

Florida Board of Professional Engineers
August 17 & 18, 2005
Meeting begins at 8:30 a.m., or soon thereafter
University of Miami Convocation Center
Coral Gables, Florida
Part I
General Business Agenda

A. Meeting Administration

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

Members in Attendance:

Robert Matthews, PE, Chair
Henn Rebane, PE, Vice Chair
John Burke, PE
Jorge Duyos, PE
Paul Tomasino, PE
David Charland, PE
Al Rose, P.E.
R. Gerry Miller, Ph.D., PE
Daniel Rivera, Public Member
Gloria Velazquez, Esq., Public Member

Members Absent:

Christian S. Bauer, Ph.D., P.E.

Guests:

Leigh Fricks, Manager, Records, NCEES
Michael Shannon, Director of Professional Services, NCEES
Frank Rudd, Executive Director, FES
Charlie Geer, PE
Dr. Josef Silny, Silny & Associates

Staff Present:

Paul J. Martin, Esquire, Executive Director
Carrie Flynn, Assistant Executive Director
Douglas Sunshine, Esquire, Chief Prosecuting Attorney
Leigh Ann Dollar, Executive Assistant

Board Counsel:

Lee Ann Gustafson, Senior Assistant Attorney General

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

a. NCEES – Leigh Fricks, Manager, Records Verification Program

Michael Shannon and Leigh Fricks addressed the Board regarding a new program that NCEES is offering for member Boards. After several years of research collected from surveys completed by member Boards, NCEES is now ready to offer a new program. This program would allow member boards to use NCEES council records as part of the application process for examination applicants. Applicants would apply to NCEES under the council records program. Once completed a record is submitted to the board office. This record could be used as a part of or entire application. It would reduce the paperwork and time invested in processing applications because it would contain verification of education, experience and passing of the Fundamentals examination.

Mr. Martin explained that presently the council records program is used in the endorsement application process. The numbers of endorsement applications submitted with council records have increased and the numbers continue to increase monthly both for model law and non-model law applicants. It has proven to be beneficial in the endorsement process. The new program would allow NCEES to compile the same information for examination candidates.

It was confirmed that an additional cost factor would be assessed to the applicant and there was a question as to value provided to the applicant. The positive point in this program is the ability of the new engineers to maintain this record for use in the application process for any state.

It was confirmed that applicants would be advised to contact the state boards directly to determine what evaluation service would be recognized should they be applying with a foreign engineering education.

Mr. Martin explained that by using this process, applicants would not be prohibited from applying directly. Anyone could apply and NCEES would simply serve as a records clearing house. A

number of applicants would probably use the program. Those who do not use the program would be individuals who are only planning on practicing in one state.

Mr. Martin explained that Chapter 471, F.S. would have to be amended to require use of this program and it might not be possible to mandate a council record as the only means of application. Mr. Martin also noted that some member boards are of the opinion that this program is self serving to NCEES and total support of the member board for this program may not exist at this time.

Upon conclusion the following action was taken:

Upon a motion by Mr. Rebane and seconded by Mr. Burke, staff was directed by the Board to make a recommendation in the future regarding whether to implement this program.

b. Dr. Josef Silny, Silny & Associates

Dr. Silny addressed the Board regarding the allocation of hours for foreign degree applicants. The conversion factor that has become the industry standard is 2/3 of the total hours reflected. The conversion factor is based on the many differences between the method for awarding credits in foreign countries compared to the United States. The calculation is based on the total number of hours spent in the classroom versus hours in lab.

Mr. Duyos explained that many applicants complain about the fact that their hours were reduced through the evaluation process. He initially contacted Dr. Silny to discuss the matter and he believed it important to have Dr. Silny make a presentation to the full Board so that all parties are aware of the conversion process.

Mr. Martin informed the Board that he had contacted Foreign Credentials Services of America, Inc. and the principal, Dr. Paver, had confirmed use of the same industry standard.

Mr. Duyos advised Dr. Silny that evaluations from Silny and Associates are being prepared in an acceptable manner and there are currently no problems.

Speaking to authentication of documents, Dr. Silny explained that foreign credentials are only accepted if they are mailed directly from the university. They do not accept documents directly from the applicant.

In regards to discussion of what universities do in accepting foreign degrees, Dr. Silny noted that many universities do not have the staff with the necessary training to perform the type of research and authentication that is necessary.

The Board expressed their appreciation to Dr. Silny for his appearance.

Staff was also advised to forward notification to all of the approved evaluation services each time Rule 61G15-20.007, F.A.C. is amended.

#3 Approval of the Agenda

Upon a motion by Mr. Rebane seconded by Dr. Miller, the agenda was approved.

#4 Approval of the Consent Agenda
(Items denoted with an asterisk are included in the Consent Agenda*)

Mr. Rebane pulled item A5a. June minutes.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the amended consent agenda was approved.

#5 Review and Approval of previous Board meeting minutes

a. Minutes from the June 21& 22, 2005 Board Meeting*

Several corrections were made to the minutes, in particular responses to the letters listed under Board correspondence. There was no indication in the minutes as to the outcome regarding the questions posed. It was again mentioned that an action item list would be helpful in keeping track of assignments from one meeting to the next.

In regard to the newsletter recently printed, it was discussed that it did not include the insert that was voted for inclusion in the last meeting. Mr. Martin explained cost factors and timing were the reasons for not being able to prepare the insert.

Mr. Tomasino asked for the status of the memorandum that was to accompany the budget for 2005-2006 providing an explanation for the unexpended funds in the legal and investigative area for this

past year. This would advise the Department of the reason for less spending during 2004-2005 budget as a result of the time spent in the renewal process this year.

