

Florida Board of Professional Engineers
February 22 & 23, 2005
Meeting begins at 8:30 a.m., or soon thereafter
Casa Monica Hotel
St. Augustine, Florida

Part I
General Business Agenda

A. Meeting Administration

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

The Chair called the meeting to order followed by the Invocation and Pledge of allegiance.

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

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

Others Guests Present:

Charlie Geer, PE, FES Liaison
Paul Martin, Esquire, Executive Director
Carrie Flynn, Assistant Executive Director
Doug Sunshine, Esquire, Prosecuting Attorney
Bruce Campbell, Esquire, Prosecuting Attorney
Lee Ann Gustafson, Esquire, Board Counsel
Leigh Ann Dollar, Assistant to the Executive Director
Bill Dunn, PE, Sun Cam
Bob Lutz, PE

#3 Approval of the Agenda

Mr. Matthews added #E9 Review of Current Budget and Proposed Budget.

Mr. Matthews added that consideration of the new appointment to the FEMC Board would be addressed under Item H#1.

Mr. Matthews added under Old Business H#2 Discussion of Requiring attachments as part of the renewal process.

With these additions the following action was taken.

Moved by Mr. Duyos and seconded by Mr. Rebane to accept the agenda as amended.

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

Mr. Rebane moved and Mr. Burke seconded acceptance of the Consent Agenda. A vote was called and the motion passed.

#5 Review and Approval of previous Board meeting minutes

a. Minutes from the December 7 & 8, 2004 Board Meeting

Mr. Rebane moved and Mr. Burke seconded acceptance of the minutes.

Several corrections were noted and Mr. Rebane accepted an amendment to his motion to accept the minutes with noted corrections.

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.; Paul Tomasino, P.E.; Allen Seckinger, P.E., Consultant)

a. Report on Meeting of January 27, 2005*

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

Ms. Velazquez called attention to the fact that she was listed as absent for attendance of the last Rules Committee. She did not believe she was currently appointed to this committee. The Chair explained that she would review the committee appointments. Depending on the outcome the minutes would be corrected accordingly.

a. Minutes from Rules Committee Meeting January 18, 2005

Mr. Rebane outlined items that were discussed in the last rules committee meeting. A proposed application for endorsement of EI Certification from other state was reviewed and approved. This application will be placed on the Board's web site in the near future. The Committee discussed issues with the Florida Building Code and proposed advanced training courses. The understanding is that the Florida Building Commission was to train licensees on the building code. As it turns out DCA/FBC due to lack of money and personnel were not able to develop the programs. Presently licensees would be required to complete the building code course one time. There is no further requirement as there are no advanced courses offered at this time. The Board's web site has been updated to reflect the Board's position on this matter. The agenda for the March 16, 2005 Continuing Education Committee will include discussion on this topic.

The Board discussed the laws and rules requirement and how other states handle this type of requirement. Mr. Matthews noted that North Carolina developed a questionnaire on laws and rules that is provided to each licensee for completion. The Board supported this approach.

The Rules Committee recommended that staff research development of a brochure to be distributed to building officials.

Mr. Rebane noted that Ms. Gustafson was assigned the responsibility to review the NCEES Electronic Signing and Sealing policy for ideas in developing a proposed rule for this Board. She had also amended rewording the disciplinary guidelines rule. Mr. Sunshine presented copies of the revised rule and noted that it should be referred back to the rules committee for further review.

There was a short discussion reference to EAC/ABET degree to meet qualifications for examination. The ABET catalog is updated yearly. Under NCEES guidelines, graduates are accepted from a program for a period of three years prior to the program receiving EAC/ABET accreditation. This is different

from the Board's policy of recognizing graduates from a program two years prior to accreditation.

The Rules Committee had discussed the definition of public record and the need for expanding content of the definition to adequately reflect situations that would require signing and sealing. In a future meeting the definition in the responsible charge rules will be reviewed in conjunction with signing and sealing rule for inclusion of additional word.

Mr. Matthews noted that a question was put to the National Design Build Associations to define fast track. Their response did not indicate any awareness of this term. Mr. Matthews felt the word was derived from a presentation in a previous disciplinary case and in fact does not exist in present terminology for Design Build projects.

Under discussion regarding Product Approval it was requested that a representative of the DCA be invited to the April meeting.

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 Report

- #1 Memorandum from NCEES regarding Proposed Amendments to the Constitution and Bylaws
- #2 NCEES Midyear meeting of Executive Director's & Board Chair's

The Chair reported that he and Mr. Martin had attended the NCEES Midyear meeting of the Member Boards Executive Directors and Board Chairs Assembly. Topics discussed were plans to revise the licensure model. In this revision a designation of Chartered Engineer would be included. The proposal was not well received and it is believed that this proposal is a method of increasing the number licensed engineers and would probably be voted down in the Zone meetings. NCEES has engaged a security expert to work examination security and they are considering a requirement that member Boards contract with ELSSES or they will not be allowed to purchase the NCEES examinations.

During this discussion of NCEES the issue of pass/fail rates was discussed. A question was raised regarding this Board's wish to receive a copy of the pass rate report for each university. In further discussion it was explained that it might subject this information to the public records law. A point was raised regarding continuation of use of the EAC/ABET as the standard for accepting applicants for the Fundamentals examination. It apparent that EAC/ABET and NCEES are reluctant to address the concern in regards to curriculums.

The Chair noted that NCEES is researching the economics in developing the examinations that are offered. As a result of the research certain examinations may no longer be offered. Two that were referenced are Naval Architecture and Marine Engineering.

D. Advisory Attorney's Report

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

Ms. Gustafson reviewed the rules report.

Mr. Duyos noted that May 1, 2005 is listed in the repeal of the language Recognizing an MS degree to waive H&SS. The date should be June 1, 2005. Ms. Gustafson confirmed that she would make the correction prior to filing the rule.

