

**MINUTES FROM THE  
MARCH 20-21, 2003  
ELECTRICAL CONTRACTORS' LICENSING BOARD MEETING**

**The Crowne Plaza Hotel Tampa Westshore  
700 N. Westshore Blvd.  
Tampa, FL 33609  
Tel: (813) 289-8200**

The Board Meeting was called to order by Chairperson Michele Poole at 8:00 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

**Members Absent (March 21, 2003)**

Clarence Tibbs, Vice-Chairperson

**OTHERS PRESENT**

Anthony B. Spivey, Executive Director  
Gregory Spence, Government Analyst  
Rosanna M. Catalano, Assistant Attorney General  
Gail Scott-Hill, Chief Professions Attorney  
Charlene Bowman, Bay Park Reporting, Court Reporter

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

**Dominic Pipia, Jr.**

**Petition for Variance and Waiver of the Electrical Contractors' Licensing Board Rule 61G6-9.001, F.A.C., Continuing Education for Reactivation, Case No. VW 2002-068**

This matter was continued from the January 24, 2003, meeting of the board. In a petition filed with the department on November 25, 2002, Mr. Pipia stated in part:

*"I am asking for a variance from the rule 61G6-9.001 in regard to specific, the rule revised July 2001 puts a hardship which could not be recognized when I put my license in inactive status on August 5, 1994. It is not the rule in such that I am asking for a variance of but the lack of wording that was left out from the new revision of July 2001.*

*This rule subjects the inactive licensee to 12 classroom hours of continuing education for each year of inactive status.*

*I am asking that the State of Florida consider a variance and revert to the previous statute August of 2000, which limits continuing education for reactivation, 'not to exceed forty-eight (48) hours or four (4) years.' I am requesting that the variance would be temporary for 12 months so I may get the 48 hours of continuing education and reactivate my license.*

*This existing rule, on how it reads would require me to have 96 continuing education hours at this time. And counting! This would be a tremendous hardship on me and an unfair advantage for others."*

Mr. Pipia was present but not represented by counsel. Mr. Pipia was sworn by the court reporter. Ms. Catalano introduced the matter for the record. The Board entered into discussion regarding Mr. Pipia's petition. During discussion some members of the board stated that they did not agree with the current language of the rule in that it did not meet the underlying statute. After discussion:

MOTION: Mr. Abreu motioned to APPROVE a variance and waiver from Rule 61G6-9.001, F.A.C., allowing Mr. Pipia to reactivate his license with a total of 48 hours CE provided that the hours were completed within 4 years preceding the application to reactivate his license.

SECOND: Ms. Small. The Board voted on the motion. The motion passed unanimously.

**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 recommended the board adopt the ALJ's Recommended Order. Ms. Catalano further noted that the Exceptions filed in this case were not properly formatted and not related to the ALJ's Recommended Order. Based on the evidence presented in the transcript, the board identified the pertinent Findings of Fact as paragraph numbers 14, 15, 16, 17, 18 of the ALJ's Recommended Order. After discussion the board took the following action:

MOTION: Ms. Small motioned to REJECT petitioner's first exception based on the Findings of Fact and Conclusion of Law.

SECOND: Mr. Sandefer. The board voted on the motion. The motion passed unanimously.

MOTION: Mr. Sandefer motioned to REJECT petitioner's second exception based on the Findings of Fact and Conclusion of Law.

SECOND: Ms. Small. The board voted on the motion. The motion passed unanimously.

MOTION: Ms. Small motioned to REJECT petitioner's third exception based on the Findings of Fact and Conclusion of Law.

SECOND: Mr. Sandefer. The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Abreu motioned to REJECT petitioner's fourth exception based on the Findings of Fact and Conclusion of Law.

SECOND: Ms. Small. The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Abreu motioned to ACCEPT the ALJ's Recommended Order based on the Findings of Fact and Conclusions and to REJECT all of the petitioner's exceptions.

SECOND: Ms. Small. The Board voted on the motion. The motion passed unanimously.

After presenting this matter, Ms. Catalano and Ms. Scott-Hill resumed their regular assignments as Board Counsel and Prosecuting Attorney, respectively.

#### **INFORMAL HEARINGS – Rosanna M. Catalano, Assistant Attorney General**

##### **Gerald James Cliver Application Denial – Certification of a Registered License**

This matter was continued from the January 24, 2003, meeting of the board. This matter first came before the Board at a duly noticed public meeting on September 26-27, 2002, in Tampa, FL. The Board denied the application on the grounds that it failed to establish the requisite financial responsibility required by [Section 489.515\(1\)\(b\), F.S.](#), as referenced by [Section 489.514\(2\)\(e\), F.S.](#), and [Rule 61G6-5.005, F.A.C.](#), and the evidence of unsatisfied claims on the Financial Responsibility Questionnaire. Mr. Cliver, through his counsel, Jon H. Anderson, filed a petition for a formal hearing pursuant to [Section 120.57\(1\), F.S.](#), and [Rule 28-106.201, F.A.C.](#) In lieu of a formal hearing, Mr. Anderson agreed to come before the Board as an informal hearing pursuant to [Section 120.57\(2\), F.S.](#), and [Rule 28-106.301, F.A.C.](#) Subsequently, Mr. Anderson requested the Board grant a continuance in this matter as he would be unable to represent Mr. Cliver at the time the matter was scheduled to be heard by the Board. The Board voted to grant a continuance at that time.

Ms. Catalano introduced the matter for the record. Mr. Cliver was present along with attorney, Jon H. Anderson, Esq. Mr. Cliver was sworn in by the court reporter. The Board entered into discussion with Mr. Cliver and his attorney concerning Mr. Cliver's credit history. Mr. Anderson submitted four exhibits to the Board for consideration. Mr. Anderson stated that the exhibits consisted of Exhibit A, a copy of the credit application involved in a Small Claims case against

Mr. Cliver currently pending in Hillsborough County Court; Exhibit B, an invoice and copies of bounced checks from the individual who Mr. Anderson claimed is responsible for the matters involving the case pending before Hillsborough County Court; Exhibit C, a copy of the entire pleading filed in Hillsborough County Court; and Exhibit D, the affidavit of Steve Turbieville.