The question was raised concerning an action list. Mr. Rebane stated that an action list has not always proven efficient. Based on this statement the following action was taken:

Upon a motion by Mr. Rebane seconded by Mr. Rivera, the Executive Director was charged with tracking action items and he should be prepared to provide a status report in the next Board meeting.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, the minutes were accepted as amended.

There was a short discussion regarding the issue of the Board's rule requiring the applicant to have achieved the required experience prior to the time of application.

As a result of an error in a recent application that was approved by the Board when it should have been denied, it was suggested by Mr. Martin that a short training session occur prior to the next review. The basics for determining eligibility for licensure will be discussed.

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. Minutes from the July 22, 2005 Telephone conference*
- #2 Educational Advisory Committee
(Jorge Duyos, P.E., Chair; R. Gerry Miller, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant))
 - a. Discussion of evaluation entities and use of pro-rata, or other methods of conversion of transcript credit hours to the U.S. Model (Dr. Josef Silny, Silny & Associates)

This agenda item was addressed earlier in the meeting.

- #3 Probable Cause Panel

(Robert Matthews, P.E.; Paul Tomasino, P.E.; Allen Seckinger, P.E., Consultant)

a. July 14, 2005 Probable Cause Panel Meeting*

#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 Engineer / 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. No report.*

#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.*

C. NCEES

#1. July 2005 Zone Update

Mr. Rebane suggested this Board take a position on the proposed recommendation by the ACCA committee that only Board members be allowed to vote on NCEES business. The NCEES constitution does not

presently address this limitation. The Board supported the ACCA recommendation. In further discussion, the Board reaffirmed its position that applicants must gain four years of experience prior to application for the Principles and Practice examination. Later in the meeting, Frank Rudd confirmed FES supports the Board's position regarding experience required to sit for the Principles and Practice examination.

The Chair noted that he is planning on discussing foreign credentials authenticity at the annual meeting next week in Memphis.

D. Advisory Attorney's Report

#1 Rules Report - (This item will be presented on the second day)

Ms. Gustafson briefed the Board on present changes to the following rules:

61G15-19.0071, 19.20.001 and 20.007 and 21.001, 21.007, 22.011, 22.015, 23.001, 23.003, 24.001, 24.002, 35.001 and 35.003.

#2 Endorsement Rule Amendments Rules 61G15-20.0015 & 61G15-21.0092, Florida Administrative Code

These rules still refer to five time failures of exams. They are being amended to bring them into compliance with the statutory reference to the new three time failure requirement. If applicants are currently in the pipeline and have sat for an exam prior to or at the April 2004, exams, they would be processed under the old five time requirement. The rule change applies to applications from April 2004 forward.

Ms. Gustafson advised the Board of a second rule challenge filed by G.W. Harrell, Esquire, on behalf of an applicant who recently applied for licensure by endorsement and was denied. Mr. Harrell's position is that the Board rule places an additional requirement on endorsement applicants. Ms. Gustafson disagreed with this position. The issue is the comparison of laws at the time of licensure. As a result of this rule challenge, she modified the language in the rule.

Mr. Martin clarified that the basis for denial was that this applicant had failed the Principles and Practice examination five times in Florida. He then applied in Ohio and passed the examination. He has now applied for licensure by endorsement in Florida and he was denied based on the fact that he would be held accountable with the additional hours of education in order to be approved for the examination.

Mr. Martin noted that many states do not have a limit on the number of times a person may sit for examination. This Board had placed this requirement on endorsement applicants so that they are held to the same standard as examination candidates.

Upon motion by Mr. Rebane seconded by Mr. Burke, amendments to Rule 61G15-20.0015 and 61 G15-21.009, F.A.C. were approved. A vote was called and the motion passed.

#3 Settlement Proposal from Ed Bayó, Esquire, on the Ruck Rule Challenge

Ms. Gustafson noted that Mr. Bayó lately requested to have this agenda item heard on the second day of this meeting.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, this agenda item would be heard as part of the first day of this two day meeting and counsel was directed to present the issue.

Ms. Gustafson briefed the Board regarding Mr. Ruck's application denial. Mr. Ruck had applied for licensure by endorsement and was denied because he does not hold an engineering degree; he holds an engineering physics degree. Mr. Ruck had engaged counsel, Mr. Edwin Bayó, Esquire, to file a rule challenge. The challenge is to the Board's present Rule 61G15-20.006, F.A.C., that provides for the Board to review non-accredited programs. The challenge is to the fact that the Board has not developed rules regarding how and if said reviews would occur. The current rule excluded programs from which EAC/ABET accreditation is available. The requirement of the Board to develop rules regarding evaluation of non-accredited programs had resulted from the Joseph Gaudet appellate decision from the 4th District Court of Appeal.

Mr. Bayó proposed to settle by withdrawing the rule challenge if the Board would look at the coursework of the applicant to determine articulation to an EAC/ABET accredited degree, and approve the application.

The 4th DCA has mandated that this Board has to go beyond simply adopting as approved engineering programs only those accredited by EAC/ABET. Mr. Martin explained that it is imperative that this Board move forward with rule development. New rules would eliminate future issues regarding educational status.

Mr. Martin stated that he did not support the settlement proposal before the Board because it was --- upon the Board agreeing to approve Mr. Ruck and Mr. Ruck does not have an EAC/ABET degree nor an advanced degree in engineering.

Mr. Duyos offered to chair a Task force to move forward with rule making. He suggested that Dr. Anderson and Dr. Bauer serve on this task force that will be scheduled in conjunction with the September Application Committee review. A meeting will be set and a recommendation be made in the October Board meeting.

Mr. Rebane suggested the Legislative Committee of the Board work with the FES Legislative Committee to move forward with preparing a statutory revision to Chapter 471, F.S. to address by statute a requirement of an EAC/ABET accredited degree. The Department is also an avenue by which a statutory change could be achieved.

