

**Minutes**  
**Florida Board of Professional Engineers**  
**July 26 & 27, 2006**  
**Beginning at 8:30 a.m., or soon thereafter**  
**Palm Beach, Florida**

**Part I**  
**General Business Agenda**

A. Meeting Administration

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

FBPE Board Members Present:

Henn Rebane, P.E., Chair  
John Burke, P.E., Vice Chair  
Christian Bauer, Ph.D., P.E.  
David Charland, P.E.  
Robert Matthews, P.E.  
Paul Tomasino, P.E.  
Daniel Rivera, Public Member  
Albert Rose, P.E.  
David Bloomquist, Ph.D., P.E.  
Kathy Hogenkamp, P.E.  
Nola Garcia, Public Member

FBPE Staff Present:

Paul J. Martin, Executive Director  
Carrie A. Flynn, Assistant Executive Director  
Leigh Ann Dollar, Executive Assistant  
Bruce Campbell, Esquire, Board Prosecutor

Board Counsel, Lee Ann Gustafson, Esquire, Senior Assistant Attorney  
General

#2. Roll call, Determination of Quorum, and Address Absences.

All members present, a quorum was declared by the Chair. Ms. Garcia was absent from the Second Day of the meeting due to a grave family illness. Upon a motion by Mr. Matthews seconded by Dr. Bauer, her absence was excused for family illness pursuant to the Board's rule.

- #3. Introduction of guests and announcements as to presentations at a time certain.

No introductions or announcements were made.

- #4. Approval of the Agenda

The agenda was amended to transfer Item I #1(a) to Item C#1. An item involving Discussion concerning the Aluminum Structures Task Force was added under Item B#4, Rules Committee.

In discussion, Item I#2 concerning an efficiency study of FEMC operations was deferred to the October meeting.

Review of applications for the Principles and Practice examination was scheduled to follow the conclusion of the first day's general business meeting.

The agenda was approved as amended.

- #5. Approval of the Consent Agenda  
(Items denoted with an asterisk were included in the Consent Agenda\*)

Mr. Rebane requested that the June meeting minutes be removed from the consent agenda.

Upon a motion by Dr. Bauer seconded by Mr. Matthews, the consent agenda was adopted as amended.

- #6. Review and Approval of previous Board meeting minutes

- a. Minutes from the June 14 & 15, 2006 Board Meeting

In discussion of the Gregory Ruck case, it was noted that the draft minutes failed to accurately reflect all of the board's actions taken relative to the Gregory Ruck Case. Board action denying of the request for formal hearing, granting the Petition for Variance and Waiver to the requirements of Rule 61G15-20.001, F.A.C., and referral of the application to the Educational Advisory Committee for review to determine articulation was not reflected in the draft minutes.

It was determined that the minutes should contain the following additional language as to the Ruck application case:

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, the Petition for Formal Hearing was denied, the Petition for

Waiver and Variance of Rule 61G15-20.001(2), F.A.C., was granted and the file was referred to the Educational Advisory Committee to determine whether Ruck could demonstrate substantial equivalency pursuant to Rule 61G15-20.007, F.A.C.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rivera; the minutes were adopted as amended.

- b. Minutes from the June 14, 2006 Joint Meeting of the FBPE/FEMC Board\* (FEMC's Board of Directors will ratify same in December 2006)

Approved by Consent Agenda.

## B. Committee Reports

- #1. Applications Committee  
(John Burke, P.E., Chair; David Charland, P.E.; Henn Rebane, P.E.; Albert Rose, P.E.; Daniel Rivera)

- a. Committee Chair's Report.

Mr. Burke confirmed that the recent July applications review was the largest number of applications ever reviewed in one session. This confirmed the belief that the board can accomplish a large workload in a reasonable time frame when all members are in attendance and performing the review.

He noted that the next scheduled review would be held on September 6, 2006, to be followed by the PCP meeting on September 7, 2006.

The Board Chair reminded all board members that they are either standing members or alternate members of the Applications Committee. He took this action to ensure that all applications are reviewed timely. He directed staff to continue monitoring the numbers of applications to be reviewed and to advise Board members. In monitoring the workload, staff can coordinate with all Board members regarding their arrival and departure schedules.

Ms. Gustafson recommended that the board delegate to staff the authority to deny applicants who apply with a record of failing the examination three or five times and have not taken the additional education required by statute, as well as applicants who have clearly failed to evidence four years of experience at the time of application.