The Board engaged in discussion with Mr. Cliver, concerning information contained in his application for licensure. Ms. Poole read a portion of Mr. Turbieville's affidavit into the record.

*"...Jon, I would like to simply state; #7 – when the account was established the creditors understood the account was a C.O.D. account; #8 – although the account was established as a C.O.D. account, the creditor delivered the goods to me on credit; #9 – neither Gerald Cliver nor any of his business affiliates ever agreed to guarantee the payment of the goods delivered to me on credit; #10 – I, Steve Turbieville, am responsible for this debt and have attempted to pay the balance down and payments have been received from my proprietorship 'Master Home Entertainment', since this debt was created. Due to the unforeseen business reversal I have not been able to make full payment..."* Ms. Poole stated that a sworn affidavit was attached to the document from which she read. Mr. Anderson stated that he and his client would not seek attorney's fees as initially indicated in their petition for hearing. After consideration of the full record and the evidence presented this day, the board took the following action.

MOTION: Mr. Bellemare motioned to REVERSE the denial and APPROVE Mr. Cliver's application based on the evidence presented, with the clause that Messrs. Anderson and Cliver would not seek attorney's fees.

SECOND: Mr. Sandefer. The Board voted on the motion. The motion passed unanimously.

#### **RECONSIDERATIONS – Rosanna M. Catalano, Assistant Attorney General**

##### **Dennis T. Hardy Application Denial - Transfer a License**

This matter first came before the Board at a duly noticed public meeting on November 20, 2002, in Tallahassee, FL. The Board denied the application on the grounds that the application contained financial discrepancies. A notice of Intent to Deny was filed on December 27, 2002. Former Board Counsel Barbara R. Edwards recommended the board reconsider the application. Board staff attempted to contact Mr. Hardy, advising him of the reconsideration of his application. All correspondence to Mr. Hardy was returned to the Department as undeliverable. After reconsideration of the application on January 24, 2003, at a duly noticed public meeting, the board voted to affirm its previous denial of Mr. Hardy's Application.

Subsequent to affirmation of the previous denial, Mr. Hardy, upon receipt of the order on reconsideration affirming the denial, submitted an Election of Rights Form, requesting to supplement his application for further review. The board elected to table the reconsideration pending the outcome of a pending disciplinary case concerning Mr. Hardy.

After consideration of the disciplinary case heard this day, the board reconsidered Mr. Hardy's application. Mr. Hardy was not present, nor represented by counsel. Ms. Catalano introduced the matter for the record. The Board entered into discussion regarding Mr. Hardy's application and disciplinary history. After discussion:

MOTION: Mr. Abreu motioned to AFFIRM THE PREVIOUS DENIAL of Mr. Hardy's application.

SECOND: Mr. Roberts. The Board voted on the motion. The motion passed unanimously.

**Steve J. Borgman**

**Application Denial – Certified Electrical Contractor Examination**

On July 24, 2002, Mr. Borgman submitted an application for certified electrical contractor examination. The application was reviewed by the Board at a duly announced public meeting on November 20, 2002, in Tallahassee, FL. The Board denied the application on the grounds that Mr. Borgman failed to demonstrate the experience required pursuant to [Section 489.511, F.S.](#)

Mr. Borgman was present but not represented by counsel. Ms. Catalano introduced the matter for the record. The Board entered into discussion regarding Mr. Borgman's application and experience and new information submitted this day. After discussion:

MOTION: Mr. Kiner motioned to REVERSE the denial of Mr. Borgman's application.

SECOND: Mr. Roberts second for discussion. The board voted on the motion. The motion died for lack of a majority vote with 8 opposed and 2 in favor.

MOTION: Ms. Small motioned to AFFIRM the previous denial of Mr. Borgman's application on the grounds that Mr. Borgman failed to demonstrate the experience required pursuant to [Section 489.511, F.S.](#)

SECOND: Mr. Sandefer. The board voted on the motion. The motion passed with Messrs. Kiner and Roberts opposed.

**Richard Hands-Clancy**

**Application Denial – Certified Specialty Electrical Contractor Examination; Limited Energy Systems**

On or about December 4, 2002, Mr. Hands-Clancy submitted an application for the certified specialty electrical contractor examination; limited energy systems. The application was reviewed by the Board at a duly announced public meeting on January 24, 2003, in Orlando, FL, and denied on the grounds that Mr. Hands-Clancy failed to demonstrate any combination of qualifications under sub-paragraphs a. -c. totaling 6 years of experience, pursuant to [Section 489.511\(2\)\(a\)\(3\), F.S.](#), and that Mr. Hands-Clancy appeared to owe the \$150 examination fee. Board staff requested the board review the application because Mr. Hands-Clancy had been approved for a "higher-class" of licensure examination on September 26, 2002, at a duly noticed public meeting of the board held in Tampa, FL; specifically, the certified alarm system contractor II examination.

Mr. Hands-Clancy was not present for the proceedings nor represented by counsel. Ms. Catalano introduced the matter for the record. Mr. Spence stated that the application was being brought back to the board for reconsideration because the board had previously approved the applicant for a higher classification of examination, inclusive of limited energy systems, based on the same application information. The Board entered into discussion regarding Mr. Hands-Clancy's application. After discussion:

MOTION: Mr. Langer motioned to AFFIRM the DENIAL of Mr. Hands-Clancys application.

SECOND: Ms. Small. The Board voted on the motion. The motion passed with Mr. Abreu opposed.