Ms. Gustafson will move forward with noticing rule development. She will prepare a draft of the proposed rule for task force to work with.

Mr. Rebane expressed his opinion that if OSU had the opportunity to seek EAC/ABET accreditation for the engineering physics program then this Board would be on solid ground to deny the settlement proposal under the language of the present rule.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the proposed settlement was rejected.

#4 Board Counsel Opinion Letters

a. No report.*

E. Executive Director's Report

Mr. Martin advised the Board of the resignation of Wade Hopping, Esquire, FEMC Board Member; and he also reaffirmed the resignation of Diane Carr as Secretary of DBPR. He reported that in meetings with DBPR, the budget concerns for FY 2006-2007 were alleviated. The funds set aside each year that have been held back in the amount of \$220,000.00 will be taken from the Regulation Trust Fund and not taken from FEMC's annual appropriations. This change will leave the full appropriation available to FEMC as operational funds.

#1 List of Applicants Requesting Retired Status*

#2 Copy of the 2005-2006 DBPR Contract

#3 Letter from ELSEES dated July 1, 2005*

#4 Letter from ABET dated July 20, 2005*

#5 Proposed 2006 Meeting Dates

The proposed calendar for 2006 was reviewed. The Board requested this calendar be presented to each Board member in an electronic format so that as it is changed it may be immediately forwarded to each Board member.

Mr. Martin confirmed that FES had contacted the office to receive confirmation of the Board's intention to have a Board meeting in conjunction with the FES Annual meeting at the Breakers Hotel in July 2006. This was confirmed and as a result of the dates for the meeting were changed to more equally distribute time between these two meetings.

Mr. Duyos noted that a Miami meeting does not appear on the calendar for the next year and this should be revisited in lieu of the large number of licensees that live in the area.

Mr. Martin referenced Ft. Lauderdale as one location since it has been several years since holding a meeting there. If the Board would like to consider one of the other locations being changed to Miami then it could be done. He noted the problems with securing space in Orlando. Mr. Rebane suggested use of the hotel next to the convention center and that second day of the meeting be held in the convention center.

The Board indicated they did not want to have another meeting at the Safety Harbor Resort. In discussion it was determined to change the location to Tampa for 2006.

#6 Discuss 2005 FES Annual Meeting

Mr. Martin noted his attendance at the FES 2005 annual meeting. The results of this meeting was to reaffirm the need for improved communication between the Board and FES.

#7 Board selection of representative to the Building Code Education and Outreach Council

Ms. Ila Jones, DCA, had contacted the Board office regarding the need to have a Board member appointed to serve as a representative to serve on this council.

Mr. Rebane explained that it was important to have a member serve on this Committee as it may become necessary to develop rules in the future. After discussion, Mr. Rebane agreed to serve on this committee.

Mr. Rebane noted that this Board had also taken a position regarding the DCA product approval process. The Board had charged Mr. Martin with attending the product approval committee meetings to monitor the outcome of any rules that DCA may be considering and to advise this Board of any needed changes to the Board rules on product approval. Mr. Martin indicated that he was not sure that any such meetings had been scheduled. He would check with Ila Jones and either he or his designated representative will plan on attending such future meetings.

#8 Discussion of procedures in use for selection of P.E. Consultants for disciplinary cases

After discussion regarding present procedures being followed, the Board directed that prosecuting attorneys consult with the investigators in the process of selecting experts for all cases.

Mr. Sunshine reported that Mr. Charland had provided several names of individuals that were willing to serve as structural engineering experts.

A short discussion followed on the fee to be paid for experts. The present rate is capped at \$75 per hour. If there were special circumstances that required an increase cost, all factors would be considered and a higher hourly rate would be approved.

#9 Interpretation of Rule 61G15-23.002, F.A.C. as it relates to use of a date stamp

A question has been raised concerning the use of a date stamp rather than actual signing of the date.

Upon a motion by Mr. Charland seconded by Mr. Rebane, the Board confirmed that plans may be dated mechanically or in writing at the time of signing and sealing.

While discussing this matter, Ms. Flynn stated that she had received an e-mail from a gentleman who was requesting permission to delegate the signing, sealing and dating of his plans while recovering from hand surgery to his right hand

In discussion, the Board reaffirmed that the person would have to sign, seal and date with their left hand and that Chapter 471, F.S. does not provide for delegation of the act of signing, sealing and dating of engineering documents..

Ms. Flynn will respond to the message based on the Board's discussion.

#10 E-mail from Cheryl Hasan ASME Young Engineers Forum Program

Mr. Martin asked that each Board member review the request and determine if he/she would like to attend and speak at the forum. Dr. Miller agreed to check his calendar and, if available, he would attend. Dr. Bauer was named as his alternate.

#11 E-mail from Timothy Blankenship VP-Miami Dade American Society of Civil Engineers

This correspondence requested that the Board send an envoy to speak at an upcoming meeting. Mr. Duyos agreed to speak at this forum.

It was noted that the PowerPoint presentation on the disciplinary process available from the Board office would be useful and Mr. Duyos requested that the staff send that presentation to him electronically upon returning to Tallahassee.

Mr. Tomasino noted that he is scheduled to speak to the FES Chapter in Tampa and he asked for a copy of the PowerPoint presentation, as well.

#12 Email from Gary Skaggs, P.E., ABET

Mr. Skaggs will be serving as Chair of the EAC/ABET committee assigned to review the biomedical engineering program at Florida International University.

Chair Matthews encouraged Board members on attending at least one of these reviews. After discussion, Mr. Rivera agreed to attend this review. He would check his calendar to make sure he had no conflicts.

