

Minutes
Florida Board of Professional Engineers
June 14 & 15, 2006
Beginning at 8:30 a.m., or soon thereafter
Tampa, Florida

Part I
General Business Agenda

A. Meeting Administration

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

Upon the conclusion of the FBPE/FEMC joint meeting, this meeting was convened. The Chair requested a roll call to confirm a quorum was present.

Board Members Present:

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

Board Members Not Present:

Daniel Rivera, Public Member

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

The Chair welcomed Nola Garcia to the Board as its newest public member. Ms. Garcia is the President and CEO of a small non-profit corporation in Miami, Florida and she was appointed by Governor Bush to the Board on May 30, 2006.

As 10 of the 11 Board members were present, a quorum was present.

Upon a motion by Dr. Bauer seconded by Mr. Charland, Mr. Rivera's absence was excused because of immediate family illnesses and accidental injuries.

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

Charlie Geer, P.E., FES- Board Liaison
Al Seckinger, P.E., Former Board Member
Melvin W. Anderson, Ph.D., P.E., Chair, FEMC Board of Directors, and former FBPE Board Member
Robert H. Hosay, Esq., Member, FEMC Board of Directors
Bert L. Combs, Esq., Member, FEMC Board of Directors
Kamal Al-Imam, P.E., Member, FEMC Board of Directors
Gary W. Kuhl, P.E., Member, FEMC Board of Directors
Dennis Yecke, Deputy Secretary, DBPR
Michael Martinez, Esq., Deputy General Counsel, DBPR

2:00 p.m. – Discussion on Aluminum Structures Design Manuals

The Chair announced a public hearing would be scheduled to begin at 2:00 p.m., and sixty minutes would be allotted to public comment followed by up to thirty minutes to be allotted for Board discussion and a decision made concerning the Board's April statement regarding the signing and sealing of Aluminum Structures Design Manuals by Florida P.E.'s.

- #4 Approval of the Agenda.

Under the Old Business item, Mr. Matthews requested the agenda be amended to add a brief report from Board members who attended the April examination sites.

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

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

Because certain items were discussed during the in the FBPE-FEMC joint meeting earlier in the morning, Mr. Matthews requested that Item E#4 and Dr. Bauer requested that Item #7a be added to the consent agenda.

As there were no additional requests to add or pull any other items , the consent agenda was adopted as amended.

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

- a. Minutes from the April 19, & 20, 2006 Board Meeting*
Approved by Consent Agenda
- b. Minutes from the May 26, 2006 Conference Call*
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 announced the upcoming application committee meeting scheduled for July 12, 2006. He thanked all of the members who attended the last review and noted that, with increased attendance, the review of a large number of applications was completed within a reasonable time frame. With the assistance of Dr. Anderson and Dr. Miller, the Educational Advisory Committee received much needed support in reviewing all applications with education issues. If attendance is consistent, the workloads will be much easier to complete in the day scheduled for review.

The following Board members confirmed their attendance for the July review:

Bob Matthews, P.E.
John Burke, P.E.
Paul Tomasino, P.E.
Kathy Hogenkamp, P.E.
Chris Bauer, Ph.D., P.E.
David Bloomquist, Ph.D., P.E.
David Charland, P.E.
Al Rose, P.E.
Nola Garcia, Public Member

#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. Committee Chair's Report.

Dr. Bauer reported on the review of a large number of applications at the May meeting. A portion of this meeting was set aside to discuss the idea of proposed legislation to amend the practice act to

require an EAC/ABET engineering degree to get a PE license in Florida. An issue raised by FES regarding a shortage of engineers in Florida as a result of not accepting engineering technology degrees was discussed. It was the Committee's opinion that Engineering Technology Degree Holders should not be licensed without an advanced engineering degree and any proposed legislative change would not affect the number of qualified engineers that are licensed in the state to any great extent.

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

a. Memo from the May 18, 2006 Meeting*

Approved by Consent Agenda

#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. Minutes from the May 16, 2006 Meeting*

Approved by Consent Agenda

b. Discuss Rule 61G15-22.0105, F.A.C.

Mr. Rebane asked for the Board's opinion on ceasing the use of the study guide. The requirement for laws and rules would be satisfied by completing a course from an approved continuing education provider.

A motion was made by Mr. Matthews and seconded by Mr. Burke that the requirement of a passing grade on the study guide should cease.

Ms. Gustafson advised the board of a possible adverse ruling from JAPC regarding any imposed continuing education course credit as a part of the application process.

Mr. Matthews amended his motion to apply to disciplinary cases only. A vote was called and the motion failed.

- #5 Joint Engineer / Architect Committee
(Henn Rebane, P.E., Chair; Daniel Rivera)
- a. Committee Chair's Report.
- No issues at this time.
- #6 Board Operations Committee
(Henn Rebane, P.E., Chair, FBPE, FBPE/FEMC Liaison)
- a. Report on the FEMC Board Operations Committee Meeting of April 24, 2006.
- Discussed in the FEMC/FBPE meeting and no additional discussion on this item was held during this meeting.
- #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. Correspondence from FES regarding 2006 Legislative Session Report
(Exhibit B #7a – distributed separately)
- #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. Report by Dr. Bauer on status of campaign.
- Dr. Bauer stated that he was unable to attend the Deans' Annual Council Meeting. Based on individual discussion with deans from individual schools, support of any plan that modifies the college curriculum to include a video on professional licensure would not be forthcoming. Dr. Bauer explained that NSPE has developed a video on the importance of licensure. This Board may be duplicating the content if proceeding with the proposed video.
- Mr. Burke believed this Board should seek authority to use the funds on other areas of interest and further time should not be devoted to this project. After discussion, it was the consensus of the board that it will cease any further activity on this matter and that Dr. Bauer should provide Board members with copies of the NSPE video for review and determination of the benefits of supporting the distribution and use of this video.

#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.

Mr. Matthews confirmed the Committee's plan to review Endorsement applications in conjunction with Board meetings as an interim expeditious review between meetings of the Applications Committee.

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

a. Committee Chair's Report.

Mr. Tomasino was not prepared to give a report as the task force has yet to have a meeting.

C. NCEES

#1 Zone Update April 2006

Mr. Burke reported on his attendance at the Southern Zone Meeting held at the end of April in Savannah, Georgia.. He attended along with Mr. Rebane, Mr. Martin, Mr. Sunshine and Ms. Flynn. There were two resolutions presented from the State of Florida. One resolution proposed by the Florida Board of Professional Surveyor and Mappers was to have ELSSES purchase special storage boxes for transporting examination booklets. The motion was defeated. This was proposed after a loss of certain examination books while transporting them to examination sites. NCEES confirmed its intent to resolve the problem set forth in the resolution by other means.