**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 February 28, 2003:

- 0-cases in the Office of the General Counsel
- 0-cases awaiting outside action
- 15-cases set for Probable Cause
- 4-cases set for board presentation
- 4-cases where an Administrative Complaint has been filed
- 1-case requesting an Informal Hearing
- 3-cases where Formal Hearings have been requested
- 0-cases for Default
- 1-case under Appeal

Ms. Scott-Hill also reported that Hardy L. Roberts, III, was no longer serving as General Counsel, DBPR and that Leon M. Biegalski, Esq., had been appointed as acting General Counsel, DBPR. Ms. Scott-Hill also reported that research performed, concerning the history of the Employee Leasing statute involving the intent to allow dual employment of the leased agent between the employee leasing company and the client company, revealed that the overall intent appeared to encompass licensees and businesses engaged in the design professions, particularly construction and contracting trades licensed under Chapter 489, F.S.

#### **DISCIPLINARY CASES – Gail Scott-Hill, Chief Attorney**

**Dennis T. Hardy**

**EC 0000398**

**Case No.: 2001-05507**

**Motion for Default and Final Order**

**Recused: Mugford, Kiner & Small**

On July 30, 2002, the Department filed an Administrative Complaint in Case No.: 2001-05507 charging the respondent with a violation of [Section 489.533\(1\)\(m\) 4., F.S.](#), by failing to pay a judgement against him within 18 months of entry. The respondent failed to file an Election of Rights form. On February 19, 2003, the Department filed an Amended 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. Hardy 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. Abreu motion to find Mr. Hardy in DEFAULT.

SECOND: Mr. Langer. The Board voted on the motion. The motion passed unanimously.

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

SECOND: Mr. Langer. The Board voted on the motion. The motion passed unanimously.

MOTION: Mr. Bellemare motion to assess a penalty of \$779.90 investigative costs, a \$1,000 administrative fine and Mr. Hardy must personally appear before the board should he reapply for licensure.

SECOND: Mr. Langer. 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**

Let the record show this case was continued at the request of the respondent.

MOTION: Mr. Abreu motion to grant a CONTINUANCE until the May 2003 meeting.

SECOND: Mr. Langer. The Board voted on the motion. The motion passed unanimously.

**Jerry Dale Yant**

**ER 0014556**

**Case # 2002-003058**

**Motion for Default and Final Order**

**Recused: Mugford, Kiner & Small**

On October 8, 2002, the Department filed an Administrative Complaint in Case No.: 2002-003058, charging the respondent with a violation of [Section 489.533\(1\)\(f\), F.S.](#), [Section 489.533\(1\)\(f\), F.S.](#), by committing fraud, deceit, negligence, incompetency, or misconduct in the practice of electrical contracting; a violation of [Section 455.227\(1\)\(k\), F.S.](#), by failing to perform any statutory or legal obligation placed upon a licensee; and a violation of [Section 455.227\(1\)\(p\), F.S.](#), by delegating professional responsibilities to a person when the licensee delegating performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them. The respondent failed to file an Election of Rights form. On February 19, 2003, the Department filed an Amended 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. Yant was neither present nor represented by counsel. After consideration of the complete record, the Board took the following action:

MOTION: Mr. Abreu motioned to find Mr. Yant in DEFAULT.

SECOND: Mr. Bellemare. The board voted on the motion. The motion passed unanimously.

MOTION: Mr. Abreu motioned to ADOPT the Investigative Report and Administrative Complaint and to ACCEPT the allegations of fact as the Findings of Fact and the allegations of violations as the Conclusions of Law.

SECOND: Mr. Bellemare. The board voted on the motion. The motion passed unanimously.

MOTION: In accordance with [Rule 61G6-10.002\(2\)\(3\), F.A.C.](#), Mr. Abreu motioned to assess a penalty of \$1,500 administrative fine on Count I, a \$1,000 administrative fine on Count II, a \$1,000 administrative fine on Count III, payment of Investigative Costs in the amount of \$420.43, revocation of licensure with notification of the discipline communicated to the State of North Carolina where the respondent also holds a license.

SECOND: Mr. Sandefer. The board voted on the motion. The motion passed unanimously.

**Daniel Anthony Dudeck**  
**ER 0013433**  
**Case No.: 2002-004303**  
**Motion for Default and Final Order**  
**Recused: Mugford, Kiner & Small**

On October 8, 2002, the Department filed an Administrative Complaint in Case No.: 2002-004303, charging the respondent with a violation of [Section 489.533\(1\)\(o\), F.S.](#), through a violation of [Section 489.522\(1\)\(a\), F.S.](#), by failing to properly supervise and inspect the work of employees for which he was responsible; a violation of [Section 489.533\(1\)\(f\), F.S.](#), by committing fraud, deceit, negligence, incompetency, or misconduct in the practice of electrical contracting; and a violation of [Section 489.533\(1\)\(i\), F.S.](#); by allowing employees under his direct supervision and control to willfully and deliberately disregard the applicable building codes of the City of Gainesville. The respondent failed to file an Election of Rights form. On February 19, 2003, the Department filed an Amended 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. Dudeck was neither present nor represented by counsel. After consideration of the complete record, the Board took the following action:

MOTION: Mr. Sandefer motioned to find Mr. Deduck in DEFAULT.

SECOND: Mr. Abreu. The Board voted on the motion. The motion passed unanimously.

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

SECOND: Mr. Abreu. The Board voted on the motion. The motion passed unanimously.

MOTION: Abreu motioned to assess a penalty consisting of a \$2,500, payment of investigative costs in the amount of \$284.14, 6 months suspended license and 1 year probation with submission of quarterly reports after the suspension is lifted.

SECOND: Mr. Sandefer. The Board voted on the motion. The motioned passed unanimously.