F. Chair's Report

#1 2005-2006 FBPE Committees*

The Chair reviewed the committee appointments for the remainder of this year. To avoid quorum problems, there are alternate Board members who may be called on in the event they are needed to fill absences.

The Chair appointed Mr. Burke to serve as the Chair of the Nominations Committee. The other members appointed were David Charland and R. Gerry Miller.

Mr. Rebane noted that appointment of the special Endorsement Application Committee was not on the list. The Chair would review membership and appoint this committee in the near future.

Mr. Martin shared concerns about the application review process. He believed that any education issue should be reviewed and determined by the Educational Advisory Committee prior to review of experience and examinations.

The Chair was concerned with requiring all applications to be reviewed by the Educational Advisory Committee. He suggested that any board member could review a file and sign off on the education of an applicant if a copy of the page from the EAC/ABET catalog was enclosed to confirm the status of the program for any EAC/ABET graduate applicant.

It was also reaffirmed that a small endorsement application review could occur between full application review committee meetings in Tallahassee by reviewing those files at subsequent Board meetings.

After discussion, the Board determined that all approved applications should have at least two Board Member signatures, just like all denials.

G. Correspondence to the Board

#1 Memo dated July 15, 2005 from Herbert S. Saffir*

#2 Letter from Brian L. Snell dated July 19, 2005*

H. Old Business

Mr. Rebane inquired on the status of a rule to have the Board become the sole source of laws and rules courses for continuing education. Ms. Gustafson would have a draft before the next Continuing Education Committee. In discussion, the Board confirmed that fast tracking the development of a new rule regarding approval of laws and rules courses is very important if it is to be in place prior to the next renewal cycle.

FES had asked the Board that continuing education requirement be more aligned with the NCEES model. It was noted that the Continuing Education Committee has not yet addressed this matter. Mr. Geer noted that FES is awaiting notice to attend the committee meeting to provide input on this matter. It was determined that a Continuing Education Committee meeting would be scheduled on September 20, 2005, the day prior to the September Applications Review Committee Meeting. Mr. Geer would notify the FES committee to confirm their attendance.

It was noted that in the April Board meeting there was a directive to place the Unlicensed Activity Committee on a fast track so that efforts can be completed to move this program along. To date, no action has been taken. Mr. Duyos stated

that the last Deans meeting had occurred on the same date as the June Board meeting. He plans on attending the fall meeting of the Deans.

Mr. Martin noted that Ms. Trescott had indicated that all of the previous survey work may become obsolete. Action to move forward would prevent the survey results from becoming stale before the program was ever implemented.

Mr. Rebane asked that this item be reflected on each Board agenda as an outstanding item until such time as it moves forward.

Mr. Rebane asked again for appearance of a disciplinary legal report on each future Board Meeting agenda. Traditionally, this report gave the number of complaints and ongoing status of each category of legal matters.

Mr. Rebane asked the staff to bring back the probation report that has not been available for some time. Ms. Flynn explained that the last directive from the Board was not to include it in the meeting agenda. Rather, it would be available in the Board Office for review, if requested. Ms. Flynn also confirmed that responsibility for probationary tracking has been transferred to the Legal Section.

It was suggested that an Access or Excel report would provide what is requested regarding legal statistics.

Mr. Martin agreed to provide such reports at the next meeting.

Mr. Rebane asked for an update on the report to the DBPR regarding Board's dissatisfaction with LicenseEase and the Board's desire not to continue using it when the current agreement to use it expires in 2008.

Mr. Matthews explained that action on this matter was delayed until the next contract was engaged and with a new secretary the best way to approach this issue will have to be determined.

Mr. Rebane asked for an update on the 100% compliance on continuing education. Mr. Martin indicated that DBPR has not given him an update on the proposed changes to the continuing education program. Mr. Matthews suggested Dr. Miller hold a conference call with the FES Committee to discuss this matter before proceeding.

Mr. Rose asked for an update on the plan to have a joint meeting with DCA to discuss Medhi Ashraf's report on problems associated with hurricane damages.

Mr. Geer noted concerns with the new electronic signing and sealing rule. The concerns relate to problems with the program's ability to change the document without affecting the electronic sealing. Upon conclusion of discussion, the matter was to be placed on the next agenda for further review.

Mr. Tomasino complimented the mailing of the Summer 2005 newsletter. He had received many positive comments about the latest newsletter.

I. New Business

J. Public Forum

Part II
Informal Hearing Agenda

K. Informal Hearings on Denial of Application for Fundamentals Examination

#1 Reynaldo Calupitan Buencamino

Mr. Buencamino was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Buencamino's application for the Fundamentals examination was denied based on educational deficiencies. Mr. Buencamino holds a BS degree from Mapua Institute of Technology in the Philippines. Review of the evaluation by Josef Silny and Associates revealed no evidence of a course in Probability and Statistics. Mr. Buencamino filed an Election of Rights to supplement and to have an Informal Hearing. To supplement his application, Mr. Buencamino submitted a letter stating that he has registered to take a class in Probability and Statistics at Seminole Community College that begins in January and ends in May. He also requested that his file remain open as the course will not be completed within the 90 day time frame for supplementing the application. The decision to have a file remain open requires Board approval. The Informal Hearing was scheduled for the June meeting and at that time the Board voted to continue the Informal Hearing to the August meeting at which time Mr. Buencamino was to submit transcripts confirming completion of a course in Probability and Statistics.

Mr. Buencamino explained the delay in enrolling in the course that would satisfy the deficiency of Probability and Statistics. He indicated that he should be able to finish by December. There were, however, no guarantees. After discussion the following action was taken:

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Board voted to uphold the denial of the application.