Mr. Burke confirmed the defeat of this Board's resolution concerning member board evaluations of foreign degrees. Mr. Burke stated each Board presented a short report on special items of interest. Several issues will be considered in the NCEES Annual Meeting to be held in Anchorage, Alaska in September.

NCEES Executive Director Betsy Browne reported on NCEES' plans to begin foreign degree evaluations, purchase approved calculators for use in examinations and research examinees who failed the examination. The research concerning failing candidates is to determine the possibility of cheating on the examination. This is based on the premise that likeness in missed questions may be evidence of cheating.

In discussion of the annual meeting, it was confirmed that Mr. Rebane, Mr. Burke and Mr. Martin will be attending.

D. Advisory Attorney's Report

#1 Rules Report

Ms. Gustafson reported on the status of the following rules:

Rule 61G15-20.006, F.A.C. – This program approval amendment is still pending text needed for publication of rule notice
Rule 61G15-20.007, F.A.C. - Foreign Degrees amendments were effective 6-11-06
Rule 61G15-22.003, F.A.C. - Qualifying Activities for Areas of Practice Requirement amendment became effective 5-14-06
Rule 61G15-22.011, F.A.C. - Board Approval of CE Providers amendment became effective 6-11-06
Rule 61G15- 22.015, F.A.C. - Standard for Laws and Rules Course Providers waiting for additional language
Rule 61G15-24.001, F.A.C. - Schedule of Fees became effective 3-5-06
Rule 61G15-24.002, F.A.C. -Unlicensed Activity Fee was repealed effective 9-12-05

Ms. Gustafson noted publication of Petitions for Waiver and Variance in the Florida Administrative Weekly, as follows:

Jacob Kaye on 2-3-06
D. Gregory Ruck on 10-14-05
Florida Department of Transportation on 10-14-05
Quazi Bari on 5-19-06

#2 Quazi Bari Petition for Variance and Waiver

Ms. Gustafson advised the Board of Mr. Bari's Petition for Waiver and Variance filed after the April Board meeting. Mr. Bari had requested review of his application under the Rule in effect at the time of application. At the time of application, Rule 61G15-20.007(5), F.A.C. allowed waiving Humanities and Social Sciences for applicants holding a post baccalaureate degree. The Board advised Mr. Bari of the repeal of this provision of the Rule. Consideration of applicability of this Rule could occur as a result of a favorable ruling to his Petition for Waiver and Variance. Ms. Gustafson asked the Board to determine if Humanities and Social Sciences could be waived. If the Board applied the Rule in effect at the time of application then his application should be approved.

Upon a motion by Mr. Matthews seconded by Mr. Burke, the Petition for Variance and Waiver was denied. The basis for denial was Mr. Bari's failure to prove sufficient efforts to secure the documents needed for the evaluation of his undergraduate education.

#3 Gregory Ruck Petition for Variance and Waiver

Ms. Gustafson outlined Mr. Ruck's educational background. Mr. Ruck holds a non EAC/ABET degree. The Petition for Variance and Waiver requests waiver of the decision to deny him licensure because he did not graduate from an approved program and to permit him to demonstrate substantial equivalence of his education pursuant to Rule 61G15-20.007, F.A.C. Ms. Gustafson recommended the Board first deny the Petition for Formal Hearing regarding the denial of the licensure application, determine that certain requirements of Rule 61G15- 20.001(2), F.A.C., be waived and direct that Mr. Ruck's application be reviewed at the next Educational Advisory Committee to permit him to demonstrate substantial equivalence of his education.

Upon a motion by Ms. Hogenkamp seconded by Dr. Bloomquist , 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 Mr. Ruck's ability to articulate equivalency to Rule 61G15-20.007, F.A.C.

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

#4 LEAP Software

Mr. Bayó was present on behalf of his client, LEAP Software. LEAP Software's application as a provider of continuing education was denied based on language in the rule prohibiting financial interest in the technology being taught. With repeal of this language in the rule, the decision to deny was reversed. Based on the reversal of the denial, LEAP Software was before the Board to request retroactive approval of their courses from the date of submitting their application.

Upon a motion by Mr. Matthews seconded by Mr. Burke, the approval was applied retroactively to June 1, 2005, that being the beginning of the new provider approval period under which Leap originally applied.

#5 Board Counsel Opinion Letters

a. None to report.

E. Executive Director's Report

- #1 List of Applicants Requesting Retired Status*
- #2 Responses to Building Officials re: Aluminum Structures Design Manuals Decision

Mr. Martin outlined the steps used to communicate the Board's April decision to building officials, professional engineers signing and sealing these types of manuals and aluminum contractors around the state.

- #3 Rewrite of Chapter 61G15-20, F.A.C.

The Rules Committee reviewed this chapter rewrite authored by Mr. Martin at its last meeting and certain changes were made for consideration by the Educational Advisory Committee. Dr. Bauer requested that the rule amendments not proceed until the Educational Advisory Committee reviewed the amended rewrite. After discussion, the following action was taken:

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, the amended rewrite of this chapter was referred to the July 12, 2006, Educational Advisory Committee meeting for review. Dr. Bauer asked Dr. Anderson and Mr. Geer to submit their comments to the Committee.

- #5 Letter from ABET re: University of Florida Evaluation.

Mr. Martin had received an invitation asking the Board to appoint an observer to attend the upcoming EAC/ABET review of the University of Florida's Civil Engineering Program. Mr. Rose agreed to attend as the Board's representative.

- #6 Calendar for 2007 Board Meetings and Locations

Discussion of the calendar was deferred to July meeting.

- #7 April Legal Operations Open Case Report Cleanup and Discussion

Discussed in the FEMC/FBPE meeting and no additional discussion on this item was held during this meeting.

- #8 June Legal Operations Open Case Report

Discussed in the FEMC/FBPE meeting and no additional discussion on this item was held during this meeting.

F. Chief Prosecutor's Report

#1 Non-Compliance Report

Mr. Martin confirmed his requirement that he review this report for format changes before presenting to the Board in future meetings.

G. Chair's Report

None.

H. Correspondence to the Board

None.

I. Old Business

Comments were provided by the Board Members who had conducted an observation of the April examination administration. All Board members observing the various sites agreed that the proctors were well trained. Specific concerns noted by Mr. Rebane and Mr. Matthews, at the Tampa and Tallahassee sites, respectively, were both the absence of an ELSSES representative on site and an inability to reach the ELSSES office. Mr. Charland and Mr. Rose had no problems with the Kissimmee and Miami locations. Mr. Burke raised minor concerns about the lighting and size of room for the University of Florida exam site. It was observed that this site had always been the one used at the University of Florida and that it offered many advantages to the applicant.