#### **MINUTES FROM THE JANUARY 23-24, 2003 BOARD MEETING**

MOTION: Ms. Small motioned to ACCEPT the minutes as presented.

SECOND: Mr. Abreu. The Board voted on the motion. The motion passed unanimously.

#### **LEGISLATIVE COMMITTEE REPORT – Clarence Tibbs**

The Legislative Committee reviewed [Chapter 468, Part XI, F.S., Employee Leasing](#) v. [Chapter 489, Part II, F.S.](#); Research Findings from the Office of the General Counsel; [Section 489.537\(3\)\(f\), F.S.](#); BASA/FASA Certifications – Background Checks. Highlights of discussion included:

- Mr. Mugford recommended the Board adopt the language found in Section 489.534, F.S., specifically; *“...Any employee leased to a client company, who is licensed, registered, or certified pursuant to law, shall be deemed to be an employee of the client company for such licensure purposes, but shall remain an employee of the employee leasing company as specified in chapters 440 and 443.”*
- Definition of an Employee Leasing Company; Ms. Catalano will review and bring a definition to the board.
- Temporary Help Agencies are not licensed by the State.
- Employee Leasing Companies are licensed by the State.
- Consideration to post a memo to the board's web page with instructions on how to find out if an Employee Leasing Company is licensed and what the different license designations are.
- Inclusion of an article in the next ECLB newsletter concerning when it is appropriate to use a leasing company as opposed to a temporary agency.
- Report that some contractors believe they are exempt from the requirements of [Section 489.537\(3\)\(f\), F.S.](#), because of the provisions of [Sections 489.503](#) and [489.5335, F.S.](#), Ms. Catalano will review the issue and bring her findings to the board.
- Consideration to have ALL applicants for licensure under go [NCIC](#) and [FDLE](#) background checks; Mr. Mugford will provide draft language at the next meeting.

#### **RULES COMMITTEE REPORT – Kim DeBerry**

The Rules Committee reviewed proposed amendments to [Rule 61G6-4.019, F.A.C., General Definitions](#); [Rule 61G6-5.001\(5\), F.A.C., Definitions](#); [Rule 61G6-5.002, F.A.C., Application for Certification](#); [Reexamination](#). A proper Notice of Proposed Rule Development had been filed well in advance of the meeting. Highlights of discussion included:

- [Rule 61G6-4.019, F.A.C., General Definitions](#); public notice was published on March 21, 2003, effective date will be April 21, 2003. The proposed amendment is as follows: *“The following words, terms and phrases are [sic] used in [Chapter 489, Part II](#) shall mean the following: The term "other advertising media" shall apply to business proposals, bill of sales, contracts, business cards, construction site signs, all newspapers, airwave transmission, phone directory, handbills, billboards,*

*flyers, shopping and service guides (coupon offerings), magazines (including trade association publications) classified advertisements, internet websites, manufacturer's "authorized dealer" listings, and signs on vehicles. They shall not apply to business stationery, balloons, pencils, pens, hats, articles of clothing, or other promotional novelties. Neither shall the terms apply to free phone directory listings (regardless of page color) of one, two or three lines, which display nothing more than the proper name, company name, address, and telephone numbers in whole or in part in an unbolded or unhighlighted print and without further textual or pictorial elaboration or touting in its overall display."*

- Rule 61G6-5.001(5), F.A.C., Definitions; tabled to May 2003 meeting.
- Rule 61G6-5.002, F.A.C., Application for Certification; Reexamination; public notice was published on March 21, 2003, effective date will be April 21, 2003. The proposed amendment is as follows: "61G6-5.002 Application for Certification by Examination; Reexamination. (1) An applicant for certification by examination or by endorsement shall submit the complete application form together with all supporting data (including information required to be submitted under Rules 61G6-5.004 and 61G6-5.003, F.A.C. if applicable) to the Department of Business and Professional Regulation. The application shall be accompanied by the application fee. All initial applications for examination must be completed and filed with the Department at least ninety (90) days prior to the date of the examination. All applications not completed by the deadline will be automatically scheduled for the next examination. Correspondence, requests, information or other documents pertinent to the application must be postmarked twenty-one (21) days or received fourteen (14) days prior to any scheduled meeting of the Board. Items received after the fourteen (14) day period may not be considered until the next meeting of the Board. Any application that is not complete within one year from date of initial filing will be closed. (2) All reexamination applications, and any other required forms and documents must be completed and filed with the Department at least forty-five (45) days prior to the date of the examination for which the individual is applying."
- Ms. Catalano will follow up on rule language concerning 48 hours CE immediately preceding submitting an application for reactivation.

#### **FINANCIAL BUDGET LIAISON – Clarence Tibbs**

The board reviewed the December 31, 2002 and 2001, Unlicensed Activity Account Financial Report and the December 31, 2002 and 2001, Operating Account Financial Report. Highlights of discussion included:

- An Operating Account of \$1.6M ending December 31, 2001.
- An Operating Account of \$600K ending December 31, 2002.
- The Operating Account shortfalls were attributed to the License Renewal Fee Waiver, Legislative Sweeps and payments to Accenture.

#### **UNLICENSED ACTIVITY (ULA) REPORT – Kimberly DeBerry**

The board reviewed the February 4, 2003 press release from the Office of Communications, concerning an unlicensed activity roadblock/sweep in Miami-Dade County. The board also reviewed statistical information regarding ULA sweeps performed by the Division of Regulation, Bureau of Investigative Services. Highlights of discussion included:

- Mr. Spivey reported that Juanita Chastian was no longer serving as Program Administrator for ULA as she had been appointed Executive Director to a program area in the Division of Professions. John Knap has been appointed as the ULA Program Administrator.
- Mr. Abreu requested that the local DBPR Investigators in his area be contacted and directed to contact him.