#2 Julio N. Espeche-Urau

Mr. Espeche-Urau was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Espeche-Urau was denied for the Fundamentals examination based on education. He holds a Bachelors of Science in Engineering Technology from Texas Tech University awarded in 1990. In order to be accepted with a technology degree in Florida the applicant would have to satisfy the time line outlined in Section 471.013(2), F.S. "Is a graduate of an approved engineering technology curriculum of 4 years or more in a

school, college or university within the State University System, having been enrolled or having graduated prior to July 1, 1979.”

Mr. Espeche-Urau responded to the Notice of Denial by filing for a Formal Hearing. Board Counsel advised Mr. Espeche-Urau that there was no material issue of disputed fact and directed the matter be placed on the August agenda for consideration of Petition for Formal Hearing. Should the Board vote to deny the petition Mr. Espeche-Urau was informed that he would have the opportunity for an Informal Hearing. She further advised Mr. Espeche-Urau that if he also held a foreign engineering degree, as stated in his correspondence, he should request that the Board consider this fact during the hearing.

Based on Mr. Espeche-Urau’s presentation, the Board could determine whether an evaluation of his engineering education from Guatemala would be appropriate and the matter would then be remanded to the Educational Advisory Committee. This action was not considered prior to his filing for hearing as the engineering education from Guatemala was not listed on the profile data form in his application.

Upon a motion by Dr. Miller seconded by Mr. Burke, the Board voted to deny the Petition for Formal Hearing.

Mr. Espeche-Urau addressed the Board regarding his education.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the denial of the application was upheld.

The applicant was advised of his right to file a new application based upon his foreign degree and, in this process, would have to submit an evaluation of his foreign engineering education by an approved evaluation service.

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

#1 Pradeep Nagarajan

Mr. Nagarajan was not present for his informal hearing.

Mr. Nagarajan passed the Fundamentals examination and was applying to sit for the Principles and Practice examination. Mr. Nagarajan holds an undergraduate degree from Madras University in India awarded in 1998. He subsequently completed two MS degrees from Florida International University in Miami. A degree in environmental engineering was awarded in 2000 and a degree in industrial engineering was awarded in 2002. When reviewing his experience record, the Board determined that

Mr. Nagarajan had not evidenced four years of experience. It was determined that he was deficient 36 months. Mr. Nagarajan submitted an Election of Rights to supplement and to have an Informal Hearing. The supplement was considered and the denial was upheld.

Mr. Nagarajan requested the Board award one year of experience for each MS degree and that he receive credit for experience that was completed during completion of his MS degrees.

Upon a motion by Mr. Burke seconded by Mr. Rose, the Board voted to uphold the denial.

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

#1 Norman Golinkin

Mr. Golinkin was not present for his Informal Hearing.

Mr. Golinkin was licensed in Illinois in 1995 based on acceptance of his education, experience and passing the Fundamentals and Principles and Practice examinations. He was subsequently licensed in Wisconsin in 2004. The basis for denial of Mr. Golinkin's application for licensure by endorsement is education.

Mr. Golinkin holds a BS and MS in Architecture from the University of Urbana-Champaign. He does not hold an EAC/ABET engineering degree. Mr. Golinkin submitted an Election of Rights form to supplement and the have an informal hearing. Mr. Golinkin did not submit the supplemental information within the 90-day time period.

Upon a motion by Mr. Duyos seconded by Ms. Velazquez, the Board voted to uphold the denial.

#2 Mohsen Mostajabi

Mr. Mostajabi was present and was sworn prior to addressing the Board.

Mr. Mostajabi was licensed in Georgia in 1985 based on acceptance of his education, experience and passing of the Fundamentals and Principles and Practice examinations. He was subsequently licensed in Ohio in 1993. The basis for denial of Mr. Mostajabi's application for licensure by endorsement is education. Mr. Mostajabi holds a bachelor's degree from the University of London in London, England. He submitted an evaluation from Foreign Credentials Service of America. After reviewing the evaluation, the Board determined that the evaluation was inadequate

and that a proper engineering education evaluation would have to be presented and denied the application.

Mr. Mostajabi explained that his university in England had indicated they no longer have records to release as part of the evaluation. Mr. Mostajabi indicated that he had contacted two evaluation services and was unable to secure an evaluation that meets the requirements of the Board's rule.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, the Board voted to continue this hearing to the October meeting. A friendly amendment by Ms. Velazquez to continue the matter to December due to time constraints was accepted. A vote was called on the motion as amended and the motion passed. The purpose of the continuance was to allow Mr. Mostajabi time to research the possibilities of securing the necessary documents for a foreign degree evaluation per the Board's rule.

#3 Shailesh Patel

Mr. Patel was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Patel has passed the NCEES Fundamentals and Principles and Practice examination and his experience meets requirements of Chapter 471, F.S. The basis for denial of Mr. Patel's application for licensure by endorsement was education. Mr. Patel has an undergraduate degree from India. For this reason, his application was considered under Rule 61G15-20.007, F.A.C. After reviewing his evaluation from ECEI, it was determined that Mr. Patel was deficient 11.5 hours in Humanities and Social Sciences. Mr. Patel had submitted a letter stating that he would be satisfying this deficiency in the spring and summer of 2005. He was scheduled for an Informal Hearing in February at which time he requested that his file remain open until he completed these courses. The Board continued the hearing to the August Board meeting at which time Mr. Patel was to be prepared to present transcripts confirming 11.5 hours in Humanities and Social Sciences. If the deficiency was not satisfied then, the denial would be upheld.

Mr. Patel presented transcripts confirming 11.5 hours in Humanities and Social Sciences. Mr. Duyos also noted that under authority of Rule 61G15-20.0015(4), F.A.C. the Humanities and Social Sciences could be waived.