Mr. Martin gave a brief update on his efforts to secure information on electronic signing and sealing. He had received copies of rules from several states. Based on information received, he had prepared a

proposed draft of a rule for Board review. The Chair asked the Rules Committee if they supported this proposed draft.

Mr. Duyos moved and Mr. Rebane seconded to have Ms. Gustafson move forward with amending 61G15-23.003, F.A.C. based Mr. Martin's proposed draft of the Electronic Sealing rule. A vote was called and the motion passed.

In response to direction from the rules committee, Ms. Gustafson modified 61G15-22.011, F.A.C. to include language that restricts professional engineers from having financial interest in technology that they may teach.

Mr. Rebane moved and Mr. Tomasino seconded the proposed amendment to the Continuing Education Rule. A vote was called and motion passed.

#2 Rules Report for January 2005
(This item will be presented on the second day)

#3 Board Counsel Opinion Letters

a. No report.*

E. Executive Director's Report

#1 List of Applicants Requesting Retired Status*

#2 Exam re-grade referral policy

Mr. Martin outlined the procedures that allow applicants to request a re-grade of their examinations. The procedure requires the applicant to submit a fee of \$75.00 and the request to re-grade must be approved by the Board. The procedure is of no value as it is simply checking the grading key that is already calibrated prior to the administration of the examination.

Mr. Martin asked the Board's consideration to decline this procedure in the future.

Mr. Rebane suggested staff advise applicants of the procedure and the lack of results regarding the change in scores rather than eliminating the step of requesting a re-grade.

After discussion Ms. Velazquez moved and Mr. Rivera seconded to request from Council forward a copy of their written procedure. This information will be made available to the applicant at the time they submit this request and the Board will have a copy in their April agenda for informational purposes.

A vote was called and the motion passed.

#3 Update on renewal process

Mr. Martin called attention to the latest information appearing on the web site explaining what happens to the license status as of February 28, 2005. He noted that staff has worked the past two Saturdays and every effort is being made to bring the process up to date.

The Department had agreed to allow the change of status switch to delinquent and null and void to FEMC staff.

In working the applications for renewal those that were deficient are being copied and returned to the licensee. If the incompletes are not returned and in the office by February 28, 2005 the license becomes delinquent and an additional \$100 fee will be assessed.

He outlined the process for Certificates of Authorization renewals, the fact that it takes 25 minutes for renewal to complete the LicenEase. He stated that staff has made great efforts to process the backlog of renewal forms.

Related to this discussion of renewal Agenda Item H #2 was addressed discussion on Requiring Certificates as part of the Renewal Process

Mr. Tomasino asked about the requirement in place for this renewal as related to submission of certificates. Mr. Martin explained that his presentation on renewal in the last Board meeting referenced this procedure. To comply with Chapter 455 F.S. regarding 100% compliance the certificates are required. He noted that major number of returns were the result of failing to attach copies of the certificates.

Mr. Rebane noted that the requirement was not outlined in the Board rules. Furthermore submission of a copy of a certificate does not ensure that the licensee had completed the courses. Anyone could make a copy the certificate. The rules should be amended prior to the next renewal cycle if copies of certificates are to be submitted.

After discussion the following action was taken.

Mr. Rebane moved and Ms. Velazquez seconded that consideration be given to allowing the renewal to proceed without submission of certificates based on the fact that the Board rules did not require certificates.

Mr. Martin believed the Board should have presented their position in the discussion renewal. To change now would revert to old procedure of a signed

statement only which he did not believe would comply with 455 and 100% compliance requirement.

Mr. Tomasino offered a substitute motion that would allow an extension of the deadline to allow licensee's the opportunity to comply with requirement of certificates.

Mr. Geer spoke on behalf of FES in favor of Mr. Rebane's motion.

For clarification, Mr. Burke asked for confirmation that under Mr. Rebane's motion renewal forms that are submitted and that list the hours on the back of the form would not be returned for submission of certificates and would not enter delinquent status.

The Chair confirmed Mr. Burke's understanding of the motion.

The Chair called for a second to Mr. Tomasino's substitute motion. The substitute motion failed for lack of a second.

The Chair asked Mr. Rebane, as the maker of the original motion, if he would accept the substitute motion. Mr. Rebane declined to accept the substitute.

The Chair called for a vote on the original motion that licensees only be required to meet requirements of 61G15-22.006, F.A.C. including the signature by the deadline of February 28, 2005. The motion passed four to three.

Mr. Rebane explained that he was not be malicious in making his motion he is simply preventing thousands of engineers from becoming delinquent for failure to comply with requirement that is not in the rule. Immediate action needs to be taken to put into place procedures for future renewals and an opinion as to what constitutes 100% compliance.

#4 Approve application of EI certification from another states

Mr. Rebane moved and Mr. Burke seconded to approve the application as presented. A vote was called and the motion passed.

#5 Quarterly Report to the DBPR for October 31, 2004 – December 31, 2004

Mr. Martin reviewed the quarterly report for October, November and December.

#6 Staff request for Board action regarding problems with Product Approval System of the FL Building Commission

Mr. Campbell explained that validators perform administrative reviews of product analysis by evaluators. The review confirms that the product and the evaluation comply with the Florida Building Code. These validators may be licensed as engineers or architects but the work they perform as validators may not involve engineering analysis. If the validator holds licensure as a Professional Engineer or Architect they may also serve as the evaluator.

Mr. Campbell believed the Building Commission's rule sets out adequate procedures for local building departments to follow; it does not address the procedures on a statewide basis. Mr. Campbell advised the Board to consider his recommendations for possible modifications to the responsibility rules required for engineers acting as validators. The purpose being to set forth guidelines that must be followed should a Professional Engineer serve as a validator of product approval evaluations that are completed by another professional engineer.

