

Minutes
Florida Board of Professional Engineers
April 26 & 27, 2005
Beginning at 8:30 a.m., or soon thereafter
Fort Myers, Florida

Part I
General Business Agenda

A. Meeting Administration

#1 Call to Order, Invocation, and Pledge of Allegiance to the Flag

The meeting was called to order at 8:30 a.m.

Board Members Present:

Robert Matthews, P.E., Chair
Henn Rebane, P.E., Vice Chair
R. Gerry Miller, Ph.D., P.E.
Gloria M. Velazquez, Esq., Public Member
Paul Tomasino, P.E.
Jorge R. Duyos, P.E.
John C. Burke, P.E.
Albert E. Rose, P.E.
Daniel J. Rivera, Public Member

Board Members Absent:

None.

Other Guests Present:

Charlie Geer, P.E., FES/FICE Liaison
Dr. Melvin K. Anderson, Ph.D., P.E., Chair, FEMC
Paul J. Martin, Esquire, Executive Director
Carrie Flynn, Assistant Executive Director
Doug Sunshine, Esquire, Chief Prosecuting Attorney
Bruce Campbell, Esquire, Prosecuting Attorney
Leigh Ann Dollar, Assistant to the Executive Director
Lee Ann Gustafson, Esquire, Board Counsel
Bob Lutz, P.E.
Thomas Anderson, P.E.

#2 Introduction of guests and announcements for presentations at scheduled time.

None.

#3 Approval of the Agenda

Upon a motion by Mr. Duyos and seconded by Mr. Burke, the Board voted to approve the agenda.

#4 Approval of the Consent Agenda

Mr. Duyos asked that the unlicensed activity committee report, Item B#7a, be pulled from the consent agenda.

Upon a motion by Mr. Burke and seconded by Mr. Rebane, the Board approved the consent agenda as amended.

#5 Review and Approval of previous Board meeting minutes

a. Minutes from the February 22 & 23, 2005, Board Meeting

After discussion, the following action was taken.

Upon a motion by Mr. Rebane and seconded by Mr. Duyos, the Board determined to table the approval of the minutes and that staff make noted corrections and forward the corrected minutes electronically to each Board Member for approval during the May conference call.

Upon a motion by Mr. Rose and seconded by Ms. Velazquez, the Board directed that staff would forward electronically a draft of minutes to each Board member within thirty days after each Board meeting in order to allow for more timely review.

B. Committee Reports

#1 Applications Committee
(R. Gerry Miller, Ph.D., P.E., Chair; John Burke, P.E.; Jorge Duyos, P.E.; Henn Rebane, P.E.; Albert Rose, P.E.; Paul Tomasino, P.E.; Gloria Velazquez, Esq.)

a. No report.*

#2 Educational Advisory Committee
(Jorge Duyos, P.E., Chair; R. Gerry Miller, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant))

a. No report.*

#3 Probable Cause Panel
(Robert Matthews, P.E., Chair; Paul Tomasino, P.E.; Allen Seckinger, P.E., Consultant)

a. Report on Meeting of March 17, 2005

#4 FBPE Rules Committee
(Henn Rebane, P.E., Chair; John Burke, P.E.; Albert Rose, P.E.; Paul Tomasino, P.E.)

a. No report.*

#5 Joint Engineers / Architect Committee
(Henn Rebane, P.E., Chair; Daniel Rivera)

a. No report.*

#6 FBPE / FEMC Board Operations Committee.
(Robert Matthews., P.E., Chair)

a. No report.*

#7 Continuing Education Committee
(R. Gerry Miller, Ph.D., P.E., Chair; Henn Rebane, P.E.; Paul Tomasino, P.E.)

a. Minutes from March 16, 2005 meeting*

The Board reviewed the Continuing Education Committee Minutes. Mr. Rebane asked about conclusions regarding the future of the continuing education.

Dr. Miller confirmed that Ms. Gustafson was to research statutory authority as to whether the Board could designate itself through administering a test as the sole source for satisfying the Florida Laws and Rules requirement and report her conclusions at the April Board Meeting. Ms. Gustafson reported that based on her research the Board has the authority to create a sole source method of Laws and Rules continuing education by becoming its provider. The Chair noted that any proposed plan that was adopted would

require more funding through an increased appropriation. If the Board becomes the sole provider of laws and rules, then Chapter 471, Florida Statutes, may require amendments. Should the Board seek changes in the practice act and move forward with a plan to become the sole source for satisfaction of the laws and rules, the Board would consider retaining both methods of compliance for 07-09 to allow renewal with both options of laws and rules from approved providers and the Board's program.

Ms. Velazquez noted two issues after review of the committee minutes; creation of a single path for the laws and rules requirement and true on-line renewal of licenses in 2007.