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

#4 Deepak Ahuja

Mr. Ahuja was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Ahuja was licensed in Texas in 1996 with acceptance of his education, experience and passing of the NCEES Fundamentals and Principles and Practice examinations. He was subsequently licensed in Oklahoma in 2003 and New Hampshire in 2004. The basis for denial of Mr. Ahuja's application is education. Mr. Ahuja holds a Civil and Mechanical Engineering degree from the Birla Institute of Technology in Ranchi, India. He was required to provide an evaluation of his foreign credentials for a determination of compliance with Rule 61G15-20.007, F.A.C. A review of the evaluation from Josef Silny & Associates, Inc. indicated a deficiency of 12 semester credit hours in Humanities and Social Sciences and 12 semester credit hours in Mathematics and Basic Sciences. He sent in his Election of Rights form to supplement and to have an Informal Hearing. The Applications Review Committee reviewed the supplemental materials and determined that the deficiency was not satisfied.

Mr. Ahuja addressed the Board regarding his education and licensure background. He was of the opinion that the procedures followed by evaluation services results in a reduction of hours completed in the curriculum.

In discussion, Mr. Ahuja was advised that this Board depends on the evaluation services regarding the methods of evaluating degrees and requirements of authenticated documents.

The Board explained that Humanities and Social Sciences could be waived under authority of Rule 61G15-20.0015 (4), F.A.C. However, that leaves a deficiency in mathematics and basic sciences.

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

#5 Terrence Lee Lambert

Mr. Lambert was present and was sworn prior to addressing the Board.

Mr. Lambert's application for licensure by endorsement was denied and an Informal Hearing was scheduled for the April Board meeting. At the April hearing, the Board determined that supplemental information submitted by Mr. Lambert satisfied the course deficiencies in Probability and Statistics and Differential Equations. At that time, there remained a deficiency of eight semester credit hour in engineering courses. Mr.

Lambert confirmed enrollment at the University of Central Florida at the April meeting in order to complete six semester credit hours. There was discussion regarding the total number of hours that should be awarded for completing his Thesis. Mr. Lambert was advised that should the number awarded remain as first reported he would still remain deficient two semester credit hours.

At the August meeting, Mr. Lambert presented a transcript from the University of Central Florida confirming completion of twelve (12) semester credit hours in order to cover any remaining deficiencies in his education.

Upon review, it was determined that all deficiencies were now satisfied.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, the application was approved for licensure by endorsement.

#6 Daniel Kryski

Mr. Kryski was not present for his Informal Hearing.

Mr. Kryski was licensed in California in 2001 by acceptance of his education and passing scores on the NCEES Fundamentals and Principles and Practice examinations. The basis for denial of Mr. Kryski's application is education and experience. Mr. Kryski holds a bachelor's degree from the University of British Columbia, Vancouver, BC, Canada, and he did not verify the required four years of engineering experience. Mr. Kryski submitted an Election of Rights form for an Informal Hearing with the option to supplement. The supplemental information was reviewed by the Application Review Committee and the application remained denied.

After a short discussion the following action was taken:

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

#7 Gad Tawadros

Mr. Tawadros was present and was sworn prior to addressing the Board.

Mr. Tawadros was licensed in Georgia in 2004 based on acceptance of his education and passing of the NCEES Fundamentals and Principles and Practice examinations

The basis for denial of Mr. Tawadros' application is education. Mr. Tawadros holds a bachelor's degree from Ain Shams University in Egypt. He submitted an evaluation from Josef Silny and Associates to allow consideration for compliance with 61G15-20.007, F.A.C. Review of the evaluation confirmed a deficiency of three (3) credit hours in Math and Basic Sciences, 15.50 credits in Humanities and Social Sciences and proof of computer skills. He submitted an Election of Rights to supplement his application and to have an Informal Hearing. The supplemental information was an evaluation from ECEI. Review of this evaluation resulted in a revised deficiency of 3 semester credit hours in Mathematics and Basic Sciences and 15.5 semester credit hours in Humanities and Social Sciences.

To resolve the remaining deficiencies Mr. Tawadros presented a transcript verifying the completion of 15 semester credit hours in Humanities and Social Sciences. He confirmed that this transcript had not been presented to Silny and Associates at the time they completed their evaluation. Mr. Tawadros indicated that he was planning to complete a three hour course in biology to correct the Mathematics and Basic Sciences deficiencies.

Upon a motion by Ms. Velazquez seconded by Dr. Miller, the Board continued this hearing to the February 2006 Board meeting. Mr. Tawadros was advised to complete the three hour course in biology as he stated he was doing and to contact Silny and Associates to prepare a revised evaluation based on the additional transcript addressing the deficiencies in Humanities and Social Sciences that should be submitted as soon as possible.

#8 Thomas Simonetti

Mr. Simonetti was not present for his informal hearing.

Mr. Simonetti was licensed in Pennsylvania in 1989 based on acceptance of his education and experience and passing of the NCEES Fundamentals in 1987 and the Principles and Practice examination in 1988.

The basis for denial of Mr. Simonetti's application was education. He holds a BS degree in Biology. In response to the Notice of Denial, Mr. Simonetti submitted a letter requesting consideration of his graduate studies. Graduate studies were not completed and this prevented consideration of his education through articulation under Rule 61G15-20.001(2)(b), F.A.C.

After a short discussion the following action was taken.

Upon a motion by Mr. Rivera seconded by Mr. Rose, the Board voted to uphold the denial. It was noted later in the meeting that Mr. Simonetti had submitted a request for continuance to a future meeting to allow his attendance.

A motion was made by Ms. Velazquez seconded by Mr. Rivera, to reopen this matter and bring it back to the floor. The motion failed.

#9 Dennis Maloskey

Mr. Maloskey was not present for his informal hearing. He did submit a written statement that was included in the agenda book. Mr. Maloskey was licensed in Pennsylvania in 2001 based on acceptance of his education, experience and having passed the NCEES Fundamentals and Principles and Practice examinations.