J. New Business

Mr. Martin requested that the Educational Advisory Committee review one application at the conclusion of the meeting.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, Rule 61G15-20.007, F.A.C., will be referred to rulemaking for an amendment to require that in order to receive credit for courses taken to resolve deficiencies, the applicant must provide a transcript reflecting a grade of "C" or higher.

K. Public Forum

Public Hearing on Aluminum Structures Design Manuals.

Mr. Rebane affirmed the Board's responsibility to protect the health, safety and welfare of the citizens of the State of Florida. This was the basis for adopting the recent statement of condemnation of Aluminum Manuals. With publication of the action, reaction from those involved in the building industry was made known by letter, e-mails and contact from legal counsel for many of the building associations. During the teleconference meeting on May 26, the Board decided to

extend the deadline to stop the use of signed and sealed aluminum structures design manuals and agreed to hold a public hearing at the June Board meeting in order to allow all affected parties to address the Board.

In response to that action, Ms. Simone Marstiller, Secretary of the Department of Business and Professional Regulation, wrote to the Chair expressing her appreciation while suggesting that the Board elect to engage in rulemaking in order to create specific rules of conduct and to allow public input.

Mr. Rebane first called on Mr. Dennis Yecke, Deputy Secretary of the Department of Business and Professional Regulation, for his comments. Mr. Yecke expressed his appreciation for the Board's extension of the deadline on use of aluminum manuals and indicated that he was present to observe the proceedings and make a report to Secretary Marstiller. Upon conclusion of his comments, he called on Mike Martinez, Deputy General Counsel, Department of Business and Professional Regulation. Mr. Martinez strongly supported the concept of the Board entering into rulemaking given the economic impact on the building industry. He indicated that rulemaking would allow input from all concerned parties and would bring to light any issues dealing with protection of the health, safety and welfare of the public.

Fred Dudley, Esq., Akerman Senterfitt, Tallahassee, was present to address concerns of the two associations he represents, The Swimming Pool Contractors Association and the Aluminum Association of Florida. He was accompanied by Officers from both associations. His comments were to be the representative comments for these two groups. He did not argue with the authority of the Board to establish rules applying to professional engineers. He did not believe the Board's position in regard to these manuals was sufficiently clear in order to ensure that the Board's position did not get applied in an overbroad fashion. He felt the Board's expressed position put the Board in conflict with the Florida Building Code and at odds with the Florida Building Commission, while creating an atmosphere of uncertainty for contractors, building officials and professional engineers.

His final point addressed the impetus of the Board's action which, in his opinion, was based on unfounded allegations by two building officials. Mr. Dudley believed it improper for the Board to condemn the use of design manuals without first finding evidence that designs created by using these manuals were deficient. Any rules adopted by the Board would have to be based on this evidence. He urged the Board to begin the rulemaking process as soon as possible. He and his clients would work with the Board in any way possible.

Mr. Rebane responded by indicating that swimming pools were not referenced in the condemnation statement. The statement was directed only to design manuals signed, sealed and issued by Professional Engineers.

Mr. Rebane cited the operative word "should" in the Board's statement about site specific drawings and that the Board did not contest the ability of other

professionals to design layouts from the “deemed to comply” manuals. If the problem were that simple, then the Board would not be in the current position of having to take a stance on the aluminum design manuals. Most jurisdictions already require site specific engineering before issuing a permit.

Mr. Tomasino asked if certain parts of the state already require site specific plans for the same type of structures. Mr. Dudley did not know specifically what counties require site specific plans. He did know that it was not a statewide requirement. Mr. Tomasino then asked if there is more than one source of design manuals, as the building code references several sources. Mr. Dudley was only familiar with the AAF Manual. There are six other guides that are referred to in the building code. He was not familiar with others that may be available.

Mr. Tomasino asked if a person would always reach the same design conclusion if using the manuals. Mr. Dudley could not answer the question, however, he confirmed his client’s right to use of the AAF manual under the Florida Building Code. Mr. Tomasino called attention to the issue of design manuals designed by engineers and contractors used to build without site specific requirements.

Mr. Rebane confirmed that so called “deemed to comply” manuals, referenced in the Florida Building Code, would not be affected by the Board’s statement. For example, the AAF manual would not be affected by the Board’s statement.

Mr. Rebane reaffirmed the statement’s applicability to aluminum design manuals signed and sealed by an engineer. He took issue with Mr. Dudley’s statement that a building official is not able to require signed and sealed drawings. Mr. Rebane does recognize the ability of the building officials to determine when there is necessity for site specific requirements.

Rex Ware, Esq., Fowler, White, Boggs & Banks, Tallahassee. represented the Aluminum Association of Florida West Coast Chapter, Alliance of Florida Contractors, Larry Bennett, PE and AL Engineering, Inc. Mr. Ware expressed his concerns about the Board’s statement. He, too, expressed concerns about the statement being overbroad and subject to overreaching application. In his opinion, this statement goes much further than a few aluminum contractors. Many of these small businesses are already dealing with health insurance issues, wages to employees and this latest development adds to the effort to stay in business. The practice the Board is condemning has been going on for more than twenty five years and to suddenly outlaw the business practice is unfair and does not achieve the requirements of the engineering or contracting laws. There were over one hundred inquiries since the first of May requesting the Board to withdraw the statement until further research could be completed. The Board would be well advised to study the issues with input from all parties to improve the manuals rather than eliminate them.

Mr. Rebane stated the Board’s ongoing work on this problem for five years. With the last two years of numerous and damaging hurricanes, the Board has begun the process of correcting what it knows to be a problem. The number of collapses of

aluminum structures after the storms has proven problems exist in the adequacy of the design of these structures. He stated, once again, the Board's intent was only to address engineers who sign and seal these design manuals that are filed for public record for projects which cannot, and do not, include site specific requirements.

Larry Sellers, Esq., Holland & Knight, Tallahassee, was present on behalf of the Florida Homebuilders Association comprised of some 21,000 members. He was accompanied by three officers of the Tampa Bay Builders Association. The association is extremely concerned with the statement and the impact on the building industry. Many builders use master plans. In many cases, they are not required to be site specific. He encouraged the Board to go into rulemaking on this issue. Building officials should be responsible for the acceptance of designs based on "deemed to comply" manuals.

Mr. Rebane again stated the Board's intent is to address professional engineers whose signed and sealed aluminum design manuals are being filed for public record and are the sole basis for permitting projects that require site specific structural engineering to get built.