Discussion followed and upon conclusion the following action was taken.

It was moved by Mr. Rebane and seconded by Mr. Burke to refer this matter to the Rules Committee for possible modification of 61G15-36, F.A.C. and that staff assist the rules committee in securing a structural engineer to serve as a consultant to the committee. A vote was called on the motion and it passed.

Mr. Rebane invited Mr. Lutz to the next rules committee meeting.

#7 Approval of 2003-2005 Consultant's list for CE credit

Moved by Mr. Rebane and seconded by Mr. Rivera to ratify the list as submitted. A vote was called and the motion passed.

#8 Nominations for NCEES National Awards

Mr. Martin had submitted nominations for national awards for Mr. Seckinger and Ms. Flynn.

#9. Discussion of Proposed Budget for 2005-2006

Mr. Martin reviewed the proposed budget for 2005-2006. He noted his plan to assign development of a Board newsletter once the renewal process is completed. Mr. Martin outlined the track record of increasing positions and cash return to the Department since 1998. He noted an increase in rent over the past two years, the increasing expense for the because of rental of hotel rooms for CE credit and the position that is assigned to continuing education. He is more convinced than ever that the appropriation will need to be increased for 06-07, his projection would be 2.5 million a year. He will present in the April meeting, documentation to justify adding an additional licensure technician position. He noted the increase in the

NCEES membership fees resulting from plan to cover costs of Board Chair and Board Administrator to the member board administrators meeting.

Mr. Rose asked about moving toward being a paperless organization. Mr. Martin was in agreement but to move toward paperless requires adequate funding.

In final discussion a question was raised and the answer confirmed that should course approval be pursued the cost of the CE program would increase tremendously.

F. Chair's Report

- #1 Discussion of Committee assignments and Board member obligations

The Chair reminded all board members of their obligation to fulfill responsibilities to review and act on the increasing number of applications submitted.

In the past the approach was relaxed and with new deadlines with ELSSES and amount of time involved in carrying out scheduling all members of the Board should focus on attending the application committee reviews.

Ms. Gustafson reinforced the statutory requirement of a quorum to conduct business. This has proven to be a problem with application reviews.

Several suggestions were discussed regarding composition of Board committees. Mr. Matthews will consult with Mr. Martin and a follow up report will be forthcoming on committee compositions.

G. Correspondence to the Board

- #1 Letter from Derek Paice dated January 4, 2005

No comment

- #2 Correspondence from Engineering & Testing, Inc. regarding Geology Board issues

Ms. Gustafson did not believe the Board should respond. In further discussion it was determined that Mr. Martin should forward letter to Board of Geology regarding the interpretation of a violation for geotechnical engineering.

- #3 Correspondence from Lindsay J. Smith regarding Signing and Sealing of Hydraulic Calculations

This e-mail deals with signing and sealing each page of the hydraulic calculations. Staff presently interprets no exception except what is specifically referenced in the rule. This individual is interpreting these calculations to be a report and as such the cover sheet would be the only page to be signed and sealed.

Mr. Rebane explained that hydraulic calculations are considered under the requirement of signing and sealing every page. In the building code there no reference as a report. Final decision was to endorse staff's interpretation of signing and sealing rule as correct.

#4 Correspondence from Mr. Tomasino re: possible violation of Chapter 471, F.S.

Mr. Campbell's had concerns with considering titles such as Automotive Engineering as a violation of Chapter 471, F.S.

After discussion the Board confirmed that they were comfortable with the present approach as to what cases are pursued under unlicensed activity.

H. Old Business

#1 Review of applications from candidates for FEMC Board of Director vacancy

Discussed the criteria that is desirable for appointment to the FEMC Board. Mr. Martin explained that there are two meetings per year. There may be a need for conference calls on occasion.

Moved by Mr. Tomasino to appoint Roger L. Jeffrey, PE. Ms. Velazquez seconded the motion, a vote was called and the motion passed

For the record it was noted that Malyard Paul James, John Garlinger and Boyd Cochrane had applied for the positions

Moved by Mr. Rebane and seconded by Mr. Rivera that staff forward a copy of John Garlinger's application to Secretary Carr with a cover letter requesting that she consider Dr. Garlinger for appointment to the FEMC Board. A vote was called and the motion passed.

I. New Business

Ms. Gustafson advised Board members on the procedures to be following in conducting a DOAH Recommended Order.

Ms. Velazquez asked for confirmation that staff has hand outs for those attending for CE on the second day of this meeting. She also asked for update on contract

monitor. Mr. Martin confirmed that for the fourth time there is a new contract administrator.

A vote was taken on Dr. Miller's absence.

Moved by Mr. Rebane and seconded by Mr. Burke to consider the absence unexcused. A vote was called and the motion passed.

J. Public Forum

Part II Informal Hearing Agenda

The Chair announced that a request for a continuance had been filed by Neela Rao Mantry, Maged Abdel-Messih and Gordon Smith.

Moved by Mr. Tomasino and seconded by Mr. Rivera to grant continuances for the April meeting. A vote was called and the motion passed.

K. Informal Hearings on Denial of Application for Fundamentals Examination

#1. Sasan Mohammadhosein

Mr. Mohammadhosein's applied for the Fundamentals examination and his application was denied for educational deficiencies. He holds a degree in engineering from Iran and review of the evaluation from Josef Silny & Associates confirmed that Mr. Mohammadhosein was deficient 6 semester credit hours in higher mathematics or basic sciences. Mr. Mohammadhosein submitted an Election of Rights to supplement his application and to have an Informal Hearing if the denial was upheld. In review of the supplemental information Mr. Mohammadhosein submitted proof of enrollment in basic science courses at Florida Community College. His hearing was scheduled for the February meeting to allow completion of the courses. Final transcripts submitted as a part of the record confirmed completion of the required number of hours in mathematics and basic sciences.