Regarding the on-line renewal issue, Mr. Martin reported on the letter he received from Secretary Carr and his response to that letter. Mr. Martin noted that he had met with Special Counsel Mike Martinez and Deputy Secretary Andy Edwards to discuss in detail how FEMC could receive assistance from DBPR for on-line renewal for the next renewal cycle. During the discussion, it was determined that the Board of Accountancy uses a self reporting method of continuing education compliance. For that Board, LicenseEase has been designed to allow a drop down box for selection of provider and the entering of hours by the licensee.

If this program could be designed to accommodate engineering licenses, then FEMC must begin to schedule meetings ASAP with the Department to ensure completion of necessary program development in time for the next renewal. Negotiations would also include discussion of the opportunity to use the DBPR call center during renewal for a negotiated cost.

Mr. Tomasino asked if records from providers are required as part of the program. Mr. Martin stated that the Board of Accountancy apparently does not require records from providers. The process is self reporting. There was discussion on what procedures apply to ensure that 100% compliance is satisfied.

As an alternative to being the sole provider of the means to satisfy the laws and rules requirements, the Board could consider course approval for laws and rules by reviewing and establishing the requisite course content.

Mr. Martin suggested once again that the Board set into place a rules mechanism for approving laws and rules courses. The Board could continue to approve providers only for area of practice

courses. But, for laws and rules courses, the Board would review and approve the specific courses themselves.

Upon a motion by Mr. Rebane and seconded by Dr. Miller, the Board decided to add course approval for laws and rules courses and directed Board Counsel to proceed with rule development. Mr. Martin will provide an update on the progress concerning on-line renewal at the June Board Meeting.

Dr. Anderson asked for clarification concerning the suggestion by Secretary Carr in her letter that notices of deficiencies be mailed to all licensees prior to renewal. This would not work as FEMC has not had a program that allows self entry and there is no way to identify those that are deficient. In future renewals, it could be done if self reporting is pursued.

b. Correspondence from Frank Rudd, FES

Mr. Geer reported that the Executive Board of FES had voted in favor of seeking revisions to the continuing education requirements to follow the NCEES continuing education standards of thirty hours.

It was the consensus of the Board to move cautiously in lieu of the other changes being sought in the continuing education program.

It was noted that the purpose of this type of proposal is to foster uniformity by having all states' mandatory continuing education requirements match the NCEES Model. Florida already has some unique requirements like the Florida Building Code Core Curriculum Course.

Mr. Geer stated that mandatory continuing education does play a roll in the reduction of disciplinary cases, as its purpose is to make better engineers by training.

After discussion, upon a motion by Ms. Velazquez and seconded by Mr. Duyos, the Board decided to assign the FES proposal to the Continuing Education Committee.

#8 FBPE Legislative Committee
(Daniel Rivera, Chair, Henn Rebane, P.E., Jorge Duyos, P.E.)
Paul Tomasino, P.E.)

a. No report.*

#9 Unlicensed Activity Committee
(Albert Rose, P.E., Chair; Jorge Duyos, P.E., R. Gerry Miller,
Ph.D., P.E.)

a. No report.*

Mr. Duyos explained that he had intended to attend the Deans Council; however, the meeting was scheduled at the same time as this meeting and he could not attend. He had asked Priscilla Prescott to attend on his behalf but due to legislative issues she could not attend. He will fast track efforts to get this project back on line.

C. NCEES Report

#1 Letter from NCEES regarding Distinguished Service Award

There were no nominations at this time.

#2 Letter from Robert Zahl, P.E. of Oklahoma regarding candidacy

Mr. Zahl is running for Southern Zone Assistant Vice President.

#3 Letter from Mitchell S. Tibshrary, Jr. of South Carolina re:
candidacy

Mr. Tibshrary is running for Southern Zone Vice President.

Following a short discussion the Board confirmed its support of Mr. Zahl and Mr. Tibshrary in the upcoming Southern Zone Meeting.

D. Advisory Attorney's Report

#1 Rules Report

Ms. Gustafson outlined options regarding the fee rule amendment addressing the assessment of an unlicensed activity fee. JAPC had issued an opinion that the Board does not have the authority to charge the unlicensed activity fee of \$5.00 by rule because it exceeds the statutory fee cap. Based on this finding, Ms. Gustafson suggested the Board repeal their existing rule and that FEMC establish a procedure addressing collection of the fee under authority of 455, F.S.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Board directed the repeal of assessment of the \$5.00 unlicensed activity fee set forth in Rule 61G15-24.002, F.A.C.

#2 Discussion of Rule 61G15-23.001, F.A.C. for clarification of language

Ms. Gustafson outlined the concerns expressed about the seal rule. Several years ago the Board had set a size requirement of 1 7/8 inches in diameter with an effective date of compliance was set for 2002. In 2004 the Board changed the word "certificate" to "license". As a result of the previous reference to 2002 there was a great deal of confusion to licensees as to a time certain for all of the changes to the rule.