Upon a motion by Dr. Bloomquist seconded by Mr. Rose, staff was delegated the authority to deny applicants who have a record of failing either examination three or five times without completing the statutorily mandated additional education, as well as those applicants who failed to clearly evidence four years of experience at the time of application. A list of names of applicants determined to fall within these categories will be presented to the Board for ratification at each board telephone meeting following an application review meeting.

#2. Educational Advisory Committee  
(Christian Bauer, Ph.D., P.E., Chair; David Bloomquist, Ph.D., P.E.;  
Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E.  
(Consultant)

a. Minutes from the July 12, 2006 Meeting\*

Approved by Consent Agenda.

b. Education Advisory Committee version of rewrite of Chapter  
61G15-20, F.A.C.

Dr. Bauer briefed the Board on the Committee's proposed changes to Rule 61G15-20.001, F.A.C. The object of this proposal is to level the playing field for applicants not holding a domestic EAC/ABET accredited engineering degree.

As Committee Chair, Dr. Bauer moved for adoption of the proposed changes recommended by the Committee to Chapter 61G15-20, F.A.C.

In discussion, Rule 61G15-20.001(2)(a)(ii), F.A.C. was further amended to delete "to an EAC/ABET accredited degree accredited program pursuant to Subsection" and add the word "Rule", so the amended rule would read, in pertinent part, "... provided the applicant can demonstrate substantial equivalency to Rule 61G15-20.007(2), F.A.C."

With that minor change, the committee motion was adopted by the Board and Ms. Gustafson was directed to move forward with rulemaking to amend the rules accordingly.

Ms. Gustafson explained the ongoing requirement from the ruling in the Gaudet appellate case for the Board to provide a means of approving programs, as referenced in Rule 61G15-20.006, F.A.C. While this rule may eliminate the overall number of requests for Board approval of program, the requirements involved in the

approval process should be in place and available for utilization if such a request is made in the future.

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

a. Memo from the July 13, 2006 Meeting\*

Approved on Consent Agenda.

Mr. Matthews noted the improvement in the memoranda of Probable Cause prepared after each meeting. These memoranda are now being completed by July Tomasi and the memoranda from this meeting have already been reviewed and executed.

Mr. Martin advised the Board of the ongoing task of filling the Chief Prosecutor's position vacant since early June.

#4. FBPE Rules Committee  
(Henn Rebane, P.E., Chair; John Burke, P.E.; David Charland, P.E., David Bloomquist, Ph.D., P.E.; Paul Tomasino, P.E.)

a. Committee Chair's Report.

No report.

Ms. Gustafson called attention to the ongoing non-rule policy challenge regarding the Board's condemnation of signing and sealing Aluminum Structures Design Manuals. She encouraged the Board to move forward with rulemaking regarding this subject as soon as possible.

The Chair announced the appointment of a task force to research the best approach for rulemaking and make suitable recommendations to the Board. The Chair explained the responsibility of the Executive Director and staff to coordinate scheduling of all meetings and to monitor progress of assignments. Responsibility should not be placed on the Committee Chair.

Mr. Martin responded to the comments, noting the Board did not name the full group at its June Meeting in Tampa. With the number of applications for review in July scheduling of an additional committee meeting would have very difficult.

The Chair officially appointed the Task Force to consist of Mr. Charland, designated as Chair, Mr. Tomasino and Mr. Rose. The official title of the committee is the Ad Hoc Committee on

Aluminum Structures Design. The first meeting would be organizational in structure and would be held in Tallahassee on September 6, 2006 at 1:00 p.m. Mr. Charland asked staff to contact Do Kim, P.E., Joe Berryman, P.E. and Randy Kissell, P.E. regarding attendance. Once this organizational meeting is completed, a public hearing or workshop on the development of rules will be noticed in November and a final report will be presented to the Board at its December meeting. Once the Board votes on the final report, the process of scheduling rules workshops will begin, if necessary.

Mr. Charland confirmed his intent to complete a proposed draft of the rule that he will forward to Mr. Martin. Mr. Martin will disseminate to the task force members and Ms. Gustafson. Ms. Gustafson will then advise Mr. Ware and the Administrative Law Judge of the Board's progress on rulemaking.

Mr. Rivera suggested and it was confirmed to have participation by the Legislative Committee in the event legislative changes would be necessary to bring about the Committee's recommendations from the outcome of its meetings.