Dennis Grimm, Chief Building Official for St. Lucie County, was very much aware of the issue addressed by the statement. He totally supports the AAF manual as it sets standards by which all aluminum structures should be designed and built. However, not all contractors want to use this manual as they feel it is restrictive and conservative in its approach. In public hearings held in Palm Beach County, all of the affected parties were present. The findings of that hearing were reported to the county commission and it was determined to hire an engineer to design a set of county aluminum carport plans. The consultant was hired and the plans designed to 140- C which is the most stringent standard in the Florida Building Code. These master plans assisted the mobile home owners to rebuild. Anyone could use these plans as they were declared to be a "deemed to comply" manual. He cited the problems resulting from last year's hurricanes. A number of contractors from out of state came into Florida and engaged in building. These out of state contractors had no concept of the manual and the need to comply with all design requirements. There appears to be an increasing problem with unqualified contractors performing work in Florida that is not in compliance with applicable building codes. Too much reliance is placed on the building officials to complete the review during permitting and on their inspectors to observe engineering design errors that needed to be fixed.

Mr. Matthews noted board discussion with four engineers, several years ago, who were designing the manuals stating that only contractors who were first trained on the proper use of the manual actually were authorized to use the manual. Based on Mr. Grimm's statement, either this does not appear to be the case presently or it was never the method of operation in the first place.

Randy Kissel, P.E., a licensed P.E. in Florida and former General Contractor, addressed the Board regarding his background and knowledge of the issues facing the Board. He has designed aluminum structures for over thirty years in Florida. He teaches continuing education classes to the American Society of Civil Engineers in designing aluminum structures. Actually, a number of engineers have been directed to his class in fulfilling disciplinary requirements. He has written textbooks on design of aluminum design and he is secretary of the Committee that writes Aluminum Design Manuals. About a year ago his firm performed research for Tropical Screens. In completing this research, he noted a number of design deficiencies with regard to various code requirements. Master files or design manuals are being used by persons who are trained to review the plans for use on site. It appears certain contractors attempt to use one plan for all sites. He supports the Board's position to eliminate design manuals. There should be site specific requirements and those requirements require engineering background in order to obtain compliance.

It was determined that a definition of design manuals and master plans would be appropriate. Design manuals are signed and sealed by a Professional Engineer. These manuals are filed with building department and specific parts can be used for permitting. Many of the manuals are not identical in content and the product based manual or the other manuals would not result in the same conclusion regarding the project design.

Do Kim, P.E., Member of the Florida Building Commission, current Chair of the Structural Advisory Technical Committee of the Florida Building Commission and also a representative of the Product Approval Committee on the Florida Building Commission, explained that he had previously designed a manual that was used in St. Lucie County. It was never intended to be an engineering document and was solely designed as a "deemed to comply" manual for use by the building department in St. Lucie County. He later withdrew the manual as all of his present design work is designed site specific. He does not have a personal or professional position on the Board's recognition of design manuals. As a Commission member and as a member of the Product Approval Committee, his concern is the impact on the Code's product approval process and engineering documents submitted for manufacturers of products. Those documents include installation drawings, tables, wind charts, window installation, and shutter installation standards. He asked if the Board's statement applied to these types of documents. Mr. Rebane confirmed the Board's rule on product approval that was put into place after the revision of the building code and that he did not believe the statement applied to these type of documents.

Mr. Charland referred to Mr. Dudley's statement as to the disclaimer in the AAF guide. To properly comply with the disclaimer statement, a person would to have to have engineering knowledge to determine if the structure is safe and dependable. Mr. Kim did not believe that all contractors could evidence this knowledge. He also believed the conclusion from posing the same design issue to all of the Board members would not be the same. It would be difficult for untrained individuals to use such a guide.

James F. “Buddy” Akins, Jr., Chief Building Official, Indian River County, supported the Board’s position to resolve problems that may affect the practice within the building industry.

Mr. Rebane summarized the input from the public which would appear to confirm the need to rescind the statement on aluminum manuals until rulemaking takes place. This process would allow an opportunity to involve all interested parties and the public in crafting a solution.

Mr. Rebane asked Ms. Gustafson to outline what steps the Board needs to take based on discussion today. Ms. Gustafson confirmed that withdrawal of the statement and engagement in rulemaking should occur in the same motion. The appropriate rule for consideration of amendments is Rule 61G15-30.003, F. A.C. Engineering Documents Classification. Mr. Rebane believed a sub-committee of the Board should take on the responsibility of defining what would eventually go to the Rules Committee.

Upon a motion by Mr. Matthews seconded by Mr. Charland, the statement issued by the Board on aluminum structures manuals was withdrawn and the subject of responsibility rules for professional engineers creating, signing and sealing these aluminum structures design manuals was assigned to an Ad Hoc Committee comprised of Mr. Charland, Mr. Tomasino and one other Board member. This Committee will research the use of design manuals and make a recommendation to the Rules Committee. The first meeting would be held in conjunction with the Application Committee.

Mr. Burke suggested review of Rule 61G15-31.007, F.A.C. as the most appropriate rule to append such amendments. Mr. Martin suggested and Ms. Gustafson agreed that Rules 61G15-30.003 and 61G15-31.007, F.A.C., should be noticed for rule development.

Upon a motion by Mr. Charland seconded by Dr. Bauer, the Board authorized Ms. Gustafson to file a Notice of Rule Development for Rules 61G15-30.003 and 31.007, F.A.C.

Upon the Board completing the first day’s agenda, the meeting was recessed until 8:30 AM the following day to allow the Educational Advisory Committee to meet.

Part II Informal Hearing Agenda

The Chair called the meeting to order and addressed the audience regarding the importance of achieving EAC/ABET accredited degrees and licensure as a Professional Engineer.

Mr. Martin reported on the results of the one application reviewed by the Educational Advisory Committee on June 14, 2006. The Committee's recommendation was denial of the application of Sarah Noorjahan based on educational deficiencies consisting of 10 semester credit hours in Humanities and Social Sciences.

Upon a motion by Mr. Burke seconded by Mr. Matthews, the Committee's Recommendation was accepted and the application of Sarah Noorjahan was denied.

L. Consideration of Petitions for Formal Hearing

#1 Dawen Sui

Mr. Sui was present for his hearing and was sworn prior to addressing the Board. Mr. Sui addressed the Board on the denial of his application for educational deficiencies of 2.7 semester credit hours in Mathematics and Basic Sciences.

Mr. Sui submitted his Election of Rights and elected to have a Formal Hearing. The file was copied and forwarded to Board Counsel. Ms. Gustafson subsequently advised staff to place this Petition for Formal Hearing on the June agenda as she could not discern a material fact in dispute. Mr. Sui was informed that if the Board denied the request for a formal hearing, an Informal Hearing will immediately ensue.

Upon a motion by Mr. Matthews seconded by Dr. Bauer, the Petition for Formal Hearing was denied and the matter proceeded as an Informal Hearing. Mr. Sui asked the Board to accept his credentials along with his post graduate degrees for approval to sit for the examination.