Upon a motion by Mr. Tomasino and a second by Ms. Velazquez, the Board directed Ms. Gustafson to proceed with rule development to clarify the time certain requirement that all licensees shall have a seal that meets the diameter requirements and conforms to the requirements in the current rule by January 1, 2006. A vote was called and the motion passed.

The Board discussed the need for issuance of newsletters to keep licensees informed of any changes in the rules, disciplinary actions and other relevant information.

#3 Board Counsel Opinion Letters

a. No report.*

E. Executive Director's Report

#1 List of Applicants Requesting Retired Status*

#2 Update on renewal process

a. Letter to Secretary Diane Carr

To follow earlier discussion, Mr. Martin gave an update on the number of renewals processed to date. He noted that the fees report presented provides a sample of how difficult it is in dealing with the LicenseEase program. DBPR has repeatedly stated that this program was a licensing package not an accounting package. This means that accuracy of numbers received from the transaction reports can not be assumed.

Mr. Rebane felt that FEMC/FBPE should be prepared to negotiate with a new vendor for database services when the current contract with LicenseEase expires in 2007.

Mr. Martin reported that 23,000 licenses have been printed and mailed. Certificates of Authorizations were held back because of qualifying engineers failing to renew their individual licenses timely. For this most part this issue has been resolved and the license cards are being printed and mailed.

#3 Quarterly Report for January 1, 2005 – March 25, 2005 to DBPR

Mr. Martin reviewed the quarterly report for the Third Quarter of FY2004-2005 covering the period from January to March, 2005. Short discussion followed as to how the numbers are derived.

#4 Budget discussion regarding FY 05-06 and 06-07 (comments by FEMC Comptroller)

Mr. Martin reviewed the original and proposed budget for 2005-06 and 06-07. Although copies are not yet available for review, budget projections have been carried forward through 2010 to provide projections as to what will be needed in future budget appropriations.

Mr. Martin will be providing to DBPR a proposed draft of the 2005-06 Contract so that discussion of the upcoming contract can be initiated. A copy of the budget for 06-07 will be included. This proposal does not reflect what may be required should FEMC move forward with contracting with DBPR to provide additional support services.

The Board confirmed that surplus money should be used to print a directory. In discussion it was noted that the directory could be a CD that is offered.

If FEMC is submitting a request for a two year contract, it should be accompanied with two years of proposed budgets.

In discussion of the budget projection breakdown, the Board directed that staff forward a letter to Secretary Carr addressing concerns with lack of response to budget breakdowns, for lack of receipt of confirmation of annual certification, and other issues that involve lack of response from DBPR for requested information.

In discussion of budget related to telephones, watts lines, etc. it was directed that staff research the cost for a type of VO/IP system.

The Chair announced that he had requested to have his telephone number removed from the Board's website. In discussion, all Board members indicated their telephone numbers should be removed. Any necessary contact with a Board member would be accomplished by e-mail.

In conclusion, Mr. Vickers asked that the Board provide information for all special projects for inclusion in the proposed budget. In discussion, it was confirmed that the 05-06 budget did not include any additional funding for the unlicensed activity program as a result of having failed to use the 05-06 funding allocation. The Board reaffirmed that the 06-07 budget include \$25,000 for the public awareness campaign.

Mr. Martin commented on contact by the Southern Zone location committee to determine if Florida would be interested in hosting the 2010 zone meeting. This Board has not hosted a Southern Zone meeting since 1995 and for that reason he believed that it would be a good idea and he would so indicate when attending the 2005 Southern Zone Meeting. The Board was unanimous in its support of this endeavor.

#5 Marine Engineering issue update

Mr. Martin gave an update on how FEMC is proceeding with sending out Cease and Desist orders to those unlicensed businesses that are offering marine engineering in their advertisements. There will be upcoming cases wherein the Board may announce that such practice is a violation of Chapter 471, F.S.

Mr. Burke asked and it was confirmed that the Board's direction to this group in the August 04 meeting was to have their group determine if they wanted to be regulated and if so to return with suggestions on rulemaking for Board consideration. At the time of giving this direction, the Board had declared the activity to fall within jurisdiction of Chapter 471, F.S. and to proceed with cases under unlicensed practice.

F. Chair's Report

#1 No report.*

G. Correspondence to the Board

- #1 Correspondence from Hayden Design and Engineering, LLC
- #2 Correspondence from Tampa Bay Regional Urban Search and Rescue Team Florida Task Force – 3 regarding Florida’s USAR Structures Specialist Program – 10:00 Presentation

Mr. Bill Bracken presented comments to the Board regarding implementation of the State of Florida’s Urban Search and Rescue Structures Specialists program.

