG-5.08, Amended 5-20-92, Formerly 21GG-5.008, Amended 9-22-97, 3-29-99, 3-19-02, 12-27-04.*

**MOTION:** Mr. Tibbs made a motion to promulgate the rule as provided.

**SECOND:** Mr. Sandefer.

Motion passed unanimously

Additionally the Board agreed that staff could stop requesting the return of original licenses for transfers and change of status applications.

The Board reviewed a request from the Bureau of Education and testing regarding how to apply continuing education credits for licenses that assist with exam development.

The Board agreed that any continuing education credits for exam development should be applied as requested by the licensee, based on his/her knowledge of the subject areas they have worked on, including false alarm and advanced module.

**Rule 61G6-5.0061 Registration of Additional New Business Entity or Transfers**

The Board approved the proposed language.

**Rule 61G610.0065 Reinstatement of Null and Void License Pursuant to Section 455.271(6)(b)**

The Board approved the proposed language.

**PROBATION COMMITTEE REPORT**

The Board reviewed and accepted the probation report of Terry Vargas.

**UNLICENSED ACTIVITY (ULA) REPORT**

Mr. Bellemare appointed Mr. Sandefer chair of the Unlicensed Activity Committee. No Report.

**FINANCIAL BUDGET LIAISON REPORT – Clarence K. Tibbs**

Mr. Spivey requested the Board approve the proposed rule change to increase the fees in order to bring the Board out of its deficit.

**61G6-8.001 Fees.**

The following fees are prescribed by the Board:

(1) The application fee for the certification examination for electrical or alarm systems contractor shall be two hundred dollars ~~one hundred and fifty dollars~~ (\$200.00 ~~150.00~~). The initial examination fee for the Technical/Safety examination for electrical or alarm systems contractor shall be one hundred twenty-seven dollars and fifty cents (\$127.50) payable to the Department. The initial examination fee for the Business Computer-Based Test shall be twenty-two dollars and fifty cents (\$22.50) payable to the professional testing service. When the computer-based testing (CBT) business portion of the examination is not conducted by a professional testing service pursuant to Section 455.2171, F.S., the entire examination fee shall be payable to the Department.

(2) The initial application fee for licensure by endorsement as a certified unlimited electrical contractor shall be two hundred dollars ~~one hundred and fifty dollars~~ (\$200.00 ~~150.00~~).

(3) The fee for issuance, renewal or reinstatement of certification for electrical contractor or alarm systems contractor shall be two hundred ninety-five ~~two hundred fifty~~ dollars (\$295.00 ~~250.00~~).

(4) No change.

(5) The initial fee for registration shall be one hundred fifty dollars (\$150.00 ~~100.00~~).

(6) No change.

(7) The fee for renewal of registration shall be one hundred twenty dollars (\$120.00 ~~100.00~~).

(8) –(15) No change.

*Specific Authority 455.217(2), 455.219(1), 489.507(3), 489.509 FS. Law Implemented 119.07(1)(a),(b), 455.217(2), 455.219(1), 455.2281, 455.271(8), 489.509, 489.511(2) FS. History–New 1-2-80, Amended 10-27-80, 5-13-81, 5-3-82, 8-4-82, 5-2-83, 1-19-84, Formerly 21GG-8.01, Amended 7-9-86, 12-24-87, 10-30-88, 2-20-89, 8-26-90, 4-1-91, 7-3-91, Formerly 21GG-8.001, Amended 3-14-94, 11-30-94, 4-5-95, 7-13-95, 12-25-96, 6-1-97, 3-10-98, 12-31-98, 10-4-99, 12-27-04.*

**MOTION:** Mr. Tibbs made a motion to approve the proposed fee changes

**SECOND:** Mr. Sandefer.

**EXAMINATION REPORT – Clarence K. Tibbs**

No report, an exam was given in early March.

#### **ENDORSEMENT REPORT**

Mr. Bellemare appointed Mr. Penner to chair the Endorsement Committee.  
No changes were made to the matrix.

#### **RATIFICATION OF APPLICATIONS**

The lists will be attached to the minutes and are hereby incorporated by reference. (Lists are attached as exhibits A, B, C & D).

**MOTION:** Mr. Hoffmann made a motion to accept the lists as presented.

**SECOND:** Mr. Sandefer.  
Motion passed unanimously.

See Exhibits A, B, C & D.

#### **OLD BUSINESS/ NEW BUSINESS**

Mr. Sandefer reiterated his concerns with the rules regarding solar contracting under the Construction Industry Licensing Board and the possibility that some solar contractors may be performing electrical work. Mr. Spivey and Mr. Flury informed the Board that their counterparts with the Construction Industry Licensing Board were not able to offer any additional information on the issue. Mr. Sandefer offered to draft a letter on the issue to the Construction Industry Licensing Board and attend one of their meetings.

Continuing Education for Employees of license contractors (formerly referred to as Journeymen Issue). Mr. Langer noted that Mr. Bramlett had agreed to draft language for a rule requiring employees of certified and registered Electrical and Specialty Contractors to take continuing education. Mr. Bramlett has not yet provided any language to the Board. The Board asked Ms. Christie to follow up with Mr. Bramlett on the issue.

#### **BOARD COUNSEL'S REPORT – Michael Flury, Esq., Assistant Attorney General**

No Report.

#### **EXECUTIVE DIRECTOR'S REPORT – Anthony B. Spivey**

The Board was provided a list of proposed meeting dates for fiscal year 2008-2009.

July 23-25, 2008  
September 24-26, 2008  
November 19 -21, 2008

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January 21 -23, 2009  
March 18 – 20, 2009  
May 20 -22, 2009

Mr. Spivey directed the Board's attention to the Enforcement report which was provided for their information.

**CHAIRPERSON'S COMMENTS – Pierre Bellemare**

Mr. Bellemare welcomed Mr. Flaherty and Mr. Hoffman to the Board.

**Adjournment.**