Mr. Duyos moved and Ms. Velazquez seconded approval of the application. A vote was called and the motion passed.

#2. Jean Examond

Mr. Examond first applied for the Fundamentals examination in 2001 and his application was denied for educational deficiencies in basic sciences, higher math and humanities and social sciences. In November of 2003, Mr. Examond reapplied. As a part of this application, he submitted an evaluation from Josef

Silny dated 2003. Mr. Examond's holds a BS from Haiti and an MS degree from University in New York Under 61G15-20.007, the MS degree would waive the Humanities and Social Sciences, this leaves a deficiency in higher math. This did not clear the deficiencies in math and basic sciences and the application was again denied.

In response to the denial, Mr. Examond submitted an Election of Rights to supplement and to have an Informal Hearing. Mr. Examond was present and following his presentation the following action was taken.

Mr. Rebane moved and Mr. Duyos seconded to uphold the denial for deficiencies of higher three hours in math to include a course in Probability and Statistics and four semester credit hours in basic sciences.

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

#1 Alan Plants

Mr. Plants applied for the Principles and Practice examination and was denied for failure to satisfy the requirement of four years of engineering experience as required by Rule 61G15-20.002, F.A.C. Mr. Plants submitted an Election of Rights to supplement and elected to have an Informal Hearing. The supplemental information did not satisfy the evidence of 4 years of work experience in engineering.

Mr. Plants was present to address the Board. Following conclusion of Mr. Plant's presentation the following action was taken.

Mr. Rebane moved and Mr. Rivera seconded approval of the application. A vote was called and the motion passed.

Mr. Duyos asked that staff provide further details regarding the basis for denial in the Notice of Denial letters.

#2 Siaka Kone

Mr. Kone applied for the Principles & Practice examination and his application was denied. Mr. Kone holds an undergraduate degree from the Ivory Coast, West Africa, a Masters and Ph.D. degree from the University of Florida. Mr. Kone's application remained in an incomplete status because he was unable to have documents submitted directly to Josef Silny & Associates for evaluation of his education. Pursuant to the Board's policy that all incomplete applications are scheduled for review after they remain incomplete for a period of six (6) months or more, the application was submitted for review and was subsequently denied. Mr. Kone submitted his election of rights to have an Informal Hearing to request

the Board's consideration of the hardship in securing original for Josef Silny & Associates. During the processing of this application, staff forwarded copies of the transcripts to Josef Silny & Associates.

Mr. Kone was present to address the Board. Upon conclusion of the presentation the following action was taken.

Mr. Rivera moved and Mr. Burke seconded to direct Silny and Associates to perform an evaluation from the transcripts that have been submitted to the Board office.

In discussion of the motion it was noted that the Board has waived requirements for original documents but they have never waived the required evaluation. Further Mr. Kone was requesting the Fundamentals examination be waived based on his Ph.D. degree. It was confirmed that Mr. Kone was not eligible for waiving the Fundamentals examination.

Ms. Gustafson suggested denial of the application and a separate motion concerning use of transcripts for Fundamentals application.

After discussion the following action was taken

Mr. Rivera moved and Mr. Burke seconded to deny the application for the Principles and Practice examination and that Mr. Kone should apply for the Fundamentals examination and that Josef Silny and Associates be directed to perform their evaluation from the transcripts submitted. A vote was called and the motion passed.

#3 Leslie A. Sierra

Mr. Siero applied for reexamination and was denied. The denial was a result of his having failed five times. Mr. Siero submitted an Election of Rights to supplement and have an Informal Hearing. Mr. Siero believes he should be accepted under present wording of Section 47.013(1) (e) and that his previous exam failures should not count against him.

Ms. Gustafson recommended that the Board uphold the denial.

Moved by Mr. Burke and seconded by Mr. Duyos to uphold the denial a vote was called and the motion passed.

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

#1 Justine R. Ferrier Hopgood

Mr. Hop good applied for licensure by endorsement and was denied. Mr. Hop good has passed the NCEES Fundamentals examination and the NCEES Principles and Practice examination in Puerto Rico and he has the required years of experience. The basis for denial was education. Section 471.013, F.S.requires that an applicant evidence an EAC/ABET accredited engineering degree. Mr. Hopgood holds a BS degree in Industrial Engineering from the Polytechnic University in Puerto Rico issued June 16, 1989. This program did not become an EAC/ABET accredited program until 1996. He sent in his Election of Rights form to have an Informal Hearing and to supplement. The supplemental information was reviewed. It did not resolve the deficiency and his application remains denied.

Moved by Mr. Duyos and seconded by Mr. Rebane to uphold denial. A vote was called and motion passed.

#2 Shailesh Patel

Mr. Patel applied for licensure by endorsement and was denied. Mr. Patel has passed the NCEES Fundamentals and Principles and Practice examination and he has the required experience. The basis for denial is education. He does not hold an EAC/ABET accredited degree. Mr. Patel has a degree from India. For this reason, his application was considered for articulation. After reviewing his evaluation from ECEI, it was noted that Mr. Patel was deficient 11.5 Semester credit hours in Humanities and Social Sciences. Mr. Patel sent in a letter stating that he will be satisfying this deficiency in the spring and summer of 2005. He requests that we keep his file open until he has completed these courses.

Moved by Ms. Velazquez and second by Mr. Rose to hold file open until the August 18, 2005. A vote was called and the motion passed.

Mr. Patel was advised to appear at the August meeting and to bring transcripts.