He called on Chief Ron Rogers of the Special Operations Unit of the Hillsborough County Urban Search and Rescue Agency to give an overview of the Florida Task Force and how engineers are involved. This agency was created after recent events pointing out that, when emergency situation occur, assistance from FEMA may take time. This state team provides immediate assistance and covers the gap between Federal and State assistance.

When engineers were sought to receive necessary training for inclusion in the team, a very small percentage of engineers responded and of those who did respond there were problems related to engineer’s liability if providing assistance.

It was the Board’s initial observation that participation by professional engineers who assist in search and rescue operations would not be considered negligence in the practice of engineering. This operation has nothing to do with the disciplinary aspect of Chapter 471, F.S. or Chapter 61G15, F.A.C.

Ms. Gustafson suggested that Mr. Bracken submit a Request for Declaratory Statement to allow the Board the opportunity to respond in writing.

After discussion, it was determined that the Board might want to seek an amendment to Chapter 471, F.S. related to a type of Good Samaritan’s Act.

Mr. Bracken noted that FEMA is considering demobilizing the federal teams in lieu of allowing development of state teams and it would be important to know how to proceed regarding involvement of Professional Engineers.

Mr. Duyos cautioned that a declaratory statement should be worded specifically as to not allow unlimited opportunity to shift duty and responsibility. There may be instances when an engineer would have to come before the Board in a complaint process arising out of this type of activity.

#3 Correspondence from Siddiq Khan and Associates regarding Certification of Foreign Steel.

In his letter, Mr. Khan asked the Board to consider issuance of guidelines for foreign steel. Mr. Rebane stated that the Florida Building Code addresses requirements for steel used in construction in Florida. If the engineer encounters steel that does not meet the requirements of the building code and fails to call anyone's attention to it, then disciplinary action could be taken against the engineer should there be a problem.

Staff should respond and advise Mr. Khan that should he find steel that is not certified to meeting the requirements of the Building Code, then it is his responsibility to report lack of certifications to this board and, if he uses such inadequate steel in his projects, he may be subject to disciplinary action.

#4 Correspondence from John Stagliano regarding Principles and Practice of Engineering Application Procedure – April 2005 Exam

Ms. Flynn explained the procedures that applicants must follow. Once approved, the applicant must register and appear for the examination. If he/she does not appear they have to reapply and be certified for a future examination. Mr. Stagliano was approved and did not appear. He thought that he could simply come back for the next examination and register with ELSESES. When he contacted the Board office he was advised of the procedures that he must follow. His ability to sit for the next available examination was complicated by the fact that he had changed his examination discipline to one that is offered only once a year. Staff does provide information to applicants explaining the procedures for examination.

#5 Correspondence from the Department of the Air Force regarding DOD ID Card Holders serving overseas.

Ms. Gustafson will respond to confirm that future renewals may not involve issues with postmark dates for submittal.

#6 Correspondence from William Murray regarding Naval Architects and Marine Engineers

#7 Correspondence from Jay Green, SGS Master Planning regarding Application to approval FL PE exams for GI Bill reimbursement

This item will appear on the agenda for the upcoming Southern Zone meeting to determine how other states are reacting to this matter.

#8 Correspondence from Thielsch Engineering, Inc.

Mr. Matthews had asked that this item be included on the agenda to provide a sample of the real issues regarding Null and Void renewals. Mr. Thielsch had not provided sufficient hours when submitting his renewal. This resulted in his license going Null and Void.

#9 Correspondence from William Dunn, P.E.

This item was addressed with a directive to have a representative of Informed appear at the June Board Meeting.

#10 Correspondence from International Code Council

This letter will be presented to the Continuing Education Committee to formally seek action on the name change requested by this company.

#11 ABET News Release

Information item only.

H. Old Business

#1 Progress Report on the Florida Building Commission's revisions to its product approval system

Mr. Campbell had contacted several individuals to see if someone could appear before the Board with no success. Mr. Richmond, counsel to the FBC, had suggested that Mr. Campbell contact Rick Dixon, the Commission's Executive Director, regarding a future appearance before the Board to discuss the approved revisions and the system in general.

Mr. Rebane viewed the matter of product approval as a serious matter. This Board needs to be aware of any possible changes to the building commission's intent regarding signing and sealing of master plans that are submitted under the category of product approval. Specific attention would apply to those products that involve structural engineering. In further discussion Mr. Martin offered and it was agreed that he attend the next workgroup meeting.

I. New Business

- #1 Correspondence from Lawrence Salberg regarding the PE renewal process

Ms. Gustafson will respond to Mr. Salberg thanking him for his comments and to explain that a program for electronic renewal is being pursued.

J. Public Forum

Part II Informal Hearing Agenda

Mr. Duyos addressed the audience and provided a brief explanation of the procedures applicable to evaluation of applications with foreign engineering degree transcripts through the use of transcription evaluation services approved by the Board.

