

**Minutes of the
The Florida Board of Professional Engineers
December 3-4, 2008
Beginning at 8:30 a.m., or soon thereafter
Tallahassee, Florida
Part I**

A. Meeting Administration

- #1. Call to Order, Invocation, and Pledge of Allegiance to the Flag
- #2. Roll Call, Determination of Quorum, and Address Absences.

Board Members Present

John C. Burke, P.E., Chair
David O. Charland, P.E., Vice-Chair
Christian S. Bauer, Ph.D., P.E., C.M.S.P.
Paul Tomasino, P.E.
Zafar Hyder, Ph.D., P.E.
H. Dann Wallis, P.E.
Jonathan F. K. Earle, Ph.D., P.E.
Paul J. Halyard, P.E.
Bijay K. Panigrahi, Ph.D., P.E.
Mary M. Young, Public Member
Nola Garcia, Public Member

FBPE Staff Present

Carrie A. Flynn, Executive Director
Zana Raybon, Assistant Executive Director
Deborah A. Head, Comptroller
Patrick Creehan, Prosecuting Attorney
Wendy Gregory, Executive Assistant
Jerry Ongley, Investigator

Attorney General's Office

Michael T. Flury, Esquire
Board Counsel

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

Dennis Barton, Engineer Educators
Charlie Geer, FES/FICE
William Palm, P.E., Past Board Member, FBPE & FEMC

#4. Approval of the Agenda

Upon motion by Dr. Bauer seconded by Dr. Earle the agenda was approved as presented. The motion passed.

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

Upon motion by Dr. Bauer seconded by Ms. Garcia the Consent Agenda was approved as submitted. The motion passed.

#6. Review and Approval of previous Board meeting minutes

- a. Minutes from the August 6-7, 2008 Board Meeting*
- b. Minutes from the September 16, 2008 Rules Committee Meeting*
- c. Minutes from the October 15-16, 2008 Board Meeting*
- d. Minutes from the November 21, 2008 Conference Call*

B. Committee Reports

#1. Applications Committee (**Next Meeting to be Determined**)
(John Burke, P.E., Chair; David Charland, P.E.; Zafar Hyder, Ph.D., P.E., Nola Garcia) (Alternates: Christian Bauer, Ph.D., P.E.; Paul Tomasino, P.E.)

- a. Committee Chair's Report.

No report.

#2. Educational Advisory Committee (**Next Meeting to be Determined**)
(Christian Bauer, Ph.D., P.E., Chair; Dr. Jonathan Earle, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E. (Consultant) (Alternate: Zafar Hyder, Ph.D., P.E.)

- a. Committee Chair's Report.

No report.

- #3. Probable Cause Panel (**Next Meeting to be Determined**)
(David O. Charland, P.E, Chair, Henn Rebane, P.E.,) (Alternate: John Burke, P.E.)
- a. PCP Memo from September 16, 2008 Meeting*
(Exhibit B#3a)
 - b. PCP Memo from November 18, 2008 Meeting*
(Exhibit B#3b)
- #4. FBPE Rules Committee (**Next Meeting to be Determined**)
(John Burke, P.E., Chair; Henn Rebane, P.E.; David Charland, P.E., Paul Tomasino, P.E.)
- a. Committee Chair's Report.
- No report.
- #5. FBPE Legislative Committee
(Paul Tomasino, P.E., Chair; Christian Bauer, Ph.D., P.E.; Zafar Hyder, Ph.D., P.E.)
- a. Committee Chair's Report.
- Mr. Tomasino had no agenda for the legislative committee at this time. He is waiting for a response from FES regarding the possible dispute with the landscape architects. This report would have to be presented to the Board for a determination of any proposed statutory change.
- #6. Joint Engineer/Architect Committee
(John Burke, P.E., Chair; Zafar Hyder, Ph.D., P.E.)
- a. Committee Chair's Report.
- No report.
- #7. Nominations Committee
(Nola Garcia, Chair, David Charland, P.E.)
- a. Report of 2009 Committee Nominations
- Ms. Garcia reported on the Nominations Committee held by telephone conference call on December 1, 2008. The Committee recommendations for 2009 are John C. Burke, P.E. Chair and Christian S. Bauer, Ph.D., P.E. for Vice- Chair.

Upon Motion by Dr. Earle seconded by Mr. Tomasino, the recommendations of the Nominations Committee were adopted. Motion passed.

Mr. Burke advised the Board the Florida Engineers Management Corporation Board of Directors meeting held on December 2, 2008. During the meeting Robert Lombardo, P.E., was elected Chair and Gary Kuhl, P.E., was elected Vice-Chair of the Florida Engineers Management Corporation for the year of 2009.