- Ms. DeBerry will draft correspondence to Ms. Chastain thanking her for her services and also to Mr. Knap, welcoming him and encouraging him to maintain open dialogue with the board.
- Report that some unlicensed persons purchase equipment and supplies on a C.O.D., or “cash-ticket” basis.
- Report that some suppliers refuse to sell to unlicensed persons.

#### **PROBATION COMMITTEE – Paul Sandefer**

The Committee reviewed the probation in Case No.: 95-09436, DBPR v. Bryan Williams; and Case No.: 2001-02016, DBPR V. Jesse Morris. In each case the Committee deemed that the probationers were in compliance with the terms of their respective probation.

#### **EXAMINATION COMMITTEE REPORT – Clarence Tibbs**

The Examination Committee reviewed challenges to the November 2002 examination and the [Construction Industry Licensing Board \(CILB\)](#) testing procedures. Highlights of discussion included:

- Twelve (12) candidates challenged the November 2002 exam. Of the 12, five (5) of those candidates had rescues. Of the 5, two (2) achieved passing scores.
- The CILB licensure exams are now administered by [Professional Testing, Inc.](#)
- CILB exam procedures are NOT applicable to the ECLB.
- Candidates who pass the exam must meet ALL statutory requirements for licensure. Some candidates who pass the exam may still not meet the qualifications for licensure.

#### **ENDORSEMENT COMMITTEE REPORT – Jeff Kiner**

The Endorsement Committee reviewed the Endorsement/Reciprocity Matrix. The Committee recommended that the board develop an arrangement of open dialogue with the different states the board reciprocates with, concerning discipline.

#### **APPLICATION COMMITTEE REPORT – Jeffrey M. Kiner**

The Application Committee reviewed over fifty (50) applications for examination and licensure. The Committee also discussed different processes the board could undertake to review applications. Ms. Catalano suggested the board create one (1) committee of five (5) members to conduct application review. The proposed committee could review applications on the morning of the first day of a given meeting while the Probable Cause Panel (PCP) convened in a separate meeting room. Board Counsel would then reconvene with the committee following PCP.

MOTION: Mr. Roberts motioned to create a single Application Committee of 5 members.

SECOND: Mr. Tibbs. The board voted on the motion. The motion passed by a vote of 7 in favor and 4 opposed.

Also present during the application review was Sammy A. Lloyd along with his mother Evelyn Lloyd; Susan Frank along with Reanne Jacobs; Nicholas Thayer; and Norman Scholer along with his attorney.

Mr. Lloyd and his mother Evelyn Lloyd, were sworn in and provided testimony concerning Mr. Lloyd's application to qualify a new business entity. After discussion:

MOTION: Mr. Abreu motioned to APPROVE CONTINGENT Mr. Lloyd's application pending receipt of a financial statement indicating a positive net worth of at least \$5,000 within 30-days.

SECOND: Mr. Bellemare. The board voted on the motion. The motion passed unanimously.

Susan Frank and Ms. Jacobs were sworn in and gave testimony concerning Ms. Frank's application. After discussion:

MOTION: Ms. Poole motioned to APPROVE Ms. Frank's application for certified electrical contractor examination.

SECOND: Mr. Tibbs. The board voted on the motion. The motion passed unanimously.

Mr. Thayer was sworn in and gave testimony concerning his application for certified specialty electrical sign contractor examination. After discussion:

MOTION: Mr. Tibbs motioned to APPROVE Mr. Thayer's application for certified specialty electrical sign contractor examination.

SECOND: Mr. Abreu. The board voted on the motion. The motion passed unanimously.

Mr. Scholer was sworn in and gave testimony concerning his application. Mr. Scholer's attorney offered testimony concerning the business corporate structure, dispensation of finances and Mr. Scholer's financial responsibility. After discussion:

MOTION: Mr. Kiner motioned to APPROVE Mr. Scholer's application to qualify an additional business.

SECOND: Mr. Tibbs. The board voted on the motion. The motion passed unanimously.

Mr. Kiner presented the list of **Approved/Approved Contingent Applications** beginning with Barrett, Harold, F., and ending with Lloyd, Sammy. The Board voted unanimously to ACCEPT the list of Approved/Approved Contingent Applications – all categories.

### **Approved/Approved Contingent Applications – All Categories**

#### Certification of Registered Contractors

1. Barrett, Harold F.
2. Matula, James E.
3. Vergo, D. Joseph

#### Additional Business Entities

- |                        |                         |
|------------------------|-------------------------|
| 1. Bracciale, Frank    | 7. LaBuff, Robert J.    |
| 2. Collins, Michael B. | 8. Menendez, Joaquin R. |
| 3. Connors, Thomas J.  | 9. Perez, Angel         |
| 4. Frieder, Jose L.    | 10. Scholer, Norman C.  |
| 5. Kasper, Leonard     | 11. Tare, Jack          |
| 6. Kwitkin, Dennis     | 12. Tare, Jack          |

13. Teston, Ottis Clinton
14. Tortora, Richard J.

15. Walker, Robert D., Jr.
16. Welch, James

#### Endorsements

1. Junkins, Cliff Robert

#### Unlimited Electrical Contractors

1. Bailey, James C.
2. Frazis, Michael
3. Hernandez, Alfredo
4. Owens, Keith
5. Rodriguez, Armando
6. Wilson, James

#### Alarm I Contractors

1. Hatch, Steven
2. Huizenga, Paul
3. Nelson, Steven
4. Yesowich, Thomas

#### Alarm II Contractors

1. Bothun, Brian
2. Breen, Matthew
3. Caldwell, Donald
4. Martinez, Elizabeth
5. Savage, Guy

#### Specialty Electrical Contractors

##### *Limited Energy*

1. Barrial, Josue
2. Cornelius, Brian

##### *Sign Specialty*

1. Thayer, Nicholas

#### Business Entity

1. Sullivan, Edward
2. Winterton, David

## Reconsiderations

1. Frank, Susan D
2. Olsen, Kenneth
3. Otero, Eduardo
4. Robinson, James
5. Schwartz, Steven

The Application Review Committee recommended **CONTINGENT APPROVAL** of the following application.