K. Informal Hearings on Denial of Applications for Fundamentals Examination

#1. Li Yuan

Mr. Yuan was present, sworn and addressed the Board. He applied for the Fundamentals Examination. The basis for denying his application is education. He holds a Bachelor's Degree from China and an MS degree from Pennsylvania State University. The Board reviewed the evaluation submitted by Josef Silny and Associates and determined there was a deficiency of 11.36 semester credit hours in Mathematics and Basic Sciences and that he had not completed a course in Probability and Statistics.

Mr. Yuan explained that he was having a disagreement with the evaluator regarding the results. Mr. Duyos explained that the Board does not inject itself into discussion with the evaluation service about a result unless the Board has a problem with the assignment of courses to specific categories within the rule. Dr. Miller also advised applicant of need to complete a Probability and Statistics regardless of whether he could persuade the evaluator to his point of view. Upon a motion by Mr. Duyos and seconded by Mr. Rebane, the Board voted to uphold the denial.

#2. Majdi R. Sekhtyan

Mr. Sekhtyan was present, sworn and addressed the Board. He applied for the Fundamentals examination and was denied on the basis of education. Mr. Sekhtyan holds a Bachelor's Degree and Master's Degree from Romania. The Board reviewed the evaluation submitted from Josef Silny and Associates and determined that there was a deficiency of 14.25 semester credit hours in Mathematics and Basic Sciences, including a course in Chemistry, that he was deficient 16 semester credit hours in Humanities and Social Sciences, and he had not proven competency in English.

Following discussion, the Board determined that the deficiency in Humanities and Social Sciences should be reduced to 3 semester credit hours, that Mr. Sekhtyan had demonstrated competency in English through his appearance, and the deficiency in Mathematics and Basic Sciences remained at 14.25 semester credit hours.

Upon a motion by Mr. Duyos and seconded by Mr. Rebane, the Board voted to uphold the denial as amended.

#3 Luther Lee Potter, III

Mr. Potter was not present but his supervisor, Mr. Mariachi, was sworn and addressed the Board. Mr. Potter applied for the Fundamentals Examination and was denied based on his education. He holds a BS degree in Civil Engineering Technology from Old Dominion University. His application was denied because he holds a degree in engineering technology and such a degree does not meet statutory requirements outlined in Section 471.013(1)(a)2., F.S. Upon a motion by Mr. Duyos and seconded by Dr. Miller, the Board voted to uphold the denial.

L. Informal Hearings on Denial of Application for Principles and Practice Examination

None

M. Informal Hearings on Denial of Application for Licensure by Endorsement

#1 Neela Rao Mantry

Ms. Mantry was present, sworn and addressed the Board. This hearing was continued from the February meeting. Ms. Mantry applied for licensure by endorsement and her application was denied for educational deficiencies. She holds a BS degree from India and an MS degree from University of Stuttgart. In order for the Board to conduct a review of her foreign education in order to determine that her education is substantially equivalent to the criteria set forth in Rule 61G15-20.007, F.A.C., she was required by rule to submit a course evaluation from a Board approved evaluator. Ms. Mantry had taken issue with having to seek a new evaluation over an evaluation she had received in 1994. After stressing that she had to comply with the Board's rules and provide a current evaluation, upon a motion by Mr. Miller and seconded by Mr. Burke, the Board voted to uphold the denial.

#2 Taiye B. Sangoyomi, Ph.D.

Dr. Sangoyomi was present, sworn and addressed the Board. Dr. Sangoyomi applied for licensure by endorsement and he was denied for educational deficiencies. Dr. Sangoyomi holds a BS degree from Nigeria and an MS and Ph.D. degrees from Utah State University. The Board reviewed the evaluation from Josef Silny and Associates and determined that Dr. Sangoyomi had not completed a two-sequence course of study in either Chemistry or Physics, he was deficient in Humanities and Social Sciences and he had not proven computer skills. The deficiency in Humanities and Social Sciences was deemed satisfied by his MS degree under authority of Rule 61G15-20.007(5), F.A.C.

Dr. Sangoyomi had petitioned for a Formal Hearing. Board Counsel directed staff to place the Petition for Formal Hearing on the April agenda. If the Petition were denied, the matter would proceed as an Informal Hearing.

Upon a motion by Dr. Miller and seconded by Mr. Burke, the Board voted to deny Dr. Sangoyomi's request for a Formal Hearing.

Ms. Gustafson noted that as a result of recent amendment to Rule 61G15-20.007, F.A.C, the deficiency of computer skills would no longer be an issue. After discussion and upon a motion by Dr. Miller and seconded by Mr. Rivera, the Board voted to approve the application.