#3 Gabriel A. Jimenez-Lopez

Mr. Jimenez-Lopez applied for licensure by endorsement and was denied. Mr. Jimenez-Lopez holds an undergraduate BS degree in engineering from Mexico and a MS and Ph.D. in engineering from the University of Minnesota. Mr. Jimenez-Lopez was licensed in Minnesota in 2000 based on education, experience and completion of the principles and practice examination. The NCEES fundamentals examination was waived based on his Ph.D. in engineering. The basis for denial is his education. The Board considered his application under Rule 61G15-20.001(2) (b), F.A.C. that provides for articulation to the criteria set forth in Rule 61G15-20.007, F.A.C. In review of the evaluation from Josef Silny and Associates, it was determined that he was deficient in mathematics and basic science in that he did not show evidence that he took a two sequence course of study in Physics or Chemistry, he was deficient in Humanities and Social

Sciences. Humanities and Social Sciences would be satisfied by Board rule because of his M.S.C.E. and Ph.D. degrees. This left the deficiency of a second sequence course in either Chemistry or Calculus based physics.

Mr. Jimenez-Lopez was present with supplemental information.

After review of the supplemental information the following action was taken.

Moved by Duyos and seconded by Mr. Burke to approve application.

#4 James Mindur

Mr. Mindur applied for licensure by endorsement by endorsement and was denied. Mr. Mindur was licensed in New York in 1984. Pursuant to Section 471.015(3)(c), F.S., Mr. Mindur has passed both parts of the required examinations and has satisfied the experience requirements for licensure. The basis for denial is education. He is a graduate of the Polytechnic University of Gdansk in Poland. He did not submit an evaluation of his foreign degree pursuant to Rule 61G15-20.007, F.A.C. He has been unsuccessful in arranging for Silny & Associates to receive the requested certified transcripts and supporting documents so to allow them to evaluate his education. Without the evaluation a review required by Board rule could not be conducted by members of the Education Advisory Committee.

In response to the denial, Mr. Mindur submitted his Election of Rights to have an Informal Hearing. Mr. Minder was requesting that the Board consider his application under the experience provision of Section 471.013(1) (a) 3.m F.S. and the fact that he has passed the required examinations and has been licensed since 1984 as the basis for granting licensure in Florida.

Mr. Duyos moved and Ms. Velazquez seconded approval of the application for licensure by endorsement. A vote was called and the motion passed.

#5 Terrence Lee Lambert

Mr. Lambert's applied for licensure by endorsement and was denied for educational deficiencies. Mr. Lambert was licensed in Michigan in 2004 based on education, experience and examinations. The basis for denial of his application in Florida was education. Mr. Lambert holds an undergraduate BS degree in Chemistry from Northern Michigan University and an MS Degree in Civil Engineering from the University of Wisconsin. Based on his MS degree, his application was considered for articulation pursuant to Section 61G15-20.001, F.A.C.

Mr. Lambert submitted an Election of Rights to supplement and to have an Informal Hearing. The supplement did not clear the deficiencies. Mr. Lambert

presented information for his hearing that solved the Probability and Statistics and Differential Equations. This left a deficiency of nine semester credit hours in engineering courses. Mr. Lambert is in process of completing six semester credit hours in engineering course. He questioned the Board's position of granting no more than six hours for completing a thesis. Following discussion the following action was taken.

Moved by Mr. Duyos and seconded by Mr. Rebane to uphold the denial.

In further discussion of the motion, Mr. Lambert indicated that his petition was to have his file remain open to allow completion of the six semester credit hours at the University of Central Florida. Mr. Duyos withdrew his motion and Mr. Rebane withdrew his second.

Mr. Duyos moved and Mr. Rebane seconded to allow Mr. Lambert's case to be continued to the August meeting. By that meeting he should be able to furnish final transcripts of additional courses. Additional hours for his thesis would depend on conclusion of research with Dr. Anderson to determine the maximum hours allowed for a thesis. If the number remains as is, Mr. Lambert would still be deficient three semester credit hours. A vote was called and motion passed.

#6 Neola Rio Mantra

continued

#7 Maged Abdel-Messih

Mr. Abdel-Messih applied for licensure by endorsement and was denied. Mr. Abdel-Messih has passed the NCEES Fundamentals and Principles and Practice examination and his experience meets requirements of Chapter 471, F.S. The basis for denial is education. Mr. Abdel-Messih has an undergraduate degree from Egypt. Mr. Abdel-Messih provided an evaluation from ECEI. The problem with the evaluation was the content. The evaluation did not specify the courses completed in the area of mathematics and this is needed to determine if the required math courses were completed. Mr. Abdel-Messih supplemented with an evaluation from Josef Silny & Associates. Review of this evaluation indicates a deficiency of 1.5 hours of mathematics and 15.5 hours of Humanities and Social Science.

Moved by Mr. Duyos and seconded by Mr. Rebane to uphold the denial. A vote was called and motion passed.

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

#1 Gordon H. Smith

Continued to April

O. Informal Hearings on Denial of Application for Continuing Education

#1 ITT Industries Little Red Schoolhouse

Denial of Application for Continuing Education Provider Status

61G15-22.011 (2), FAC

ITT applied for approval as a provider of continuing education. Upon reviewing the application, it was the decision of the Board that ITT failed to establish eligibility to be a provider by showing that it fit under one of the categories set forth in Rule 61G15-22.011(2), F.A.C. ITT applied under the category of “regionally accredited educational institutes”, which, of course, it is not, and now claims that maybe it is a commercial educator even though it is an arm of a manufacturer and provides these classes for free as a service to the hydraulic and steam industry.

In response to the denial, ITT submitted an Election of Rights to supplement and to have an Informal Hearing. Mr. Kevin Cordero attended on behalf of Little Red Schoolhouse.

After discussion the following action was taken.