Mr. Geer confirmed that FES does not have an interest in this matter. The issues are technical in nature. FES would, however, support the Board in its final decision on the subject.

Mr. Martin will contact the BOAF Executive Director to determine if that organization could advise its members and determine if they would be sending any representative to committee meetings.

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

a. Committee Chair's Report.

No report.

#6. Board Operations Committee  
(Henn Rebane, P.E., Chair, FBPE, FBPE/FEMC Liaison)

a. Committee Chair's Report.

No new developments on an RFP for an efficiency expert. Mr. Martin reported on his contact with Mr. Robert Harris a consultant with 20 years of experience in review of not for profit organizations. He would be meeting with Mr. Harris in August.

The Chair confirmed the responsibility of the Board Operations Committee to hire this expert.

- #7. FBPE Legislative Committee  
(Daniel Rivera, Chair, Christian Bauer, Ph.D., P.E.; David Bloomquist, Ph.D., P.E., Katherine Hogenkamp, P.E., Paul Tomasino, P.E.)

- a. Committee Chair's Report.

No report was provided on future legislative issues. Staff was requested to research previous minutes to determine any outstanding issues relating to legislative changes.

- #8. Unlicensed Activity Committee  
(Christian Bauer, Ph.D., P.E., Chair; David Bloomquist, Ph.D., P.E.; John Burke, P.E., Katherine Hogenkamp, P.E. )

- a. Committee Chair's Report.

Dr. Bauer reported on his provision to each Board member a copy of the NSPE video. Dr. Bauer noted his plans to attend the Fall Deans' Council.

The board was unanimous in its support of the video. Ms. Hogenkamp suggested posting a link on the Board's website to NSPE. Mr. Geer briefed the Board on FES' work with middle and high school students to promote education in engineering and the benefits of achieving professional licensure. He offered to provide interaction between the Board's designated board member and the FES Committee Chair to determine the best approach to supporting distribution of the NSPE video. Dr. Bloomquist indicated his intention to write the US News and World Report to request publication of an article on importance of professional licensure and the fact that many universities are waiving the GRE regarding admission to engineering graduate school if the student has passed the Fundamentals Examination.

Mrs. Garcia and Dr. Bloomquist will work with Mr. Geer and FES to move forward with plans for distribution of the NSPE video. This committee will define a scope for the program and it will work with Mr. Martin in submitting a request for funding from the Unlicensed Activity Trust Fund to the Department. The first meeting will be held by conference call on a date to be determined.

The Chair revised the membership of this Committee by adding Nola Garcia to the group.

- #9. Endorsement Committee

(Robert Matthews, Chair; David Charland, P.E.; Henn Rebane, P.E.; John Burke, P.E., Al Rose, P.E.)

a. Committee Chair's Report.

No report.

#10. Record Drawing Task Force (Paul Tomasino, P.E., Chair; David Charland, P.E.; John Burke, P.E.)

a. Committee Chair's Report.

No Report.

Mr. Tomasino will be scheduling a task force meeting on this topic in the near future.

C. NCEES

#1. None.

The Chair confirmed his plans to attend the September NCEES Annual Meeting along with Mr. Burke, Ms. Hogenkamp, Mr. Matthews and Mr. Martin.

The Chair called on Mr. Matthews to brief the Board on the American Society of Civil Engineers' (ASCE) proposal to amend the definition of a Model Law Engineer to an individual who has a BS degree in engineering from an EAC/ABET accredited program plus an additional thirty semester credit hours of engineering education. For two years, ASCE thought they could negotiate with EAC/ABET to increase its accreditation requirements from 130 to 140 semester credit hours for those engineering programs seeking accreditation. This effort failed and the group's latest attempt is to seek support for a requirement of an MS in Engineering or BS in Engineering plus an additional thirty semester credit hours for individuals trying to achieve certification as a Model Law Engineer. A proposal will be presented at the NCEES Annual Meeting to change the definition of Model Law Engineer to require a BS plus an additional thirty semester credit hours of engineering education. This change would not go into effect until 2015.

Mr. Geer indicated that FES was not in favor of additional hours or MS degree for Model Law Engineer status.

The Board discussed this matter and the following action was taken:

Upon a motion by Mr. Matthews seconded by Mr. Charland, the Florida Board delegates will vote against the proposal in its present format.