The basis for denial of the application was education. Mr. Maloskey holds an engineering technology degree.

After a short discussion the following action was taken:

Upon a motion by Mr. Burke seconded by Mr. Duyos, the Board voted to uphold the denial of the application.

#10 Teresa Keiffer-Curry

Ms. Gustafson explained that Ms. Keiffer-Curry was requesting a continuance based on the fact that she is pregnant and cannot travel at this time.

Upon a motion by Mr. Duyos seconded by Dr. Miller, the Board voted to grant the continuance to the October 2005 meeting.

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

None

O. Informal Hearings on Denial of Application for Continuing Education

None

P. Special Appearance before the Board

None

Part III

Disciplinary and Unlicensed Hearings

R. Settlement Stipulations

- #1. James H. Pohl, P.E.
PE 16891
FEMC Case Numbers 03-0045 & 03-0158
Represented by Steven E. Stark, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Pohl was not present; he was represented by his counsel, Mr. Edwin Bayó.

Mr. Pohl has been charged by Administrative Complaint with 13 counts of fraud, deceit, or misconduct; 13 counts of plan stamping; and one count of practicing or offering to practice engineering to the public through a business organization that does not possess a Certificate of Authorization.

Mr. Pohl has entered into a stipulation with FEMC for a \$27,000.00 administrative fine and costs of \$1,636.03; he agrees to the voluntary revocation of his professional engineer's license in lieu of any further discipline, and he agrees to cooperate with FEMC in any further investigation arising out of or related to this case, including testifying at any potential hearing, where applicable. This stipulation was executed by Mr. Pohl for the purpose of avoiding further administrative action with respect to this cause.

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

Mr. Bayó stated that after entry into the Settlement Stipulation he had advised Mr. Pohl that having entered into this stipulation the only thing that might be done is to request a reduction of fine.

After a short discussion the following action was taken:

Upon a motion by Mr. Rebane seconded by Mr. Burke, the Board voted to adopt the Settlement Stipulation as presented.

- #2. Joseph C. Park, P.E.
PE 42687
FEMC Case Number 2004021296
Represented by John T. Metzger, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Park was present and was sworn prior to addressing the Board. His attorney was not present.

Mr. Park has been charged by Administrative Complaint with one count of negligence for his foundation design for a single-family LaVea Residence project. Mr. Park's foundation design contained deficiencies relating to the practice of engineering.

Mr. Park has entered into a stipulation with FEMC for a \$1,000.00 administrative fine and costs of \$1,581.70; an appearance before the Board to explain the basis for his reliance for his selection of a foot foundation and soil bearing condition; a reprimand; Mr. Park must refrain from practicing engineering until he takes and passes the Structural II Examination for the National Council of Examiners for Engineering and Surveying (NCEES); two years probation with terms he successfully completes a Board approved course in Engineering Professionalism and Ethics; submit a list of projects completed by him at twelve months; and he must successfully complete the Study Guide.

If Mr. Park has no list of projects to submit as required by the Final Order, his probation shall be extended for two successive six month intervals (one year) to allow for the required review. If the required number of review is completed within the first six month intervals of the one year extension, the probation will end at that time. In no event shall the probation exceed a total of three years.

If Mr. Park takes and passes NCEES's Structural II Examination, he must submit a list of projects involving structural engineering completed by him at twelve months from the date of passing the examination. Should he fail to have completed any projects involving structural engineering during the twelve month interval, he agrees that if he is no longer on probation, he remains obligated to submit to FEMC, for review by a FEMC consultant, his next two projects involving structural engineering.

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

Mr. Park explained that his selection was based on a report completed by a geotechnical firm that was engaged by the architect that was involved in the project.

He confirmed that if he were ever in the same situation again he would perform a more in depth review of information that is gathered in the process of completing the project.

There was discussion regarding Mr. Park's current business and the type of engineering performed. He responded to questions posed by Mr. Rebane to affirm that he does not perform electrical engineering.

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

- #3. Roy J. Bairley, P.E.
PE 31615
FEMC Case Number 03-0035
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Bairley was not present for his hearing.

Mr. Bairley has been charged with one count of misconduct for expressing an opinion on an engineering subject without being informed as to the facts, and therefore unable to form a sound opinion, or by being misleading in a professional report. On or about August 28, 2002 signed and sealed a wall detail with the statement, "Existing footer utilized to carry weight of wall. Size of 8" deep x 20" wide – verified, approved by engineer." On May 9, 2003, Mr. Bairley wrote a letter to the Polk County Building Department, reporting that excavation discovered a lack of foundation under one of the bearing walls, and provided a correction.

Mr. Bairley is also charged with one count of negligence for failure to utilize due care, or have due regard for engineering standards in the preparation of a roof design. The roof designs structural calculations were deficient, wind and gravity reactions to the rafters are not specified, details of the connections between the rafters and ceiling joists were not provided, and the rafter size and spacing do not meet the requirements of the Florida Building Code.

Mr. Bairley did not dispute the allegations and he elected to enter into a Settlement Stipulation that calls for payment of a \$2,000 fine; costs in the amount of \$2,323.46; reprimand, two years probation with plans review at 6 and 18 months; study guide on laws and rules and completion of a course in Professionalism and Ethics.

Upon a motion by Mr. Burke seconded by Dr. Miller, the Board voted to adopt the Settlement Stipulation.

- #4. Robert C. Kany, P.E.
PE 16739
FEMC Case Number 2004014726
Represented by Daniel M. Greene, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Kany was present and was sworn prior to addressing the Board. His attorney was not present.