Moved by Mr. Rebane and seconded by Mr. Burke to uphold denial

P. Special Appearance before the Board

None

**Part III
Disciplinary and Unlicensed Hearings**

Q. Recommended Orders

#1. Lawrence L. George, P.E.
PE 21282
FEMC Case Number 03-0116
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. George is charged by administrative Complaint with violations of Sections 471.033(1)(a), F.S., violating any provision of s. 455.227(1), s. 471.025, or s.

471.031471.033(1)(g), F.S., (five counts), engaging in negligence or misconduct in the practice of engineering.

It is alleged that the Respondent signed and sealed several letters certifying that the windows met the provisions of the 2001F.B.C. The Respondent specifically represented that the windows meet the large missile/small missile impact requirements of the code. The Respondent also signed and sealed several wind load analyses for Atlantic.

The Respondent provided no information that missile impact test have ever been performed on any of the windows as required by section 1606.1.4 F.B.C. Respondent made the same representations in an on-line application for state-wide product approval.

Respondent signed and sealed a mullion detail. Respondent certified that the mullion detail satisfied the wind load requirements of the code. However, Respondent failed to abide by section 1707.4.5 F.B.C., for failing to have the proper laboratory testing performed on the design, or failing to perform competent engineering analysis.

Respondent's wind load calculations for several projects do not comply with code or acceptable engineering standards for failure to properly calculate the negative design wind pressures for the single unit to receive the replacement windows by failing to consider the height of the building in which the windows were installed; for use of a 1/3 increase in allowable stress for temporary loading; use of an importance factor of .77, and for failing to verify that the existing components and cladding, such as doors, roofing and wall elements, etc., and the main wind force resisting systems were designed to resist the design load for a "partially enclosed" structure.

Respondent presented the described engineering documents on stationary bearing the name Highlands Engineering, Inc. Highlands Engineering, Inc., at all times relevant to these accusations, and did not hold a Certificate of Authorization to provide engineering services.

The Respondent elected to have a Formal Hearing before an Administrative Law Judge, (A.L.J.); the hearing took place on November 16, 2004. On December 21, 2004, the (A.L.J.) issued a Recommended Order stating that the Respondent is guilty of negligence in the practice of engineering and guilty of offering engineering services through a corporation that does not have a Certificate of Authorization. The (A.L.J.) did not find reason to believe that the Respondent is guilty in committing fraud or deceit in any of the counts in the Amended Administrative Complaint. The (A.L.J.) recommended that FEMC adopt a Final Order imposing a penalty of: Reprimand; six months suspension; five years probation, an Administrative Fine of \$12,000.00; and costs of the proceedings totaling \$12,272.59.

Mr. Campbell summarized the analysis of the product approval process completed by Mr. George that confirmed a missile test that was to be conducted was not completed.

The Administrative Law Judge's Recommended Order exceeded the penalty recommended by the Probable Cause Panel.

Moved by Mr. Rebane and seconded by Mr. Duyos to reject all exceptions. A vote was called and motion passed

Moved by Rebane and seconded by Mr. Burke to adopt the Findings of Facts. A vote was called and the motion passed

Moved by Rebane and seconded by Mr. Burke to adopt the Conclusions of Law. A vote was called and the motion passed.

Moved by Ms. Velazquez to adopt the DOAH recommended penalty with an amendment to reduce the fine to \$6,000, probation of two years and project review. A vote was called and the motion died for lack of second

Mr. Campbell spoke to how the penalty was derived. Mr. George had continued to submit documentation for permitting and installation of the windows that were indeed not certified to proper testing requirements.

This also has a statewide impact as the intent of the statute to allow statewide approval and local building officials have not authority to require any further testing prior to installation. Although statewide as never granted to these windows had it been granted the windows would have been installed statewide and would have posed a threat to the health, safety and welfare of the public on a statewide basis?

Mr. Rebane moved and Mr. Burke seconded to accept the Administrative Law Judge's recommended penalty imposing a reprimand; six months suspension; five years probation, an administrative fine of \$12,000.00; and costs of the proceedings totaling \$12,272.59. During the probation, Mr. George is prohibited from conducting product approval tests and/or validation services. Further during probation he is to submit a list of any and all plans that he may have completed and appearance before the Board at the end of probation. The first project list would be due six months after effective date of probation period.

In response to a request from Mr. George's attorney for additional time to pay the fine and costs the following action was taken.

Moved by Mr. Rose and seconded by Mr. Burke to require payment six months of the Final Order Date. A vote was called and the motion passed.

R. Settlement Stipulations

- #1. Design Services, Inc.
CA 4297
FEMC Case Number 2004028116
Represented by Amy C. Duffey, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Campbell explained that the Board could address the three Settlement Stipulations related to Design Services, Mr. Gilmore and Mr. Hansen in one motion

Moved by Mr. Duyos and seconded by Mr. Rebane to accept three settlement stipulations for Design Services, Gilmore and Hansen.

Design Services Inc is charged by administrative complaint with violation of Sections 471.031(1) (a), 471.031(1) (e), 471.031(1)(f), F.S.

Until June 10, 2002 Ralph Hansen, Jr. was the principal officer who qualified Respondent's Certificate of Authorization. On June 18, 2002, Ralph Hansen Jr's license to practice engineering was Revoked. On or about June 10, 2002, Respondent amended the Certificate of Authorization to list Carl E. Gilmore, P.E. as the Principal Officer of the company. At all times relevant to this case, filings with the Florida Division of Corporations listed the Ralph Hansen, Jr. as President of Respondent, while Carl Gilmore maintained a separate office.

Although Carl E. Gilmore signed and sealed as engineer of record for Respondent., Ralph Hansen, Jr. developed and prepared engineering plans, or directed and controlled the preparation of engineering plans, for customers whose only contact and communication was with Ralph Hansen, Jr.; and when such plans were submitted to building departments, Ralph Hansen, Jr. was the only representative for the customers to meet with building officials for engineering review and revisions.