Mr. Martin advised the Board of receiving an inquiry from NCEES regarding this Board's interest in pursuing computer based testing. The Board took no action on this matter.

D. Advisory Attorney's Report

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

Several projected effective dates will occur earlier than what is listed.

Rule Number	Title	Develop. Published	Notice Published	Adopted	Effective
61G15-19.004	Dis. Guidelines, range of pen.	8-4-06	8-25-06 (anticipated)		
61G15-20.006	Ed. Require.	9-23-05	7-28-06		
61G15-20.007	Foreign Degrees	3-24-06	4-21-06	5-22-06	6-11-06
61G15-21.007	Re-exam	7-21-06			
61G15-22.003	Qualifying activities for area of practice Requirements	2-10-06	3-24-06	4-24-06	5-14-06
61G15-22.011	Board approval of CE providers	3-24-06	4-21-06	5-22-06	6-11-06
61G15-22.0105	Standard for laws & rules providers	5-20-05	8-4-06 (anticipated)		
61G15-24.001	Schedule of fees	3-18-05	12-9-05	2-13-06	3-5-06
61G15-30	Aluminum Structures	7-28-06			
61G15-31	Aluminum Structures	7-28-06			

#2. Board Counsel Opinion Letters

a. None to report.

E. Executive Director's Report

#1. List of Applicants Requesting Retired Status\*

Approved by Consent Agenda.

#2. Memorandum from ELSESES re: Proctor Requests

Mr. Martin outlined the process regarding requests received by ELSESES for proctoring of examinations. An applicant can be denied in Florida, file an application with another state, and once approved by the other state, the applicant requests ELSESES to proctor the examination in Florida. This has happened several times with individuals who have failed the examination three or five times depending on the date of application, and who do not wish to take the statutorily required additional education. Mr. Martin requested the Board consider requesting ELSESES to ceasing proctoring of examinations for other states in Florida.

Upon a motion by Dr. Bauer seconded by Mr. Rivera, the Florida Board of Professional Engineers will no longer allow examinations to be proctored in this manner in Florida. Staff was instructed to inform ELSESES of its decision so as to ensure that future requests from applicants from other states to have a proctored examination in Florida will be denied.

### #3. CE Self-Reporting Module Test Status

Following the June meeting, the test module was made available to FEMC for testing of data entry, verifying data so entered, reviewing appearance and adequacy of the content on the user interface, etc. Several staff members have tested the module in the test environment in order to determine accuracy and ease of self-reporting. Successful testing was conducted by staff members and several volunteer professional engineers from Genesis Group located in the same building as the Board Office. The only comment noted by all participating in the testing was a concern with the lack of a specific statement at the conclusion of self-reporting of CE hours confirming the successful completion of the self reporting process. DBPR placed a prompt on the appropriate page and it appears to work effectively. FEMC had to manually enter data on all exempt providers into LicenseEase so that licensees could select those providers and self-report hours taken from those providers. Mr. Martin reviewed the exempt list and reduced the number of providers to be entered as exempt providers. A notice will then be issued to those former exempt providers not included notifying them of the Board's action. If these groups wish to have provider status after that point, then they can apply for commercial provider status.

Mr. Martin will be requesting that FEMC and FBPE stand down on a program developed by FEMC as a back up to the self-reporting module in LicenseEase. This is a result of being advised by the Department that this time, FEMC staff would not be allowed to manually renew any license. In order for a professional engineer to renew his/her license this year, the CE hours taken must be reported into the LicenseEase database. If the licensee does not do so, then the staff will have to input their data for them. For example, if FEMC were to allow electronic transmittal of a renewal form to the Board Office for review and approval, then the Board staff would have to actually input the CE information into LicenseEase for them,

instead of simply reviewing the reporting data and “flipping a switch” allowing the renewal like was done in 2005.

#4. Quarterly Report to the Department – First Quarter

Mr. Rebane again expressed concerns with the low numbers of complaints being processed. Mr. Martin advised the Board of his plan to fill the Chief Prosecuting Attorney position, allow the person time to become acquainted with the operation and then focus all efforts on improving the timely process of complaints. If it involves additional investigators attorneys, etc. steps will be taken to engage the additional personnel and consultants to help get the job done.