Upon Motion by Dr. Bauer and seconded by Mr. Charland the FBPE accepted the slate of officers for FEMC Board of Directors. Motion passed.

#8. Structural Rules Committee
(David O. Charland, P.E., Chair)

Mr. Charland advised the Board the revisions to the structural rules were close to conclusion. Mr. Charland indicated the revisions could possibly be ready for presentation in the February 2009 Board meeting.

C. NCEES
(John Burke, P.E., FBPE Liaison)

Prior to a discussion of the items listed under NCEES, Mr. Burke explained the importance of NCEES and their function. He encouraged Board Members to become involved in NCEES.

#1. Memo from Tim Miller, P.E., Director of Examination Services regarding future changes to NCEES Examinations and Supporting Materials

Provided for informational purposes

#2. Email from Jerry Carter regarding foreign degree evaluation exceptions for candidates from Iraq and Afghanistan due to instability in those regions.

Dr. Bauer believed the appropriate response to confirm this Board's requirement to address hardships with education documents on a case by case basis.

Upon motion by Dr. Bayer and seconded by Dr. Earle, staff should respond to Mr. Carter's email, advising him of the Board's current policy of addressing on a case by case basis and no support of a blanket approval of evaluation without documentation required for the evaluation. Motion passed.

- #3. Letter from Jerry T. Carter regarding Appointment of Associate and Emeritus Members

After discussion it was determined staff should submit Henn Rebane, P.E., and Robert Matthews, P.E. for NCEES Emeritus status.

D. Advisory Attorney's Report

- #1. Response to Petition for Rulemaking, etc., from Emil Veksenfeld (Exhibit D#1)

Provided for informational purposes.

- #2. Letters from JAPC regarding Rule 61G15-19.004 and 61G15-32.001, .002, .003, .008, F.A.C.

Mr. Flury explained the first letter referencing proposed changes to the disciplinary guidelines. The Joint Administrative Procedures Committee has opined that the Board should determine and categorize types of negligence.

After discussion it was the consensus of the Board to go on record stating there is no way to categorize negligence and acts of negligence are defined in other portions of the rules.

Mr. Flury explained the second letter was in reference to a big project and was good news. There are two issues that JAPC had with the Fire Protection Rules. In order to cure the issues posed by JAPC, Mr. Flury proposed changes to the following subsections:

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity. Related systems include sprinkler systems, elevator controls, smoke control systems, dampers, and doors.

(m) The system design must indicate if the system is to provide a general evacuation signal or a zoned evacuation signal or a zoned evacuation for all high-rise buildings or multi-tenanted properties as defined in the Florida Building Code.

Upon motion by Dr. Bauer and seconded by Ms. Garcia, the motion passed to approve the changes as proposed

E. Executive Director's Report

- #1. List of Applicants Requesting Retired Status*

#2. FBPE Fall 2008 Newsletter

Mr. Tomasino complimented staff on the appearance and content of the newsletter.

#3. Proposed 2009 Calendar of Meetings

Ms. Flynn discussed the 2009 calendar of meetings. In discussion of the calendar several comments were made regarding the time required for Board meetings and application reviews. In an effort to explore all options as to time required of Board members it was determined to change the order of business for the Board meetings scheduled for 2009. The agenda will be set to hear disciplinary and licensure cases on the first day of the Board meeting. General Board Business will occur on the second day.

The April Board meeting will be limited to a one day meeting. This will be a test Board meeting to determine if all Board business can be addressed in one day. After the April Board meeting this issue will be revisited for the 2010 calendar.

These changes will be noted and a revised calendar will be issued.

Renewal 2009

Ms. Flynn updated the Board on the 2009 renewal plan.

Staff spent a significant amount of hours in preparing for the 2009-2011 licensure renewal period. Licensure staff presented workshops in various locations, prepared Power Point presentations, and engineers were offered pre-renewal assistance in completing on-line renewal. These efforts were successful and comments are positive from the engineering community.

Ms. Flynn confirmed renewal actually opened earlier than expected and as of December 3, 2008, approximately 1,000 PE licenses had been renewed on-line. Paper renewal forms had just begun to filter into the Board offices. As of December 1, there had been approximately 600 paper renewal forms received.

Ms. Flynn advised the Board 3 part-time persons were hired to act as a call center for renewal questions, 2 part-time persons were hired for data entry and 2 part-time persons were hired to assist in accounting. This team of part-time employees has allowed full-time staff to continue with their day-to-day work.

Mr. Barton advised the information he was receiving from engineers this renewal was off to a great start and gave high compliments to staff.

Ms. Young inquired as to whether an analysis had been done which would reflect cost savings, efficiency improvements, etc. If not, once renewal has closed, she proposed preparing an analysis in order to create metrics for the 2011-2013 renewal.