At all timed relevant, Respondent's location was 6636 Rowan Rd., New Port Richey, FL, a location infrequently visited by Carl E, Gilmore, who did not meet customers there.

Ralph Hansen, Jr. continued to practice engineering though Respondent after his license had been revoked.

Respondent originally elected to have a Formal Hearing. In negotiation a Settlement Stipulation was entered. In negotiating the Settlement Stipulation, the Prosecuting Attorney sought a guarantee that after the corporation's Certificate of Authorization is revoked, it would not be associated with any business offering

engineering services. Respondent stipulates to the filing of a civil action in the Circuit Court immediately after entry of a Final Order by the Board approving the stipulation, so that the terms of the Final Order will be enforceable by Contempt of Court or Injunctive proceedings without further Board action.

#2. Carl E. Gilmore, P.E.
PE 23155
FEMC Case Numbers 2004028149, 2004047686
Represented by Amy C. Duffey, Esquire
Probable Cause Panel: N/A for 2004047689 and 200400656;
Matthews, Tomasino, Seckinger for 2004028149; and Rebane,
Matthews, Seckinger for 02-0124

Final Orders were previously issued in case numbers 2004006565 and 02-0124.

A proposed settlement is presented in the context of this aiding & abetting Administrative Complaint (2004028149). The proposal recognizes this settlement supersedes other existing Final Orders or charges, because the revocation makes performance of probation terms impossible. Case 02-0124 provides for project review. Case 2004006565 suspends Respondent's license for one year for failure to submit projects for plan review. Case 2004047686 charges Respondent was late in paying the fine associated with his one year suspension.

On or about June 10, 2002 Respondent joined in the application to become principal officer of Design Services, Inc., to qualify it for a Certificate of Authorization. On June 18, 2002, Ralph Hansen Jr, whom was Design Services previous Principle officer had his license to practice engineering Revoked. At all times relevant to this case, filings with the Florida Division of Corporations listed the Ralph Hansen, Jr. as President of Design Services, Inc., while Respondent maintained a separate office.

Although Respondent signed and sealed as engineer of record for Design Services, Inc., Ralph Hansen, Jr. developed and prepared engineering plans, or directed and controlled the preparation of engineering plans, for customers whose only contact and communication was with Ralph Hansen, Jr.; and when such plans were submitted to building departments, Ralph Hansen, Jr. was the only representative for the customers to meet with building officials for engineering review and revisions.

Respondent originally elected to have a Formal Hearing. In further negotiation a Settlement Stipulation was entered with a guarantee that, Respondent would never again be a principle officer, partner, shareholder, nor hold any ownership interest in a business entity that performs engineering services. The proposed settlement provides for revocation of Respondent's license, payment of costs to the Board in the amount of \$2,706.25, representing reimbursement of \$2,456.25 for probation plan review, and \$250.00 for a Circuit Court filing fee, and Respondent stipulates

to the filing of a civil action in the Circuit Court immediately after entry of a Final Order by the Board approving the stipulation, so that the terms of the Final Order will be enforceable by Contempt of Court or injunction proceedings without further Board action.

#3. Mr. Ralph Hansen, Jr.
(Unlicensed)
FEMC Case Number 2004028139
Represented by Amy C. Duffey
Probable Cause Panel: Seckinger, Tomasino, Matthews

On June 18, 2002, Respondent's license to practice engineering was Revoked. On or about June 10, 2002, Respondent amended the Certificate of Authorization of Design Services, Inc. to list Carl E. Gilmore, P.E. as the Principal Officer of the company. At all times relevant to this case, filings with the Florida Division of Corporations listed the Respondent as President of Design Services, Inc., while Carl Gilmore maintained a separate office.

Although Carl E. Gilmore signed and sealed as engineer of record for Design Services, Inc., Respondent developed and prepared engineering plans, or directed and controlled the preparation of engineering plans, for customers whose only contact and communication was with the Respondent; and when such plans were submitted to building departments, Respondent was the only representative for the customers to meet with building officials for engineering review and revisions.

On December 19, 2003, Carl E. Gilmore, P.E., signed and sealed a set of plans in Pasco County. The plans listed the engineer as "Ralph Hansen, Jr. #9280, Design Services, Inc".

On March 5, 2004, a set of plans were filed in Pasco County, the plans list "Carl E. Gilmore, P.E. 23155, Design Services, Inc." and show the plans were checked by "RMH JR".

On March 26, 2004, a set of plans were filed in Pasco County, the plans list "Carl E. Gilmore, P.E. 23155, Design Services, Inc." and show the plans were checked by "RMH JR".

On March 31, 2004, a set of plans were filed in Pasco County, the plans list "Carl E. Gilmore, P.E. 23155, Design Services, Inc." and show the plans were checked by "RMH JR".

Respondent originally elected to have a Formal Hearing. In further negotiation a Settlement Stipulation was entered. The settlement included a requirement that the Respondent would never again be a principle officer, partner, shareholder, nor hold any ownership interest in a business entity that performs engineering services. The proposed settlement provided for that plus a \$2,500.00

Administrative Fine, plus a \$250.00 Circuit Court filing fee. Additionally, Respondent stipulates to the filing of a civil action in the Circuit Court immediately after entry of a Final Order by the Board approving the stipulation, so that the terms of the Final Order will be enforceable by Contempt of Court or Injunction proceedings, without further Board action.

#4. Thomas L. Knight, P.E.
PE 47614
FEMC Case Number 2004020908
Probable Cause Panel: Matthews, Tomasino, Seckinger
(See Exhibit R#4 in Red Book One)

Mr. Knight is charged by Administrative Complaint with violation of section 471.033(1) (g), F.S., engaging in negligence or misconduct in the practice of engineering.