#5. Calendar for 2007 Board Meetings and Locations

The proposed calendar was presented with the exception of the NCEES Southern Zone meeting. The geographic locations for 2007 will be North Florida in February, Orlando in April, Tampa in June, August in Marco Island with FES, and October in Miami. With the reestablishment of the FES annual meeting in August, the July Board meeting will be returned its proper spot in August.

The Board asked that times be posted for Rules Committee meeting in conjunction with the November Board applications review meeting.

#6. Updated Travel Reimbursement Expenses

Mr. Martin reaffirmed the new travel reimbursement schedule based upon the statutory changes approved by the 2006 Florida Legislature.

#7. Chi Epsilon Excellence in Teaching Award – Dr. Bloomquist

The Board recognized Dr. Bloomquist on his recognition by Chi Epsilon for their Excellence in Teaching Award.

#8. Projected Year End Balances for FY 2005-2006

Mr. Martin confirmed FEMC’s purchase of a new scanner and server. He confirmed that Puerto Rico has not responded to his letter issued earlier in the summer and he was not aware of present issues regarding Florida engineers attempting to achieve licensure in Puerto Rico by endorsement.

Mr. Rivera asked for consideration of separating the management responsibilities with the prosecuting responsibilities. Mr. Martin explained the plan to receive approval from DBPR to establish a new position that would be involved in the daily operations of the Board office. While management of the section remains the responsibility of the attorney, this person may assist in this area of concern. The chair noted

inclusion in the RFP of determining if the responsibilities should be separated. The Board discussed situations where payment for project review is not completed.

Mr. Charland asked that Mr. Martin provide an overall report within sixty days of the engagement of the new attorney.

F. Chief Prosecutor's Report

#1. Non-Compliance Report

After review, it was determined to include the compliance report in agenda books on a quarterly basis.

#2. July Open Case Report

The Board reviewed the compliance report and Mr. Rebane noted a discrepancy in the open complaints report reflecting 293 cases when in adding the numbers of each page the numbers do not match. Mr. Martin indicated his intent to research the content of the report by the next Board meeting.

G. Chair's Report

a. Report from the Chair.

No report.

H. Correspondence to the Board

#1. Letter from the Construction Industry Licensing Board (CILB) dated June 9, 2006

Mr. Martin confirmed receipt of a letter from the CILB requesting appointment of a joint committee of the two boards to respond to allegations of unlicensed activity as it relates to pool contractors. The committee will be established under the provisions of Chapter 455, F.S. This section of the statute allows the Secretary of the Department to request professional Boards to appoint joint committees to resolve disputes between the practice acts. The CILB has appointed three Board members and Mr. Martin was directed to respond to the letter confirming this board's future plan to appoint three board members to serve on the committee.

As it relates to Chapter 471, F.S., if any business organization is offering to perform engineering services in the State, a Certificate of Authorization from the Board is required. The pool contractors do not want to comply with a Certificate of Authorization requirement. A case will be before the

Board during this meeting that includes a Recommended Order from the ALJ ruling in favor of the Board's position regarding Section 471.023, Florida Statutes. The order cites the practice as exceeding the scope of the contracting license in issue.

I. Old Business

None.

J. New Business

Mr. Tomasino noted the change of name his business name to IBI. He believes with this change he will have more time to devote to Board business than in previous months.

K. Public Forum

No comments.

Upon the Board completing the first day's agenda, the meeting was recessed until 8:30 AM the following day to allow the Application Committee and the Educational Advisory Committee to meet to review pending applications.

## **Part II Informal Hearing Agenda**

The Chair provided opening comments on the importance of licensure, the opportunities that licensure provides and the requirements of approved engineering degrees.

Dr. Bauer advised the audience on requirements for qualifying for the Fundamentals examination. Acceptable education must be an EAC/ABET accredited degree or, if holding a foreign degree, a determination of substantial equivalency to Rule 61G15-20.007(2), F.A.C.

New rules will permit an opportunity to degree holders in engineering from non-EAC/ABET accredited programs to demonstrate substantial equivalency to Rule 61G15-20.007(2), F.A.C.

The Application Committee and Educational Advisory Committee reported the results of a review conducted yesterday afternoon and recommendation of approval of twenty two applications for the October Principles and Practice Examination. At the conclusion of that report, the following action was taken:

Upon a motion by Mr. Matthews seconded by Mr. Rose, the actions of the application committee and educational advisory committee were ratified and the applications were approved.