1. Loyd, Sammy; Qualify a New Business – **APPROVED CONTINGENT** pending submission of financial statements showing a positive net worth of at least five thousand dollars (\$5,000) within thirty (30) days.

Mr. Kiner presented the list of **Denied Applications** beginning with Brown, Glenn D., and ending with Burch, Hashay. The Board voted unanimously to ACCEPT the list of Denied Applications – all categories.

## **Denied Applications – All Categories**

### Certification of Registered Contractors

1. Brown, Glenn D. – DENIED; lack of five (5) years experience as a registered contractor. Ms. Catalano also recommended that Mr. Brown review the statutes and the rules so that he fully understands the scope of his present license.

### Registered Contractors

1. Bodley, Eric S – DENIED; did not sit for an approved testing agency, only holds an occupational license.

### Endorsements

1. Jacobson, Ryan R – DENIED; no reciprocity with the State of Michigan, recommend he apply to take the EC (Unlimited Electrical Contractor) test.

### Unlimited Electrical Contractors

1. Medell, Juan - DENIED; job list incomplete, needs dates.

### Specialty Electrical Contractors

#### *Limited Energy*

1. Ingram, Dwight – DENIED; lack of proof that civil rights have been restored after conviction for conspiracy to commit murder, is of concern for customers. Ms. Catalano noted that Mr. Ingram's prior conviction for conspiracy to commit murder shows a lack of good moral character and fails to follow the laws, and that his crime is related to the profession because of the need of a low-voltage contractor to enter residential homes, the concern for life, safety and welfare of the consumer comes into question.
2. Williams, William – DENIED; submitted only four (4) W-2 forms and needs six (6), Verizon is not a government entity, has not worked for an electrical contractor.

### Business Entity

1. Hashay, Burch- DENIED; negative net worth.

### **CONTINUING EDUCATION COMMITTEE – Arnaldo L. Abreu**

Mr. Abreu presented the lists of **CE Courses and FASA Courses Denied**, beginning with the Association of Skilled Trades, Electrical Contractors Continuing Education; and ending with Meisner Electric, Inc., Fire Alarm Systems. The Board voted unanimously to ACCEPT the list of CE Courses and FASA Courses Denied.

#### **CE Courses and FASA Courses Denied**

##### CE Applications

###### A. Association of Skilled Trades

1. Electrical Contractors Continuing Education – DENIED; insufficient timetable under course syllabus, no provider number.

##### Fire Alarm System Agent (FASA) Training Applications

###### A. Meisner Electric, Inc. (New Provider)

1. Fire Alarm Systems – DENIED; six (6) hours is not sufficient time to cover all of the material and a 20-question evaluation is not sufficient to evaluate this much learning. Either resubmits the syllabus or increase the number of hours, provider number is missing also.

Mr. Abreu presented the lists of **CE Courses and FASA Courses Approved/Approved Contingent**, beginning with Gold Coast School of Construction, Inc., The Principals and Practices of Florida Law; and ending with Meisner Electric, Inc., Lighting Controls. The Board voted unanimously to ACCEPT the list of CE Courses and FASA Courses Denied.

#### **CE Courses and FASA Courses Approved/Approved Contingent**

##### CE Applications

###### A. Gold Coast School of Construction, Inc.

1. The Principles and Practices of Florida Law\* - APPROVED for 2 credit hours in business.

###### B. Independent Electrical Contractors – West Coast Chapter

- |  |  |
|--|--|
| 1. Successful Personnel & Training Practices | 4. Tools & Equipment                   |
| 2. Test Equipment                            | 5. Vehicles, Machinery and Maintenance |
| 3. Successful Business Practice              | 6. Overcurrent Devices and Protection  |

7. Surge Suppression

C. Department of Community Affairs

1. Pools and Spas Advanced Training
2. Administrative Advanced Training

D. Omni Financial Services

1. Business Planning Strategies (Renewal 0001037)

E. Contractors Exam School

1. Tools for a Successful Contractor
2. Legislative Changes Affecting Construction Industry

F. Gordon Brindley Education

1. Latest NEC Requirements for Electrical Wiring for Swimming Pools, Fountains, Spas & Hydromassage Tubs

The Continuing Education (CE) Committee recommended **CONTINGENT APPROVAL** of the following applications.

A. Holland Electrical Classes (New Provider)

1. National Electrical Code – **APPROVED CONTINGENT** upon modification of time table to reflect the number of hours requested and provider number being assigned.
2. Electrical Business Practices – **APPROVED CONTINGENT** upon assignment of a provider number.
3. Electrical Safety – **APPROVED CONTINGENT** upon assignment of a provider number.

B. Omni Employee Benefit Consultants (New Provider)

1. Labor and Liability Challenges of Today's Small Employer - **APPROVED CONTINGENT** upon assignment of a provider number.

C. Omni Financial Services

1. Business Planning for the Future (Renewal 0001036) – **APPROVED CONTINGENT** upon clarification of number hours requested; specifically, one (1) or two (2) hours in business.
2. Financial Management Work Shop (Renewal 0001035) – **APPROVED CONTINGENT** upon clarification of number hours requested; specifically, five (5) or six (6) hours in business.

D. Garrison Associates

1. How to Turn Your Project Management Process into a Competence – **APPROVED CONTINGENT** upon receipt of a provider number.

E. National Electrical Contractors Association

1. Seminar on Florida's Worker Compensation Legislation – **APPROVED CONTINGENT** upon submitting Provider Ownership Data.
2. Electrical Workforce Training in Florida– **APPROVED CONTINGENT** upon submitting Provider Ownership Data.
3. Motivating Employees in the Electrical Contracting– **APPROVED CONTINGENT** upon submitting Provider Ownership Data.