#3 Kehinde Adeshile

Mr. Adeshile was not present. He applied for licensure by endorsement and was denied for education deficiencies. Mr. Adeshile was licensed in Ohio in 2004. He has passed the NCEES Fundamentals and Principles and Practice examinations and his experience meets the requirements of Chapter 471, Florida Statutes. Mr. Adeshile holds a BS degree in Civil Engineering Technology. This does not meet the statutory requirements set forth in Section 471.013(1)(a)2., F.S.

Mr. Adeshile had petitioned to have a Formal Hearing. Board Counsel directed staff to place the Petition for Formal Hearing on the April agenda. If the Petition were denied, the matter would proceed as an Informal Hearing.

Upon a motion by Dr. Miller seconded by Mr. Tomasino, the Board voted to deny Mr. Adeshile's request for a Formal Hearing.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Board determined to uphold the denial.

#4 Thomas M. Kotwica

Mr. Kotwica withdrew his request for hearing.

#5 Xiaoqing Wu

Ms. Wu was not present for her hearing. She had applied for licensure by endorsement and was denied because of educational deficiencies. Ms. Wu's application has remained in an incomplete status since 1999 because she failed to submit an evaluation of her undergraduate degree studies from China. Because the file remained incomplete for over five years, staff finally presented the incomplete file for review on 1/20/05. The applicant takes exception to the Board's requirement for a transcript evaluation. Upon a motion by Mr. Duyos seconded by Mr. Rebane, the Board voted to uphold the denial.

#6 Ronald J. Leder, Jr.

Mr. Leder was present, sworn and addressed the Board. He applied for licensure by endorsement and was denied for educational deficiencies. Mr. Leder was licensed in New York in 2003 after passing the NCEES Fundamentals and Principles and Practice examinations in New York and his experience meets the requirements of Chapter 471, F.S. Mr. Leder holds an Associate in Science degree in engineering. Mr. Leder had petitioned to have a Formal Hearing. Board Counsel directed staff to place the Petition for Formal Hearing on the April agenda. If the Petition were denied, the matter would proceed as an Informal Hearing.

Upon a motion by Ms. Velazquez seconded by Mr. Rivera, the Board voted to deny the request for a Formal Hearing.

Following comments by Mr. Leder, the Board cautioned Mr. Leder regarding how he offers his services in Florida. Information that is part of the application record could be grounds for a complaint. He was advised immediately to cease any advertisement implying that he is a Professional Engineer in Florida.

The Board reaffirmed to Mr. Leder that he does not have a four year degree and that level of degree is a requirement of law. Upon a motion by Mr. Duyos and seconded by Mr. Burke, the Board voted to uphold the denial.

#7 Stelio M. Garcia

Mr. Garcia was present, sworn and addressed the Board. He applied for licensure by endorsement and was denied for educational deficiencies. He has passed the NCEES Fundamentals and Principles and Practice examinations and he evidenced the required years of experience for licensure in New York in 2003. The denial is based on education. Mr. Garcia holds a BS and MS degree from Brazil. The Board reviewed the evaluation submitted from Josef Silny and Associates and found a deficiency of 11 hours in Humanities and Social Sciences. During discussion, it was verified that Mr. Garcia was actually deficient 9.34 semester credit hours in Humanities and Social Sciences. This was a result of allowing credit of a course under the “other” category as Humanities and Social Sciences.

Upon a motion by Dr. Miller seconded by Mr. Duyos, the Board voted to uphold the denial with the deficiency of eleven semester credit hours in Humanities and Social Sciences reduced to 9.34 semester credit hours.

#8 Joseph J. Raday

Mr. Raday was not present. He applied for licensure by endorsement and was denied for educational deficiencies. Mr. Raday passed the NCEES Fundamentals and Principles and Practice examinations in Illinois and his experience meets the requirements of Chapter 471, F.S. Mr. Raday holds a B.S. degree in Civil Engineering Technology. As such, this does not meet the statutory requirements set forth in Section 471.013(1)(a)2., F.S.

Upon a motion by Mr. Duyos seconded by Dr. Miller, the Board voted to uphold the denial.

#9 Steven Zebich

Mr. Zebich was not present. He applied for licensure by endorsement and was denied for educational deficiencies. He has passed the NCEES Fundamentals and Principles and Practice examinations in Illinois and his experience meets the requirements of Chapter 471, F.S. Mr. Zebich holds a B.S. in Architecture from

the University of Illinois at Chicago. Since he does not hold a baccalaureate in engineering, he is not a graduate from an approved engineering program. During discussions, it was noted that submission of course description of Mr. Zebich's undergraduate degree may allow consideration under the articulation rule as Mr. Zebich holds an MS degree from Northwestern University.

Initially, a motion was made by Mr. Duyos and seconded by Mr. Burke to uphold the denial. After further discussion the motion was withdrawn.