### L. Consideration of Petition for Formal Hearing

#### #1 Elias Kokkoris

Mr. Kokkoris was sworn prior to addressing the Board on the denial of his application for the Fundamentals Examination. Mr. Kokkoris failed to prove substantial equivalency pursuant to Rule 61G15-20.007(2), F.A.C. in that he was deficient 4.67 Semester Credit Hours in Humanities and Social Sciences and 3.61 Semester Credit Hours in Higher Mathematics and Basic Sciences. In response to Mr. Kokkoris' request for a formal Hearing, staff was advised to place this Petition on the July agenda. If the Board denied the Petition, an Informal Hearing would ensue.

Upon a motion by Dr. Bauer seconded by Mr. Rivera, the Petition for Formal Hearing was denied and the matter proceeded as an Informal Hearing.

Following Mr. Kokkoris' presentation, the following action was taken.

Upon a motion by Mr. Matthews seconded by Mr. Burke, the denial was upheld.

Mr. Kokkoris was advised of his option to satisfy the deficiency in higher mathematics and apply for consideration to receive a Conditional

Approval to sit for the Fundamentals Examination in accordance with Rule 61G15-20.007(5), F.A.C.

M. Informal Hearings on Denial of Application for Fundamentals Examination

#1 Julian Aguilar-Navarro

Mr. Aguilar-Navarro withdrew his request for a hearing and the file was closed.

N. Informal Hearings on Denial of Application for Principals and Practice Examination

None.

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

#1 Lance Strawn

Mr. Strawn was present and was sworn prior to addressing the Board on the denial of his application for licensure by endorsement. Mr. Strawn was represented by Mr. Edwin Bayó, Esquire.

Mr. Strawn was licensed in North Carolina in 2001. He passed the Fundamentals and Principles and Practice examinations in North Carolina and he provided evidence of at least four years of engineering experience. The basis for denial is his education. Mr. Strawn holds a BS in Industrial Technology from Appalachian State University and a Master of Science in Civil Engineering from UNC Charlotte. By operation of Rule 61G15-20.001(2)(b), F.A.C., Mr. Strawn's transcripts were reviewed in order to determine whether he had demonstrated substantial equivalency pursuant to Rule 61G15-20.007(2), F.A.C. The Board determined that Mr. Strawn had deficiencies of 13 credit hours of Engineering Science and Design and a course in physics. Mr. Strawn submitted an Election of Rights form to supplement and to have an Informal Hearing. The deficiencies were not resolved by supplemental information and the Informal Hearing was scheduled for the July Board meeting

Mr. Bayó called attention to the supplemental information Mr. Strawn submitted that confirmed a self-study course that would fall under engineering science and design and asked for the Board's consideration of this course.

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, the deficiency of 13 semester credit hours was revised to 11 semester credit hours based on credit for the course numbered CGGR-6892.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the denial was upheld.

P. Special Inspector Applications

None.

Q. Informal Hearings on Denial of Application for Continuing Education

None.

R. Special Appearance before the Board

None

Prior to beginning the disciplinary and unlicensed activity hearings, Ms. Gustafson provided a rules update and outlined the procedures applicable to rule adoption.

Mr. Matthews outlined the complaint process for the benefit of those in attendance.

### **Part III Disciplinary and Unlicensed Hearings**

#### **S. Recommended Orders**

- #1. John B. Benson, III, P.E.  
PE 20638  
DOAH Case Number 05-4274PL  
FEMC Case Number 2004061521  
Represented by James W. Linn, Esquire  
Probable Cause Panel: Matthews, Burke, Seckinger

Mr. Benson was sworn in and was present with Counsel, Glenn Thomas.

Mr. Benson was charged by Administrative Complaint with three counts for violating an order of the board in case number 99-00131 for providing inspections for construction for the purpose of determining if the work is in compliance with engineering drawings and specifications. In this Order, Mr. Benson is prohibited permanently from practicing electrical engineering.

Mr. Benson disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on May 9, 2006. By Recommended Order dated June 9, 2006, the Administrative Law Judge concluded Mr. Benson violated an order of the Board previously entered in a disciplinary proceeding, and recommends imposing a penalty of license suspension for a period of four months and a fine of \$4,000.00 plus the costs of these proceedings.

On June 27, 2006, the Respondent filed Exceptions to Recommended Order.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rivera, Petitioner's Exception 1 was rejected.