F. Contractors Educational Services

1. Workplace Safety and the Value of Ethics – **APPROVED CONTINGENT** upon receipt of a provider number.
2. Principal Economic and Legislative Contracting Issues– **APPROVED CONTINGENT** upon receipt of a provider number.

G. Meisner Electric, Inc.

1. Lighting Controls – **APPROVED CONTINGENT** upon receipt of provider number.

The Continuing Education (CE) Committee recommended **TABLING** the following applications until the May 14-16, 2003 meeting.

A. Waterpik Technologies d/b/a Jandy Industries (New Provider)

1. Pool and Spa Heater School – **TABLED** until May 14-16, 2003 meeting for clarification of number of hours requested vs. number of hours presented; specifically, 2 vs. 16 hours.
2. Digital Controls for Pools and Spas – **TABLED** until May 14-16, 2003 meeting for clarification of number of hours requested vs. number of hours presented; specifically, 6 vs. 16 hours.

Mr. Abreu stated that many of the applications reviewed did not have course provider numbers assigned to them. Mr. Spence will communicate with Department staff to ensure that provider numbers are included in future course applications. Mr. Sandefer recommended that a letter be sent to Contractors Exam School, advising them to correct a notice they had mailed to ECLB licensees. The notice contains incorrect information regarding the expiration date of licenses issued by the ECLB.

Ms. Poole read into the record a portion of a letter received from Richard W. Dixon, Executive Director, Florida Building Commission (FBC), concerning the boards' involvement in assisting the Florida Building Commission.

*"...Finally, allow me to commend electricians and their licensing board. In my view, you set the standard for emphasis on training and knowledge of practice standards which all other trades should aspire to. I regret that during the Education TAC's deliberations others may not have emphasized such an acknowledgement. Frankly, your profession's focus on practice standards and your board's policies on testing and continuing education fulfill the 1998 building code reform law's intent for improving*

*professionals' performance through educational requirements. The new building code education requirements of law, which for protocol reasons must be emphasized for all professions, should not require changes to your board" approaches to licensing and continuing education.*

*On behalf of the Chairman, thank you for your participation and contributions to the Education TAC's deliberations. The Commission looks forward to coordinating with the ECLB on building code issues..."*

Mr. Abreu suggested that a copy of the letter be forwarded to the [Joint Administrative Procedures Committee \(JAPC\)](#) whom often have questions concerning the purpose and intent of ECLB rules and their relationship to the practice.

**GENERAL SESSION**

The board reviewed the Department's Key Metrics for calendar year 2002 as provided by the Office of Communications. Mr. Spivey reiterated that the statistics were indicative of activity throughout the entire Department.

KEY METRICS  
 2002

Web visitors	38,000 per week (7,000 per day on weekdays, 3000 for entire weekend.)  OR: "Since January 2002, an estimated 1,976,000 visits have been made to the new web site."
Self service renewals	32.1% of all renewals for converted licenses have been done with new channels.  (To date over 95,000 renewals by been done with new service channels)  New Channel Usage for Renewals averages Portal 65%, IVR 12%, Contact Center 23%)
Call Volume	20,000 per week  OR: "Since January 2002, our new call center has received over 1,040,900 calls."  Answer rate: Over > 90% of all calls have been processed with the average caller waiting less than 4 minutes to reach an agent).
Call self service	Averaging 42.5% (versus plan of 20%)  OR: "Since January 2002, over 462,000 calls have been handled through customer self service."
Self service accounts activated	151,181 (of which 127,896 were activated thru the web, 23,285 thru the IVR)

**OLD BUSINESS**

No discussion.

**NEW BUSINESS**

The board reviewed correspondence from Les Harvey, Central Vacuum Design, regarding Section 489.523, Florida Statutes, Emergency Registration Upon Death of a Contractor. In correspondence dated February 11, 2003, Mr. Harvey wrote:

*"...This is to inform you that my employee, Jon Sutton, license no. EF 0000682 died 12-10-2002 at Olsteen, FL. Another employee of over 20-years is preparing to take the state exam. Any consideration would be appreciated..."*

MOTION: Mr. Abreu motioned to GRANT and EMERGENCY REGISTRATION to Les Harvey, Central Vacuum Design.

SECOND: Mr. Bellemare. The board voted on the motion. The motion passed unanimously.

The board reviewed correspondence from Joseph A. Abraham, ABC Electric Service, Inc., regarding Section 489.523, Florida Statutes, Emergency Registration Upon Death of a Contractor. In a letter dated March 10, 2003, Mr. Abraham wrote:

*"...I respectfully request that you allow me to invoke Section 489-523 [sic] because of the sudden death of our current qualifier Mr. Karl W. Bengston, EC license number EC 0001043. Mr. Bengston passed away unexpectedly early this morning, March 10, 2003..."*

MOTION: Mr. Sandefer motioned to GRANT and EMERGENCY REGISTRATION to Joseph A. Abraham, ABC Electric Service, Inc.

SECOND: Mr. Abreu. The board voted on the motion. The motion passed unanimously.

The board reviewed correspondence from Jeff Wilhite, Ocean Electric, Division of Ocean Air; regarding Section 489.523, Florida Statutes, Emergency Registration Upon Death of a Contractor. In correspondence dated March 6, 2003, Mr. Wilhite wrote:

*"...This is to inform you that Robert L. Kirby qualifier for Ocean Electrical Contractors has passed away and we wish to invoke statute 489.523 so that we can transfer to a new qualifier as quickly as possible. A list of open contracts will follow in a few days..."*

MOTION: Ms. Small motioned to GRANT and EMERGENCY REGISTRATION to Jeff Wilhite, Ocean Electric, Division of Ocean Air.