Respondent elected to enter into a Settlement Stipulation with the Board which would impose the recommended discipline of the Probable Cause Panel set forth as payment of a \$1,000.00 fine; Costs of \$574.60; Reprimand; two (2) years of probation; Study Guide; Course on Professionalism and Ethics; Appearance before the Board to explain how his revised plan would correct the drainage problems of Lot 23.

Mr. Knight was present and was represented by counsel. Mr. Knight addressed the Board regarding procedures taken to correct the deficiency

Ms. Velazquez moved and Mr. Duyos seconded to accept the Settlement Stipulation. A vote was called and the motion passed.

#5. Clayton E. Anderson, P.E.
PE 26735
FEMC Case Number 2004027763
Represented by Thomas G. Tomasello, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Anderson has been charged by Administrative Complaint with negligence in the practice of engineering Section 471.033(1) (g), F.S., engaging in negligence in the practice of engineering.

Mr. Anderson has entered into a stipulation with FEMC for a \$1,000.00 administrative fine and costs of \$584.63; an appearance before the Board to explain how he establishes how a property is at or above the flood protection elevation to be able to certify as such and why he did not consider the GIS Topographic Map; a reprimand; and probation for two years with terms he successfully complete a Board approved course in Engineering Professionalism

and Ethics and successfully complete the Study Guide. This penalty was identical to recommended penalty by Probable Cause Panel.

Mr. Anderson was present to address the Board on why the GIS survey was not used.

Ms. Velazquez moved and Mr. Burke seconded adoption of the Settlement Stipulation. A vote was called and the motion passed.

S. Informal Hearings

- #1. Kenneth H. Ehlers, P.E.
PE 18243
FEMC Case Number 02-0086
Represented by James E. Shepherd, Esquire
Probable Cause Panel: Rebane, Matthews, Seckinger (1-15-2003)
Matthews, Tomasino, Seckinger (10-2-2003)

Mr. Ehlers has been charged by Administrative Complaint with two counts of negligence in the practice of engineering (Section 471.033 (1) (g), F.S. relating to his Block Bay Window project located in Longwood, Florida. The Block Bay Window project design contains deficiencies.

Mr. Ehlers did not dispute the allegations and had elected an informal hearing before the Board.

Mr. Ehlers was present but was not represented by his attorney Mr. Shepherd. He addressed the Board and upon conclusion the following action was taken

There was discussion regarding dismissal of Count Two of the Administrative Complaint. It was clarified that provided the recommended penalty was accepted count two would be deleted

Moved by Ms Velazquez and seconded by Mr. Duyos to adopt the Probable Cause Recommendation of a Reprimand; \$1,000.00 administrative fine based on dismissal of count II of the Administrative Complaint; costs; 2 years probation; plan reviews at 6 and 18 months; a Board-approved course in professionalism and ethics; study guide; and appearance before the Board to explain what steps he will take to prevent this issue from reoccurring. A vote was called and the motion passed.

Mr. Ehlers asked for consideration of a payment plan.

Ms. Velazquez amended her motion to include have a payment plan of one year and assessed costs of \$1347.00. Mr. Duyos accepted the amendment. A vote was called and the motion passed.

#2. Houshang Karimi, P.E.
PE 36106
FEMC Case Number 2004034131
Probable Cause Panel: N/A

Mr. Karimi has been charged by Administrative Complaint with violating an order of the board or department entered in case number 2004034131 which is set forth in Section 471.033(1)(k), F.S.. Mr. Karimi failed to submit a Certificate of Completion that he had completed a Board approved course in professionalism and ethics.

Mr. Karimi does not dispute the allegations and has elected an informal hearing before the Board. Mr. Karimi was present to address the Board.

He explained that he had repeatedly taken a laws and rules course to satisfy the Professionalism and Ethics Course under advice of his counsel. When the administrative complaint was filed for violating an order of the Board, Mr. Karimi took the correct course and a copy of the certificate was presented in the hearing.

Ms. Velazquez moved to dismiss the case. Mr. Rose seconded the motion. A vote was called motion failed.

Mr. Rebane moved to impose fine of \$1000 probation, plan review 6 and 18 months. Mr. Burke seconded the motion.

Ms. Velazquez spoke against motion would support fine of \$500 as only penalty.

A vote was called and the motion failed

Ms. Velazquez moved to impose a fine of \$500 and she accepted an amendment to include a reprimand and payment of the fine within thirty days of the Final Order. Mr. Tomasino seconded the motion, a vote was called and the motion passed.

#3. Nagendra N. Khanal, P.E.
PE 16515
FEMC Case Number 2004008519
Represented by David P. Rankin, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Khanal is charged by Administrative Complaint with negligence in the practice of engineering (471.033(1)(g), F.S.). Mr. Khanal does not dispute the allegations and has elected an informal hearing before the Board.

Mr. Khanal was present and he was represented by Mr Rankin and his son. Representatives from the Aluminium Screen Enclosures Association were present to speak on behalf of Mr. Khanal. Mr. Rankin addressed the board and upon conclusion the following action was taken.

Mr. Velazquez moved to adopt the terms of the recommended penalty by Probable Cause with amendment to eliminate the Suspension. Motion failed for lack of second.

Mr. Rebane moved to impose a Reprimand; \$5,000.00 administrative fine; costs; 1 year suspension; restriction of practicing structural engineering; he is required to withdraw screen roof and pool/patio enclosures plans and drawings, and to withdraw authorization of their use by anyone in all jurisdictions within 60 days of the date of the Final Order or evidence by a sworn certification submitted to FEMC. Mr. Burke seconded for discussion.

Mr. Rebane added a required appearance before the Board at conclusion of suspension and confirmation of having withdrawn the plans from jurisdictions that may the plans on file. Mr. Burke seconded the amendment to the motion.

A vote was called and the motion passed.

T. Adjourn

With all business concluded the meeting was adjourned.