Upon a motion by Dr. Miller and seconded by Mr. Rebane, the Board referred this application to the Educational Advisory Committee for further review upon receipt of course descriptions from Northwestern University.

N. Special Inspector Applications – Consideration of Petition for Formal Hearing

#1 Gordon H. Smith

Mr. Smith was present, sworn and addressed the Board. He applied for a special inspector certification and was denied because he failed to demonstrate experience in compliance with Rule 61G15-35.003(1)(c), F.A.C. The Informal Hearing, as requested by the applicant, was continued from the February Board Meeting to the April meeting. After discussion with the applicant and among the Board Members, upon a motion by Mr. Rebane and seconded by Mr. Duyos, the Board voted to uphold the denial.

O. Informal Hearings on Denial of Application for Continuing Education

#1 Risi Stone Systems

Mr. Robert Bowers, the representative of the company, was present, sworn and addressed the Board. Risi Stone Systems applied for approval as a provider of continuing education. The Board denied the application based on failure to satisfy criteria contained in Rule 61G15-22.011(2), F.A.C. in that Risi Stone Systems does not meet the mandatory definition of either ,a regionally accredited educational institution, a commercial educator, a government agency, a state or national professional association whose primary purpose is to promote the professional of engineering or an engineer with a Florida license to practice

engineering who is not under disciplinary restrictions pursuant to any order of the Board.

Risi Stone submitted an Election of Rights form for an Informal Hearing. Mr. Bowers did not take issue with the denial of the application as he agreed that the company does not meet any of the categories of approved provider. He was interested in knowing if there were plans to expand the criteria for providers to include training for products offered by companies. Following discussion, a motion was made by Dr. Miller and seconded by Mr. Rivera to uphold the denial. The motion passed.

P. Special Appearance before the Board

None

Part III Disciplinary and Unlicensed Hearings

Q. Settlement Stipulations

#1. James L. Smith, P.E.
PE 36177
FEMC Case Number 03-0135
Represented by David P. Rankin, Esquire
Probable Cause Panel: Matthews, Tomasino, & Seckinger

Mr. Smith was not present. He had been charged with one count of misconduct for filing a false report. He had entered into a previous stipulation that was rejected by the Board at its June 2004 meeting. The case is now back before the Board for action on a new stipulation matching the terms of a counter stipulation offered by the Board at the time it rejected the original stipulation.

Mr. Smith has entered into a stipulation with FEMC for a \$1,000.00 administrative fine; a reprimand; probation for one year; and he shall submit to the Board a list of completed inspection reports at six and twelve month intervals from the date that the Final Order adopting this Stipulation is filed with the Agency Clerk.

Upon a motion by Mr. Rebane and seconded by Mr. Burke, the Board voted to adopt the settlement stipulation.

- #2. Ronald S. Tulino, P.E.
PE 16243
FEMC Case Numbers 2004054334 and 03-0002
Represented by David P. Rankin, Esquire
Probable Cause Panel: Matthews, Tomasino, & Seckinger

Mr. Tulino was present without counsel and addressed the Board. He had been charged with negligence in the design of a residence retaining wall. Initially, Mr. Tulino entered into a Settlement Stipulation with FEMC calling for a suspension and a fine of \$10,000. Later, he offered to voluntarily relinquish his license with the intent of satisfying the matter with no further discipline. Following a short discussion, upon a motion by Mr. Rebane and seconded by Mr. Duyos, the Board voted to adopt the settlement and accept the offer to relinquish the license through Voluntary Relinquishment of License.

Mr. Tulino asked a question and the Board confirmed that with relinquishment of his professional engineer's license he could no longer use the title or perform duties as a Special Inspector for Threshold Buildings.

- #3. Robert W. Wall, P.E.
PE 46021
FEMC Case Numbers 02-0032 and 03-0041
Represented by V. James Dickson, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Wall was present with his attorney. He had been charged by Administrative Complaint in two cases involving two counts of negligence involving a Certificate of Inspection on one project and the design of a residence in the other. During the investigation, Mr. Wall entered into a stipulation with FEMC calling for a \$1,000.00 administrative fine and costs of \$1,566.38; appearance before the Board to explain what quality control steps he intends to take in the future and how he was able to provide a certification of inspection for a structure containing numerous deficiencies; a reprimand; probation for two years with terms that he successfully complete a Board approved course in Professionalism and Ethics; project review at twelve months and that he shall successfully complete the Board's Study Guide.

Mr. Sunshine recommended adoption of the Stipulation as the Board's Final Order as it followed most of the recommendations given by the PCP panel.

Upon a motion by Mr. Rebane and seconded by Mr. Duyos, the Board voted to adopt the Settlement Stipulation.