Upon a motion by Mr. Rose seconded by Dr. Bloomquist, Respondent's Exception 2 was rejected.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the Findings of Fact of the Recommended Order were adopted as the Findings of Fact of the Board.

Upon a motion by Dr. Bauer seconded by Mr. Charland the Conclusions of Law of the Recommended Order with a violation of Section 471.033(1)(k), Florida Statutes was adopted as the Conclusion of Law of the Board.

In discussion of penalty as it is reflected in the Recommended Order the Chair noted that normally the minimum period of suspension is six months.

Upon a motion by Dr. Bauer seconded by Mr. Charland the Penalty set forth in the Recommended Order, including a \$4,000 fine, with the period of suspension modified to six months, was adopted as the Penalty of the Board.

Costs were assessed in the amount of \$1,604.80.

- #2. Fred C. Jones, P.E.  
PE 54476  
DOAH Case Numbers 05-3215PL and 05-3216PL  
**FEMC Case Numbers 03-0036 and 03-0046**  
Represented by Dominic C. MacKenzie, Esquire  
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Jones was present with Counsel

**Case Number 03-0036:** Mr. Jones was charged by an Administrative Complaint with misconduct and for violating a law of the State of Florida directly regulating the practice of engineering concerning his Coker Gully Road project and Emerson Yanker project. Mr. Jones inappropriately performed a plan review and inspection services for these two projects, and submitted an application to the building officials in Manatee County.

**Case Number 03-0046:** Mr. Jones was charged by an Administrative Complaint with negligence relating to plans he signed and sealed for a Barnes Residence project. Mr. Jones drawings for said project were alleged to contain deficiencies.

Mr. Jones disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on January 10 and 11, 2006. By Recommended Order dated May 2, 2006, the Administrative Law Judge concluded Mr. Jones was not negligent in the practice of engineering and recommends that the Administrative Complaint be dismissed.

On May 11, 2006, the Board's Prosecutor filed exceptions to the Administrative Law Judge's Recommended Order.

Mr. Rebane turned proceedings over to Mr. Matthews to chair the hearing on this case.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist Exception 1 was granted so that Paragraph #45 was stricken from the Recommended Order.

Upon a motion by Mr. Rebane seconded by Mr. Burke Petitioner's Exception 2 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland the Board moved to reject Findings of Fact 3, 4 and 5 of the Recommended Order. After discussion expressing the board's disagreement with the conclusions of the ALJ, the motion was withdrawn.

Upon a motion by Dr. Bloomquist seconded by Mr. Burke the Findings of Fact, as modified, and Conclusions of Law of the Recommended Order were adopted a Findings and Conclusions of the Board and the complaint was dismissed.

- #3. Siemens Building Technologies, Inc.  
CA N/A  
DOAH 06-0153  
FEMC Case Number 2004006483  
Represented by Paul Sexton, Esquire  
Probable Cause Panel: Matthews, Tomasino, Seckinger

Siemens Building Technologies, Inc. was represented by counsel, Paul Sexton.

Siemens Building Technologies, Inc. was charged by Administrative Complaint for the practice of or the offer to practice engineering without a Certificate of Authorization.

Siemens Building Technologies, Inc. disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on April 24, 2006. By Recommended Order dated June 13, 2006, the Administrative Law Judge concluded that Siemens Building Technologies was not in violation and that the Amended Administrative Complaint be dismissed.

On June 26, 2006, the Petitioner filed Petitioner's Exception to Recommended Order. On June 28, 2006, the Respondent filed Siemens' Exceptions to Recommended Order. On July 5, 2006, the Respondent filed Siemens' Response to Petitioner's Exception to Recommended Order.

Upon a motion by Dr. Bauer seconded by Mr. Rivera Respondent's Exception 1 was rejected.

Upon a motion by Mr. Burke seconded by Dr. Bauer Respondent's Exception 2 was rejected.

Upon a motion by Dr. Bauer seconded by Mr. Burke Respondent's Exception 3 was rejected.

Upon a motion by Mr. Burke seconded by Mr. Rebane, the Petitioners' Exception #1 was rejected.

Upon a motion by Mr. Burke seconded by Mr. Rivera the Recommended Order as presented was adopted as the Final Order of the Board.

Upon a motion by Mr. Burke seconded Dr. Bauer staff was directed to appeal the Final Order.