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

#2 Ronald R. Rotunno

Mr. Rotunno was present for his hearing and was sworn prior to addressing the Board on the denial of his application for educational deficiencies. Mr. Rotunno holds a Bachelor of Science degree in Transportation Technology from Penn State University awarded in 1979.

In response to the denial, Mr. Rotunno filed a Petition for Formal Hearing. Ms. Gustafson subsequently advised staff to place this Petition for Formal Hearing on the June agenda as she could not discern a material fact in dispute. Mr. Rotunno was informed that if the Board denied the request for a formal hearing, an Informal Hearing will immediately ensue.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rose, the Petition for Formal Hearing was denied. The matter proceeded as an Informal Hearing and Mr. Rotunno presented additional information to the Board. Upon conclusion of his presentation the following action was taken:

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

#3 Alexandre Cazin

Mr. Cazin was not present for his hearing. Mr. Cazin's application was denied for educational deficiencies of 2 Semester Credit Hours in Humanities and Social Sciences, 7.25 Semester Credit Hours in Mathematics and Basic Sciences and failure to evidence courses in Chemistry and Calculus-based Physics along with at least a two (2) semester sequence of study in either Chemistry or Physics.

Mr. Cazin submitted his Election of Rights, electing to supplement his application and to have a Formal Hearing. Ms. Gustafson subsequently advised staff to place this Petition for Formal Hearing on the June agenda as she could not discern a material fact in dispute. Mr. Cazin was informed that if the Board denied the request for a formal hearing, an Informal Hearing will immediately ensue

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

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

#4 David Suarez

Mr. Suarez was present for his hearing and was sworn prior to addressing the Board on the denial of his application for re-examination. Mr. Suarez has failed the examination five times and has not provided transcripts evidencing completion of additional education required by Rule 61G15-21.007, F.A.C.

Mr. Suarez submitted his Election of Rights, electing to supplement his application and to have a Formal Hearing. Ms. Gustafson subsequently advised staff to place this Petition for Formal Hearing on the June agenda

as she could not discern a material fact in dispute. Mr. Suarez was informed that if the Board denied the request for a formal hearing, an Informal Hearing will immediately ensue

Upon a motion by Ms. Hogenkamp seconded by Dr. Bauer, the Petition for Formal Hearing was denied. Mr. Suarez addressed the Board and the following action was taken:

Upon a motion by Mr. Charland seconded by Dr. Bloomquist, the denial was upheld. Mr. Suarez was advised of the requirement to submit evidence of having achieved twelve semester credit hours of higher engineering courses prior to applying for a future principles and practice examination

M. Informal Hearings on Denial of Application for Fundamentals Examination

#1 Quazi Bari

Mr. Bari was present for his hearing and was sworn prior to addressing the Board on his appeal to the granting of Conditional Approval of his application. The Conditional Approval was based on the determination of educational deficiencies of 8 Semester Credit Hours in Humanities and Social Sciences.

Mr. Bari submitted his Election of Rights, electing to supplement his application and to have an Informal Hearing. Mr. Bari's supplement was a request for the Board to consider his application based on the rule in place at the time of application. The rule would have allowed the Humanities and Social Sciences to be waived if holding an MS degree. With repeal of this provision in the rule, Mr. Bari's application remained denied.

The Board advised Mr. Bari of the right to file a Petition for Variance and Waiver. The Petition for Variance and Waiver was denied on June 14, 2006. Mr. Bari advised the Board that he had passed the Fundamentals Examination in New Hampshire. With this information, the Board took the following action:

Upon a motion by Mr. Matthews seconded by Dr. Bauer, the board's decision was upheld and the applicant was granted Conditional Approval.

#2 Kamil Halal

Mr. Halal was not present for his hearing.

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

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

#1 Fatih Gordu

Mr. Gordu was present for his hearing and was sworn prior to addressing the Board on the denial of his application for the Principles & Practice Examination. The Board reviewed the evaluation of his undergraduate studies by ECEI to determine whether or not he demonstrated substantial equivalency to the criteria set forth in Rule 61G15-20.007, F.A.C. Mr. Gordu was determined to be deficient 10 semester credit hours in Humanities and Social Sciences.

Mr. Gordu submitted an Election of Rights form to supplement and to have an Informal Hearing. The Board reviewed the supplemental information and reduced the deficiency from 10 semester credit hours to 7 by accepting a course entitled "Scholarly Writing" as a Humanities and Social Sciences course. He remains 7 semester credit hours deficient in Humanities and Social Sciences. It was noted that Mr. Gordu answered in the negative to Question 5(a) on the application wherein he was asked if he ever had been denied the right to take an Engineering Examination in any state. In a Final Order filed on August 19, 2002, this Board denied Mr. Gordu's application to sit for the Fundamentals Examination and found him deficient 5.5 semester credit hours in basic Sciences. He subsequently applied to Georgia, was approved, and passed the Fundamentals Examination there in 2003. A copy of the Board's Final Order was included in the materials.

Mr. Gordu requested and the Board granted a continuance to this meeting to allow him an opportunity to submit a complete evaluation of his education by ECEI. Mr. Gordu addressed the Board and, upon conclusion of his presentation, the following action was taken:

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

#2 Javed Y. Mayet

Mr. Mayet's hearing was continued from the April meeting. Subsequent to granting the continuance, Mr. Mayet withdrew his request for hearing and the matter was closed.

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

#1 Jinsheng Huo

Mr. Huo was present for his hearing and was sworn prior to addressing the Board on the denial of his application for endorsement. Mr. Huo was

unable to submit the evaluation of his undergraduate degree due to hardship in securing documents and his application was denied for failure to evidence substantial compliance with Rule 61G15-20.007, F.A.C. Mr. Huo submitted an Election of Rights form to have an Informal Hearing.

The Informal Hearing was scheduled for the April Board meeting and was continued to June 14, 2006 to allow an opportunity to complete the process of evaluation of his undergraduate degree from China or prove to the Board that he is unable to secure the documents to complete the evaluation.

Mr. Huo presented a letter from China confirming their intent to refuse the request for documents.

Upon a motion by Dr Bauer seconded by Dr. Bloomquist, the Board directed Mr. Huo to contact the University of Tennessee to secure documents they used to determine his admittance to the Ph.D. program. If he can find original transcripts there and the University sends the original transcripts to Josef Silny & Associates, the Board will authorize that company to perform their evaluation from the original documents received from the University of Tennessee. The hearing was continued to the December Board meeting to allow him to arrange for such an evaluation.

#2 Nirmal Krishna Datta

Mr. Datta was present for his hearing and was sworn prior to addressing the Board on the denial of his application for licensure by endorsement. Review of Mr. Datta's educational evaluation evidenced a deficiency of a Probability and Statistics course and seven (7) semester credit hours of Humanities and Social Sciences.