- #4. J. Kenneth Yurkovich, P.E.
PE 57004
FEMC Case Number 2004041168
Represented by Ernest W. Sturges, Jr., Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Yurkovich was present with his attorney. He had been charged by Administrative Complaint for filing a false report. Mr. Yurkovich has entered into a stipulation with FEMC for a \$1,000.00 administrative fine and costs of \$111.80; an appearance before the Board to explain what policy changes he has made to rectify and prevent similar issues in the future at the time of considering the Settlement Stipulation; a reprimand; suspension for three months; probation for two years with terms he successfully complete a Board approved course in Engineering Professionalism and Ethics, and successfully complete the Board's Study Guide.

Mr. Sunshine recommended adoption of the Stipulation as the Board's Final Order.

Mr. Yurkovich stated that his company has adopted new company procedures to require all Professional Engineers to sign a Code of Ethics and to attest to their understanding of the necessity to act in the best interest of the client. He further stated for the record that the client had been reimbursed for costs associated with the issue and he had issued a letter of apology to the water management district. In further discussion, Mr. Yurkovich and Mr. MacPherson, owner of the company, confirmed that their Company's Code of Ethics is based on Chapter 471, F.S. and Chapter 61G15, F.A.C.

Mr. Rebane suggested that they follow the NSPE Code of Ethics. Further, he asked how work would be handled during the three month suspension Mr. MacPherson assured the Board that assignments related to coordinating permits will transferred to another party immediately. Mr. McPherson indicated that he will become EOR for any projects in process.

Upon a motion by Mr. Rebane and seconded by Mr. Rose, the Board voted to adopt the Settlement Stipulation.

- #5. John B. Benson, P.E.
PE 20638
FEMC Case Number 03-0167
Probable Cause Panel: Matthews, Tomasino, & Seckinger

Mr. Benson was present. He was charged by administrative complaint with negligence in the design of a remodeling of a residence in Bradenton Beach, Florida. Mr. Benson has entered into a stipulation with FEMC for a \$5,000.00 administrative fine and costs of \$2,111.90; an appearance before the Board to explain his deficient structural plans and how he will learn proper structural engineering in the future; a reprimand; restriction of his practice prohibiting him from performing structural engineering until he passes the NCEES Structural I exam; and probation for two years after passing the Structural I exam with terms he successfully complete a Board approved course in Engineering Professionalism and Ethics. Mr. Benson presented his comments regarding the project that resulted in the case. Mr. Benson confirmed that in accordance with the Settlement Stipulation he will no longer offer structural engineering services unless he has passed the Structural I examination.

Upon a motion by Ms. Velazquez and seconded by Mr. Rivera, the Board voted to adopt the Settlement Stipulation.

Mr. Benson asked if he could make arrangements for extension of the time within which to pay the fine and costs. After discussion, Ms. Velazquez amended her motion to include one year time limit for receipt of the costs and that was acceptable to Mr. Rivera as second. The Board voted to adopt the settlement stipulation as amended through the motion.

- #6. Orlando Naranjo (**Unlicensed**)
FEMC Case Number 03-0077
William H. Hollimon, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Neither Mr. Naranjo nor his attorney were present. After a short discussion, upon a motion by Ms. Velazquez and seconded by Mr. Rebane, the Board voted to reject the Settlement Stipulation. The matter will proceed to a formal administrative hearing.

R. Defaults

- #1. Joseph D. Gilberti, P.E.
PE 56079
FEMC Case Number 03-0188
Represented by David P. Rankin, P.A.
Probable Cause Panel: Matthews, Tomasino, & Seckinger

Neither Mr. Gilberti nor his attorney were present. He was charged by Administrative Complaint with two counts for practicing engineering on a delinquent license. He had been served with the Administrative Complaint by certified mail and three different addresses and the documents were signed for on January 21, January 22, and February 10, 2005, Included in those mailings were the Explanation of Rights forms advising Mr. Gilberti that if he failed to make an election in this manner within twenty-one days from receipt of the Administrative Complaint, his failure to respond would be treated by the Board as a waiver and the Board would proceed to hear the case. Mr. Gilberti failed to timely request a hearing and Mr. Sunshine asked the Board to grant his Motion for Default.

Upon a motion by Mr. Rebane and seconded by Ms. Velazquez, the Board voted to grant the Motion for Default.

After further discussion, upon a motion by Mr. Rebane and seconded by Ms. Velazquez, the Board voted to impose the penalty recommended by the Probable Cause Panel and that the licensee; be suspended until such time as he attends a future meeting and explains himself and his conduct to the Board, receive a reprimand, pay an administrative fine of \$2,000 and costs of \$195.65, be placed on probation for two years, take a Board approved course in Professionalism and Ethics and that he complete the Board's Study Guide on laws and rules. The payment of fine and costs would be within thirty days of the date of Final Order that would be issued after his appearance.

S. Adjourn