Mr. Kany has been charged with two counts of affixing his seal, name, or signature to final drawings that were not prepared by him, or under his responsible supervision, direction, or control, and two counts of aiding and assisting the unlicensed practice of engineering. Robert S. Thomas, an unlicensed individual, entered into contracts with clients, and prepared plans without proper representation from a licensed professional engineer. Mr. Kany never had contact with the clients. All plans and drawings were designed by Mr. Thomas, with no supervision or responsible control from Mr. Kany. The Board entered a Final Order in December, 2004, against Mr. Thomas for unlicensed practice.

Mr. Kany is also charged with two counts of negligence for signing and sealing plans that contained mechanical, electrical, and plumbing details that do not comply with acceptable engineering standards, and do not meet the requirements of the Florida Building Code.

Mr. Kany did not dispute the allegations and he elected to enter into a Settlement Stipulation that calls for payment of a \$6,000 fine; costs of \$4,398.20; two year probation with plans review at 6 and 18 months; study guide; course in Professionalism and Ethics and appearance before the Board to explain his understanding of plan stamping and aiding and assisting unlicensed engineering.

Mr. Kany addressed the Board regarding his understanding of plan stamping. He confirmed that he has taken necessary steps to review all engineering work that he signs and seals. In response to question regarding his firm, he indicated that a second engineer has been engaged by the company and would assume responsibility for engineering performed by the firm.

In further discussion, it was determined Mr. Kany's responses to the questions posed had not satisfied the concern of his understanding of the requirements for responsible charge and supervision.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the Board voted to reject the Settlement Stipulation.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the Board voted to offer the terms of a counter-stipulation calling for revocation of license and payment of costs.

Mr. Kany rejected the terms of the counter-stipulation and indicated that he would seek his counsel's advice on this matter.

S. Defaults

- #1. Nagendra N. Khanal, P.E.
PE 16515
FEMC Case Number 2004061841
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Khanal was not present. He was represented by his counsel, Mr. David Rankin, Esquire.

Mr. Khanal has been charged with negligence relating to deficiencies found in his Elizabeth Beymer project plans and calculations, as a result of a probationary project review for a previous disciplinary case.

On April 11, 2005, an Administrative Complaint was filed and sent to Mr. Khanal by certified mail, along with an Election of Rights form and an Explanation of Rights form. The aforementioned documents were received on or about April 25, 2005.

The Explanation of Rights form advised Mr. Khanal that if he failed to make an election in this matter within twenty-one days from receipt of the Administrative Complaint, his failure to do so would be considered a waiver and the Board would proceed to hear his case. Mr. Khanal failed to request a hearing.

During this time frame, Mr. Khanal engaged Mr. Rankin to represent him in these proceedings.

Mr. Khanal, during the time frame of prosecuting this case, had attended every Aluminum Association meeting that was scheduled. The purpose of attendance was to inform other engineers of the problems associated with design of aluminum structures. Mr. Rankin asked that the Board consider a reprimand in this case.

Mr. Sunshine asked that the Board grant his Motion for Default and that a reprimand and \$5,000 fine be imposed.

Ms. Gustafson advised the Board to rule on the Motion for Default.

Upon a motion by Mr. Rebane seconded by Mr. Rivera, The Board determined to grant the Default, adopt the Findings of Fact and Conclusions of Law, and impose a reprimand and \$5,000 administrative fine.

#2. Fred C. Jones, P.E.
PE 54476
FEMC Case Number 03-0149
Represented by Dominic C. MacKenzie, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Jones was present with his attorney, Mr. MacKenzie. Mr. Jones was sworn prior to addressing the Board.

Mr. Gustafson cautioned the Board on ex-parte communication such as what occurred in this case. Mr. MacKenzie had submitted information directly to the Board members. Mr. MacKenzie responded that he had copied Mr. Sunshine and his purpose was to make the information was placed on the record. It was confirmed by Mr. MacKenzie that all information submitted is in the record.

Mr. Jones has been charged with four counts of negligence, two counts for violating a rule of the Board, and one count of plan stamping.

On June 13, 2005, an Administrative Complaint was filed and sent to Mr. Jones by certified mail, along with an Election of Rights form and an Explanation of Rights form. The certified mail was received and signed for on June 16, 2005.

The Explanation of Rights form advised Mr. Jones that if he failed to make an election in this matter within twenty-one days from receipt of the Administrative Complaint, his failure to do so may be considered a waiver and the Board may proceed to hear his case.

On July 8, 2005, the Board received a Petition and Request for Formal Hearing and Evidentiary Proceeding from Dominic C. MacKenzie, Esquire, in this matter. Mr. Jones failed to timely request a hearing.

On July 11, 2005, the FEMC Prosecutor filed a Motion to Deny Petition for Formal Hearing due to the Respondent's petition for formal hearing was untimely filed at the Florida Engineers Management Corporation office.

On July 18, 2005, the FEMC received Respondent's response to the motion to deny petition for formal hearing.

On July 20, 2005, the FEMC Prosecutor amended the motion to deny petition for formal hearing to request the entry of a default. A response to the amended motion has not been received.

The FEMC Prosecutor filed a Motion for Default, to which Mr. Jones responded.

Mr. Sunshine was requesting the Board to Grant the Motion to Deny Petition for Formal Hearing and Entry of Default.

Mr. MacKenzie addressed the Board regarding his request that the Board vote against the Motion for Default. He outlined the circumstances that resulted in the late filing and he asked that his client not be penalized for actions of his office in the late filing.

Ms. Gustafson addressed the Board on the legal options available. The Board could grant the default or it could allow the late filing and the case would proceed with either a Formal Hearing or an Informal Hearing. Upon conclusion, the following action was taken:

Upon a motion by Ms. Velazquez seconded Mr. Duyos, the Motion for Default was denied.

T. Adjourn