In response to the Notice of Denial, Mr. Datta submitted an Election of Rights form to supplement and to have an Informal Hearing. The supplemental material satisfied the Probability and Statistics, however, it did not satisfy the seven (7) hours in Humanities and Social Sciences. An Informal Hearing scheduled for the February was continued to the June meeting to allow him the opportunity to submit transcripts clearing his deficiencies in Humanities and Social Sciences.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the application was approved.

#3 Amir Mirmiran

Mr. Mirmiran was present for his hearing and was sworn prior to addressing the Board on the denial of his application for licensure by endorsement based on educational deficiencies. Mr. Mirmiran's application was denied for failure to submit an evaluation of his

undergraduate education to determine equivalency to Rule 61G15-20.007, F.A.C.

In response to the Notice of Denial, Mr. Mirmiran submitted his Election of Rights to have an Informal Hearing along with a letter explaining why he could not get the transcript evaluation. In accordance with the Election of Rights, the Informal Hearing was scheduled for the June Board meeting.

A motion was made by Dr. Bauer and seconded by Dr. Bloomquist that Mr. Mirmiran contact the University of Maryland to secure documents reviewed for entry into the Ph.D. program there and the documents could be reviewed by Josef Silny and Associates to perform an evaluation of his foreign education.

Mr. Mirmiran asked the Board to consider the fact that he was previously licensed in Florida, his license expired because of failure to receive a Notice of Renewal and his achieving post-graduate degrees in engineering.

Upon a motion by Mr. Tomasino seconded by Mr. Rose, the application was approved based on his previous Florida licensure record and completion of subsequent degrees in engineering.

#4 Susan McCray Armstrong

Ms. Armstrong was not present for her hearing. Ms. Armstrong was to have completed a course in differential equations and a calculus-based physics course. Ms. Armstrong notified the Board office of her inability to complete the course. She understood her file would be closed and she will have to submit a new application should she pursue licensure in future.

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

#5 Francisco M. Saldarriaga

Mr. Saldarriaga was present for his hearing and was sworn prior to addressing the Board on the denial of his application for licensure by endorsement based on educational deficiencies. Mr. Saldarriaga failed to submit an evaluation of his degree from Columbia to prove substantial equivalency to Rule 61G15-20.007, F.A.C.

In response to the Notice of Denial, Mr. Saldarriaga submitted his Election of Rights form to have an Informal Hearing that is scheduled for June 14, 2006. Subsequent to scheduling the Informal Hearing, staff received an evaluation from FSCA. The evaluation was reviewed in the May Educational Advisory Committee meeting and it was determined based on

the evaluation and courses completed in his Masters program, Mr. Saldarriaga was deficient four semester credit hours in Humanities and Social Sciences.

After a short discussion the following action was taken:

Upon a motion by Mr. Matthews seconded by Dr. Bloomquist, the hearing was continued to the February 2007 meeting to allow compliance with Rule 61G15-21.007, F.A.C. or to allow the applicant to submit a transcript showing credit for four semester hours in Humanities and Social Sciences.

P. Special Inspector Applications

None

Q. Informal Hearings on Denial of Application for Continuing Education

#1 Land Pro Seminars

Mr. Melvin, a Professional Surveyor and Mapper in Florida, who applied for approval to be a provider of continuing education under the name of Land Pro Seminars was not present for his hearing. The Board denied the application based on failure to satisfy the eligibility criteria set forth in Rule 61G15-22.011(2) and Rule 61G15-22.002, F.A.C.

In response to his Election of Rights, Mr. Melvin's Informal Hearing was continued from the April to the June meeting. The continuance was to allow Mr. Melvin an opportunity to respond to the Board's comments on what is required to be approved as a provider by filing a new application.

Mr. Melvin did not file a new application. Instead, he supplemented his original application. The supplement was not submitted in time for the May Application Committee meeting. The Board reviewed the supplement and the following action was taken:

Upon a motion by Mr. Matthews seconded by Mr. Charland, the application was approved.

R. Special Appearance before the Board

None

Part III
Disciplinary and Unlicensed Hearings

T. Recommended Orders

- #1. Lester M. Maples, P.E.
PE 10214
DOAH Case Number 05-4270PL
FEMC Case Number 2004032677
Represented by Alvin L. Peters, Esquire
Probable Cause Panel: Burke and Seckinger
(See Exhibit T#1 in Red Book One)

Continuances on Mr. Maples case were denied.

Mr. Maples was present with substitute Counsel, Timothy Qualls, who renewed a request for a continuance, because of Mr. Peters absence.

Upon a motion by Mr. Rebane seconded by Mr. Charland, the continuance was denied.

Mr. Maples has been charged by an Administrative Complaint with one count of negligence in the practice of engineering relating to fire protection shop drawings and calculations for a Treasure Island Condominium project and one count of practicing engineering through a firm that does not have a Certificate of Authorization.

Mr. Maples disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on February 13, 2006. By Recommended Order dated March 31, 2006, the Administrative Law Judge concluded that Mr. Maples only violated 471.033(1)(a), Florida Statutes, by performing engineering services through an entity that did not have a Certificate of Authorization, and recommended Mr. Maples be determined to be guilty of the allegation in Count Two, that he be reprimanded, and that he be placed on probation for two years.

On April 5, 2006, the Petitioner filed exceptions to the Administrative Law Judge's Recommended Order. On April 13, 2006, Mr. Maples filed Respondent's Exceptions to the Administrative Law Judge's Recommended Order.

Upon a motion by Mr. Rebane seconded by Dr. Bauer, Petitioner's Exception 1 was rejected.

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

Upon a motion by Ms. Hogenkamp seconded by Mr. Rebane, Respondent's Exception 2 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Respondent's Exception 3 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Bauer, Respondent's Exception 4 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Respondent's Exception 5 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Respondent's Exception 6 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Respondent's Exception 7 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Respondent's Exception 8 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, the Findings of Fact of the Recommended Order, were adopted as the Findings of Fact of the Board.

Upon a motion by Mr. Rebane seconded by Mr. Bloomquist, the Conclusions of Law of the Recommended Order were adopted as the Conclusions of Law of the Board, with the penalty modified to reprimand, two years of probation, project review at six twelve and eighteen months with selection of one to two projects from each list and fine of \$1,000, costs of \$916.30.

- #2. Lester M. Maples, P.E.
PE 10214
DOAH Case Number 05-4271PL
FEMC Case Number 2005043405
Represented by Alvin L. Peters, Esquire
Probable Cause Panel: Burke and Seckinger
(See Exhibit T#2 in Red Book One)

Mr. Maples was present with substitute Counsel, Timothy Qualls.