SECOND: Mr. Abreu. The board voted on the motion. The motion passed unanimously.

The board reviewed correspondence from Raul L. Rodriguez, AIA, Chairman, FBC; concerning the demonstration of professional competency in the building code core curriculum. In a letter dated January 27, 2003, Mr. Rodriguez wrote in part:

*"The Florida Building Commission (the Commission) was charged with developing the Building Code Training Program (the training Program) in coordination with the licensing boards, the Department of Business and Professional Regulation, education agencies, and industry associations...The Commission and its appointed task groups focused first on developing a core curriculum to address information essential to industry professionals' transition to the Florida Building Code (the Code). Last year the Commission established the Education Technical Advisory Committee (the TAC) to address core curriculum delivery for new licensees and advanced code courses for continuing education credits...The TAC's licensing board representatives indicated that demonstration of competency in the*

*core curriculum by licensing exam is appropriate for some licenses but not necessarily for others. The Commission's questions are:*

- *Are the exam questions based on the Florida Building Code?*
- *Does the pass/fail criteria for the exam reflect adequate demonstration of core curriculum competency?*

*If the answers to either of these questions is no and if a board wants to use the licensing exam as an equivalency test, the Commission members have expressed that changes should be made to the exams or one of the other alternatives indicated above should be selected.*

*Each licensing law requires new licensees take a core curriculum course within two years of obtaining their license (for which they get CE credit) or they must pass an equivalency test. The Commission, working with your representative, has agreed there are many different ways this requirement may be met and each board should make the determination of which ways it will recognize. The Commission is obligated by law to report to the Legislature on the effectiveness of the new building code system developed by the 1998 reform of the state building code laws and so, asks two things of your board.*

- *That your board determine which approaches it will recognize for new licensees to demonstrate knowledge of the Code core curriculum specific to the licensee's discipline and subsequently notify the Commission.*
- *Should your board determine the licensing exam is an appropriate method, that it also notify the Commission of its assessment of the two questions stated above."*

Mr. Spivey stated that Mr. Rodriguez's concerns had already been addressed and that the ECLB was meeting the requirements imposed by the Code core curriculum.

The board reviewed correspondence from William M. Gay, M. Gay Constructors, Inc., regarding outsourcing Worker's Compensation Insurance coverage. In a letter dated March 6, 2003, Mr. Gay wrote in part:

*"...This letter is to request approval for our Workers' Compensation Insurance policy to be leased out to Innovation Benefit Concepts, Inc./Atlantic Professional Employers, Inc...We currently have a policy in our name, however, due to the rising costs and difficulty in obtaining insurance, we would like to outsource the entire policy..."*

During discussion, Mr. Spence stated that from his conversations with Mr. Gay concerning this issue, it appeared that Mr. Gay was intent on leasing his employees and thus wanted to know if it would be acceptable for the leasing company to provide the Worker's Compensation Insurance Coverage. After discussion the board intoned that Mr. Gay should review the statutes concerning the use of an Employee Leasing Company and the requirement for providing Workers' Compensation Insurance coverage, and that it would be okay for Mr. Gay to lease his workforce from a Licensed Employee Leasing Company. Ms. Catalano stated she would draft correspondence to Mr. Gay addressing his concerns.

The board reviewed correspondence from Suzanne Printy, Chief Attorney, JAPC; regarding Proposed Rules 61G6-5.001(5), and 7.001, F.A.C. Ms. Catalano stated that the correspondence was for informational purposes. Rule 61G6-5.001(5), F.A.C., will be addressed at the May 2003 meeting and a substitute Notice of Change for Rule 61G6-7.001, F.A.C., has been filed.

Ms. DeBerry presented a letter from RAMS/RPG of Jacksonville, FL., concerning whether or not RAMS/RPG, can lease employees to other contractors. Ms. DeBerry read a portion of the letter for the board.

*"...We have two licensed qualifiers, one is a Florida licensed Residential Contractor holding a license CRC 043721 and a Florida licensed Electrical Contractor holding a license EC 13001300..."*

Mr. Sandefer stated that RAMS/RPG is a temporary help agency. Ms. Poole stated that the license holders employed by RAMS/RPG would have to submit applications to qualify an additional business entity and come before the board. Ms. Catalano stated she would review the correspondence and draft a reply.

The board reviewed the meeting calendar and voted to make the following changes:

July 10-11, 2003 – Jacksonville, FL  
September, 2003 – West Palm Beach (Annual Meeting)

MOTION: Mr. Sandefer motioned to move the annual meeting in September from Jacksonville to West Palm Beach.

SECOND: Ms. DeBerry. The board voted on the motion. The motion passed unanimously.

Future meetings include:

November, 2003 – Tallahassee, FL  
January 2004 – Key West, FL

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

Ms. Catalano stated that she would bring the results of her board assignments to the next meeting.

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

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

- Julie Baker has been appointed Deputy Secretary.
- Chris Workman, Chief, Bureau of Education and Testing has been appointed Acting Director, Division of Professions.
- Mr. Spivey reminded the board members to make sure their hotel invoices reflected a "0-balance."

#### **CHAIRPERSON'S REPORT - Michele Poole**

Ms. Poole asked that Mr. Spivey send a letter to the Independent Electrical Contractors', Florida West Coast Chapter, (IECFWCC) thanking them for the reception they sponsored on behalf of the board; to send a certificate of appreciation to Barbara R. Edwards, acknowledging and thanking her for her service to the Board; to send a card to Mr. Tibbs extending condolences on the passing of his mother; and a letter to the Central Intake Unit/Applications advising them they are not to request applicants to submit copies of house deeds, vehicle registrations and the like. Mr. Mugford acknowledge and commended the work done by board staff and extended thanks on behalf of the Board. Ms. Poole wished everyone a safe return trip.

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