#### T. Settlement Stipulations

- #1. Aubrey Littleton, P.E.  
PE 20526  
FEMC Case Number 2004052819  
Represented by J. Stanley Chapman, Esquire  
Probable Cause Panel: Matthews, Burke, Seckinger

Mr. Littleton was present, with counsel, and was sworn prior to addressing the Board.

Mr. Littleton was charged by Administrative Complaint with one count for signing and sealing a drawing that was not prepared by him or under his responsible supervision and with three counts for violating a rule of the board for omitting required information from the drawings title block.

Mr. Littleton has entered into a stipulation with FEMC for \$4,000.00 administrative fine and costs of \$1,000.00; he agreed to appear before the Board to explain his understanding of taking over another PE's work; a reprimand; he shall be placed probation for two years with terms he successfully complete a Board approved course in Engineering and Professionalism and Ethics; and successfully complete the Study Guide.

Mr. Littleton agreed to enter a stipulation provided paragraph 11 and the word "delinquent" in paragraph 19 be stricken from the Administrative Complaint.

Mr. Littleton affirmed his understanding of requirements to be satisfied if taking over another engineers work.

Upon a motion by Mr. Charland seconded by Dr. Bauer the Settlement Stipulation was approved.

- #2. Robert Y. White, P.E.  
PE 13191  
FEMC Case Number 2005057367  
Represented by Edwin A. Bayó, Esquire  
Probable Cause Panel: Matthews, Burke, Seckinger

Mr. White was present with counsel, and was sworn prior to addressing the Board.

Mr. White was charged by Administrative Complaint with two counts of negligence for relating to deficient plans for two projects. Respondent prepared a report and calculations for the St. John's River Water Management District that did not accurately reflect site plan conditions, dry pond recovery and sheet flow for a 0.242 acre site development. Very similar problems were found in a second permit application for a 3,000.00 square foot church on 0.49 acres.

Mr. White has entered into a stipulation with FEMC for a reprimand; a \$2,500.00 administrative fine; a restriction from the practice of engineering in the area of stormwater and drainage design until such time as he appears before the Board and petitions the Board to lift the restrictions; a six-months suspension; probation for one year with the term he submits to the Board a list of civil projects completed at nine months; and an appearance before the Board to explain how he will practice during his period of suspension.

The stipulation was slightly less than recommended by the Probable Cause Panel, reducing the amount of the fine imposed.

Mr. White addressed the Board, advising that he would be performing non-engineering planning services during the period of suspension.

Upon a motion by Ms. Hogenkamp seconded by Dr. Bloomquist the Settlement Stipulation was approved.

U. Informals

- #1. John J. Herbert, P.E.  
PE 39505  
FEMC Case Number 2004006466  
Probable Cause Panel: Matthews, Tomasino, Seckinger (March 17, 2005)  
Matthews, Burke, Seckinger (March 16, 2006)

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

Mr. Herbert was charged by an Administrative Complaint with forty-eight counts of negligence relating to a Design Analysis for Ball Products, Inc. for Shade Structures at playgrounds in Collier County. The analysis and design do not satisfy the references provided by the Florida Building Code or the American Institute of Steel Construction, in the design of steel structures or the American Concrete Institute in the design of the footer. Mr. Herbert's analysis and design was used for at least forty-eight playgrounds in Collier County schools. These playgrounds were found to be deficient in structure and therefore created an unsafe situation to the public.

Mr. Herbert does not dispute the allegations and has elected an informal hearing before the Board.

Upon conclusion of presentation the following action was taken:

Upon a motion by Mr. Rebane seconded by Dr. Bauer the findings and facts of the Administrative Complaint were adopted.

Upon a motion by Mr. Rebane seconded by Mr. Rose the Conclusions of Law in the Administrative Complaint were adopted.

Upon a motion by Mr. Rivera seconded by Dr. Bloomquist the recommended penalty of the PCP was adopted with a reduced fine of \$23,000 and deletion of the course requirement in catenary design. The other terms called for assessment of costs of \$1,439.53; 2 yrs. probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; and the study guide.

## V. Adjourn

Prior to adjournment, Mr. Rebane called for a short discussion on the rulings that are issued by administrative laws judges. He was concerned, for instance, over ruling on the Administrative Law Judge on non-applicability of the building code. Ms. Gustafson explained the lack of authority to rule against the Administrative Law Judges. The Board has to act on the case as presented. If disagreeing with the ruling they may appeal.

Meeting adjourned at 12:30 p.m.