Mr. Maples was charged by an administrative Complaint with misconduct for making misleading, deceptive or fraudulent representations in the practice of engineering by expressing an opinion publicly on an engineering subject without being informed as to the facts relating thereto. The charge arose as a result of Mr. Maple's testimony at a previous formal hearing in a previous case regarding the same project, a fire protection

system for a Gulf Coast Community College Wellness Center in Panama City, Florida.

Mr. Maples disputed the facts of the Administrative Complaint and requested a hearing, which was held on February 14, 2006. On April 28, 2006, the Administrative Law Judge issued a Recommended Order finding Mr. Maples guilty of misconduct by providing an opinion publicly on an engineering subject, without being informed as to the facts relating thereto in violation of Section 471.033(1)(g), Florida Statutes, as further explicated by Rule 61G15-19.001(6)(a), Florida Administrative Code.

On May 5, 2005, the Respondent filed exceptions to the Administrative Law Judge's Recommended Order. On May 11, 2006, Petitioner filed Petitioner's Responses to the Exceptions.

Upon motion by Mr. Tomasino seconded by Mr. Rose, Exception 1 was rejected. Board Counsel advised that rejection also covered Exception 2.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rebane, Exception 3 was rejected.

Upon motion by Mr. Tomasino seconded by Mr. Charland, Exception #4 was rejected

Upon a motion by Mr. Tomasino seconded by Mr. Charland, the Findings of Fact and Conclusions of Law were adopted.

In discussion of penalty Mr. Campbell noted previous disciplinary actions and present penalty should be set beyond the normal based on this fact. The minimum is a reprimand, \$1,000 fine and 2 years probation with a maximum of suspension.

Upon motion by Mr. Charland seconded by Dr. Bloomquist, the Findings of Fact determining violation of Chapter 471, with no violation of Chapter 455, F.S.

Mr. Qualls addressed the Board requesting the recommended penalty be accepted.

Ms. Hogenkamp supported an increased penalty to a 2 year suspension, \$10,000 fine.

Costs in this case were recorded as \$2,055.14.

Ms. Gustafson explained the Board's ability to increase the penalty under aggravating circumstances.

Upon motion by Mr. Rose seconded by Mr. Rebane, a fine of \$5,000.00, costs of \$2,055.14 and two year probation to run concurrently with FEMC Case 2004032677.

#3 Alan Stokes
PE N/A
DOAH Case Number 05-4338
FEMC Case Number 2005041242
Represented by William Hollimon, Esquire
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit T#3 in Red Book Two)

Mr. Stokes was present and was represented by Andrea Stokes, Esquire.

Mr. Stokes has been charged by an Administrative Complaint with two counts for practicing engineering without a license. On or about October 20, 2003, Mr. Stokes was served a Notice to Cease and Desist the unlicensed practice of engineering. After receiving the Notice, Mr. Stokes continued to practice and offer his services as a professional engineer.

Mr. Stokes disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on January 27, 2006. By Recommended Order dated March 26, 2006, the Administrative Law Judge concluded that Mr. Stokes did not violate 471.003(1) and 471.031(1)(a), Florida Statutes, by performing engineering proving engineering services, specifically expert services in support of litigation in the State of Tennessee.

On April 5, 2006, the Petitioner filed exceptions to the Administrative Law Judge's Recommended Order. On April 14, 2006, Mr. Stokes filed Respondent's Response to Petitioner's Exceptions to Recommended Order.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist, Petitioner's Exception 1 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 2 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 3 was rejected.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist, Petitioner's Exception 4 was accepted.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rebane, Petitioner's Exception 5 was accepted.

Upon a motion by Mr. Charland seconded by Mr. Rebane, Petitioner's Exception 6 was accepted.

Upon a motion by Mr. Rebane, seconded by Mr. Charland, Petitioner's Exception 7 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 8 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 9 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 10 was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 11 was accepted.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist, Petitioner's Exception 12 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 13 was accepted.

Upon a motion by Mr. Charland seconded by Mr. Rebane, Petitioner's Exception 14 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Charland, Petitioner's Exception 15 was accepted.

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

Upon a motion by Dr. Bauer seconded by Mr. Rebane, Respondent is deemed to have violated Chapter 471.033(1)(a) on count one.

Upon a motion by Mr. Rebane seconded by Dr. Bauer, the respondent is deemed to have violated Chapter 471.033(1)(a).

Upon a motion by Dr. Bauer seconded by Mr. Charland, the penalty imposed was \$5,000 on each count for a total of \$10,000. In discussion the motion failed by 5 to 2 vote.

Mr. Rebane moved offer a substitute to the motion to impose a fine of \$1,000 for each count for a total of \$2,000.00. Motion passed.

Respondent's counsel moved for a stay of the order until the appeal is finalized.

Upon a motion by Mr. Rebane seconded by Mr. Charland, the penalty was stayed pending the appeal.

U. Settlement Stipulations

- #1 Alvaro J. Tellez, P.E., and Alteca Group, Inc.
PE 51576 and CA 9488
FEMC Case Number 2005031958
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit U#1 in Red Book Three)

Mr. Tellez was not present.

Mr. Tellez and Alteca Group, Inc. have been charged by Administrative Complaint with one count of negligence for Mr. Tellez signing and sealing the plans and calculations for the Pedreno Residence that were not acceptable to the standards of engineering and one count for Mr. Tellez and Alteca Group, Inc. failed to include the legible name, addresses and certificate numbers on each page of said drawings and calculations.

Mr. Tellez and Alteca Group, Inc. have entered into a stipulation with FEMC for \$2,000.00 administrative fine and costs of \$1,698.00; Mr. Tellez must appear before the Board to explain how he is going to improve the quality control of his structural design; a reprimand; and probation for two years with terms he successfully complete a Board approved course in Engineering Professionalism and Ethics; submit a list of projects completed by him at six and eighteen month intervals and if during any six month interval he has no list of projects, the probation shall be extended for two successive six month intervals to allow the required review; and he must successfully complete the Study Guide.

PCP Recommendation: Reprimand; \$2,000.00 administrative fine (2 counts at \$1,000.00 per count); costs of \$1,698.00; Mr. Tellez will be placed on two years probation with plan reviews at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain how he is going to improve the quality control of his structural design.

It was noted in discussion that Mr. Tellez was required to appear and he has not. Mr. Rebane believed the lack of knowledge and compliance with Florida Building Code, a suspension would be appropriate. Upon conclusion of discussion the following action was taken:

Upon a motion by Mr. Rebane seconded by Mr. Charland, the Settlement Stipulation was rejected.

With this action Mr. Campbell will advise Mr. Velez of the rejection of the Settlement Stipulation and he must elect either a Formal or Informal Hearing.

- #2 Zohar Elazar, Individually, and EZ Building Inspectors, Inc.
PE N/A and CA N/A
FEMC Case Number 2006001359
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit U#2 in Red Book Three)

Mr. Elazar was present and was sworn in prior to addressing the Board.

Mr. Elazar and EZ Building Inspectors, Inc. have been charged by Administrative Complaint with two counts for Mr. Elazar practicing engineering without a license and EZ Building Inspectors for failing to have a Certificate of Authorization and practicing engineering without a license.

Mr. Elazar and EZ Building Inspectors have entered into a stipulation with FEMC for a \$1,000.00 administrative fine. It appears Mr. Elazar came into compliance immediately when the FEMC Investigator hand served a Notice to Cease and Desist on January 31, 2006. Other than the clear advertising violation, there is no evidence he intended to provide more than home inspections in residential transactions.

Upon a motion by Mr. Rebane seconded by Mr. Charland, the Settlement Stipulation was adopted.

- #3 Evelio Horta, P.E.
PE 46625
FEMC Case Number 2004044177
Represented by Tasha O. Buford, Esquire
Probable Cause Panel: Mathews, Burke, Seckinger
(See Exhibit U#3 in Red Book Three)

Mr. Horta was present with council Timothy Qualls covering for Ms. Buford.

Mr. Horta was sworn on prior to addressing the Board.

Mr. Horta has been charged by an Administrative Complaint with misconduct for failing to advise his client of a conflict of interest. Mr. Horta prepared a report recommending underpinning with auger case piles. During that same month, he formed a new corporation D.M.G.E., Inc. A month later, Mr. Horta met with his client and recommended that instead of the auger cast piles, they use jet grouting which could be

provided by D.M.G.E., Inc. Mr. Horta failed to advise his client that D.M.G.E. was a corporation owned by him and his wife.

Mr. Horta has entered into a stipulation with FEMC for a \$1,000.00 administrative fine and costs of \$825.00; Mr. Horta agrees to a reprimand; he agrees to appear before the Board to explain his understanding of conflict of interest with clients as a licensed P.E., probation for one year with terms he agrees to the successfully complete a Board-approved course in Engineering Professionalism and Ethics; and to the successfully complete of the Board's Study Guide.

PCP Recommendation: Reprimand; \$1,000.00 administrative fine; costs; 2 yrs. probation; Board approved course in Engineering Professionalism and Ethics; study guide; and an appearance before the Board to explain his understanding of conflict of interest with clients as a licensed P.E.

Mr. Horta commented on his understanding of having violated the engineering law as it relates to a conflict of interest.

Upon a motion by Mr. Charland seconded by Mr. Rose, the Settlement Stipulation was adopted.

#4 Mahendra B. Pathak, P.E.

PE 56667

FEMC Case Numbers 2005057334 and 2005061172

Represented by Michael R. Emery, Esquire

Probable Cause Panel: Matthews, Burke, Seckinger (2005057334)

Probable Cause Panel: N/A (2005061172)

(See Exhibit U#4 in Red Book Three)

Mr. Pathak was not present and was not expected to be present for his acceptance of the Board's counter-stipulation imposing revocation of his license.

Case Number 2005057334: Mr. Pathak was charged by Administrative Complaint with eight counts of negligence relating to plans for a Maribel Alcoser project, a Nicandor and Maria E. Rios project, a Tony and Ossie Wells project, and a Michelle Delahaye project. The project plans were found to contain either structural, electrical, mechanical, or plumbing deficiencies.

Case Number 2005061172: Mr. Pathak was charged by Administrative Complaint for violating Chapter 471, Florida Statutes. Mr. Pathak failed to submit his required project list at 6 and 18 months, pursuant to a Final Order filed against him in case number 01-0120.

Mr. Pathak originally requested an informal hearing in case number 2005057334. The case was placed on the February 23, 2006 Board

agenda; however, it was continued to the next meeting. On March 9, 2006, Mr. Pathak entered into a stipulation with FEMC in the aforementioned cases wherein he agreed to voluntarily relinquish his license, and further agreed in the event that he ever applies for new licensure, said license, if issued by the Board, shall be placed on a probationary status and subject to project review and any other limitations as deemed appropriate by the Board. Also, in the event the stipulation had been adopted by the Board, Mr. Pathak's license would be placed in Retired status, as defined in Section 471.005(1), Florida Statutes. Respondent agreed to appear before the Board at the time the stipulation is presented to discuss how any pending projects will be transferred to another Professional Engineer.

At the April 20th meeting, the Board rejected the March 9th proposed stipulation and offered a counter-stipulation incorporating the terms of the original stipulation, but amended paragraphs 4 and 5 as to Retired status; which were deleted, and replaced with a revocation of licensure. On May 19, 2006 Mr. Pathak executed and returned the counter-stipulation.

Upon a motion by Mr. Rebane seconded by Dr. Bauer, the Settlement Stipulation was adopted.

V. Informals

#1 Scott M. Gentry, P.E.
PE 44677
FEMC Case Number 2005040292
Represented by Edwin A. Bayó, Esquire
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit V#1 in Red Book Three)

Mr. Gentry was present with his attorney Edwin A. Bayó.

Mr. Gentry has been charged by Administrative Complaint with one count of negligence when he signed, sealed, and dated plans for a force main extension that contained electrical engineering for a pump motor detail that did not comply with Rule 61G15-33.00, Florida Administrative Code; and with one count of misconduct because he was not qualified by training or experience to perform in said area of practice.

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

PCP Recommendation: Reprimand; \$2,000.00 administrative fine (2 counts at \$1,000 per count); costs; 2 years probation; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain his understanding of the requirement to practice only in his area of expertise.

Ms. Gustafson advised the Board that consideration of comments by the Probable Cause Panel could not be a part of the record for this hearing.

Upon conclusion of Mr. Gentry's comments, the following action was taken:

Upon a motion by Mr. Rebane seconded by Ms. Hogenkamp, the penalty recommended by Probable Cause was imposed calling for a Reprimand; \$2,000.00 administrative fine (2 counts at \$1,000 per count); costs; 2 years probation; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain his understanding of the requirement to practice only in his area of expertise. Motion passed by majority.

#2 Carlos A. Muller, P.E.
PE 20547
FEMC Case Number 2005015397
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit V#2 in Red Book Three)

Mr. Muller was granted a continuance to the October Board meeting.

W. Adjourn

The audience was dismissed at 3:05 p.m. The flow of the meeting was not satisfactory. In the past, all cases had a presentation and procedures should be reviewed for improvement. This deviates from procedures in place for the past three years. The speaker system was not good, working intermittently.

Today for instance, the Prosecuting Attorney did not take action to stop certain testimony, the two cases with large number of exceptions were not prepared properly. First three cases do not represent the usual types of cases.

As to the ability to hear proceedings, staff will seek advice on correcting the problems with sound system.