Comptroller's Report – Deborah Head

After hearing Ms. Head's presentation in the FEMC meeting, Mr. Burke decided it appropriate to review with this Board.

Ms. Head discussed the audited financial statements and noted that FEMC received an unqualified opinion which is a good thing. Ms. Head noted the auditor's findings for 2008 and steps taken by management to correct the problems. Reconciliation of printed licenses and lack of back-up documentation for the quarterly report were two of the findings noted in the audit. Both of these findings have been addressed by management, and new procedures are in place to prevent the repetition of these deficiencies.

Revenue includes the first quarter draw and 50% for the second quarter draw less the 1% hold-back. Expenses are at 31% for the four month period.

Salaries and Benefits have a positive variance as accrued leave liability and retirement line items are both timing issues.

Consultant Expense has an unfavorable variance due to Accounting/Audit services. The budgeted audit amount listed is on annualized basis for three months, and the audit is conducted in the first quarter of the year. Other line items in the consultant category have favorable variances.

Employment Training includes the two investigators attending the National Certified Investigator Training provided by the Council on Licensure, Enforcement and Regulation. This training is the only certified training available to regulatory investigators in administrative law. Four employees have attended a Public Record Request workshop, and three employees have attended a First Time Managers Seminar.

Copying/Printing has a favorable variance on October 31 due to the newsletter line item. The cost of the newsletter printed in November is \$7,575, so this line item will more nearly match the budgeted figure as the year progresses.

Office Space has unfavorable balance as additions to the offices were not budgeted. Materials were purchased to construct the cubicles for renewal, and electrical services provided to re-locate switches for renewal cubicles and check for overloaded circuits.

Travel has an unfavorable variance due to increased cost for airline fees and gasoline. It is very likely this variance will remain over-budget due to FEMC having a full Board.

The current year includes a \$100,000 budget cut which reduced the annual budget from \$2,090,000 to \$1,990,000. In the prior year at October 31, there was no 1% hold-back amount.

Salaries and Benefits in prior year were less than the current year because the Assistant Executive Director's position was not filled until June 2008

Consultant Expense has a favorable variance due to the decreased cost of the current year audit as compared to the prior year audit.

Employment/training for the current year is higher than the prior year as FEMC has provided improved training for employees: Public Records training, First Time Manager, and a certified investigator training.

Copying and printing has an unfavorable variance due to a single large expenditure (\$2,115) for posting items in the Administrative Weekly concerning requirements for licensure by endorsement, revising standards for approval of C.E. courses, and providers, updating procedures for electronic signing and sealing engineering documents, updating standards and measurable outcomes for FEMC, and amending the guidelines for violations. The Newsletter line items in the current year include the summer newsletter for 2008 which was printed in July. The prior year included in the summer newsletter in June, not July.

Equipment and repair for the current year include two updated Copier/Scanner/Printers and fax machine.

Postage has an unfavorable variance due to the summer newsletter being printed and mailed in July rather than June.

Office space in the current year include additions to the office such as cubicles for renewal and electrical services provided to re-locate switches for renewal cubicles and to heck for overloaded circuits. The prior year had a one-time cost for additional security required by the Management Survey. Considering the \$12,805 cost of the security system in 2007, this line item has an unfavorable variance.

The Telephone line item has an unfavorable variance due to the increased cost of the multiple lines acquired with the prior year one-time cost for an

upgraded phone system. The phone upgrade cost was \$9,832, so this line item has an unfavorable variance for recurring charges.

Travel for the current year has increase due to rising gasoline costs. Investigators are travelling more to better serve the engineering community.

Renewal comparisons are not included as it is based on an every other year cycle.

F. Chief Prosecutor's Report

#1. Non-Compliance Report

Mr. Creehan explained this report reflects engineers who had been fully prosecuted but who had not fully complied with the terms of their Final Orders. Once it is determined that an engineer is out of compliance, letters are mailed advising these engineers that failure to comply by the deadline will result in an Administrative Complaint being filed.

#2. September Open Case Report

Mr. Creehan discussed the number of cases that are open as of September 30, 2008.

- #3. Profile of legal cases by year
- a. Cases open for 1 year plus
 - b. Total open cases by year

Mr. Creehan reviewed the charts and gave a detailed explanation of the status of older cases.

#4. Presentation by Investigators

Mr. Ongley, Senior Investigator with the Florida Board of Professional Engineers gave a presentation on field work both he and Jack Beamish had been participating in this year. He discussed several seminars they had attended and discussed how they are both making better use of their time when they do travel for investigations.

Dr. Hyder asked Mr. Ongley about how cases are divided and why. Mr. Ongley noted that although it appears that he would have more cases than Mr. Beamish, the State is split up because the majority of cases come from the South Florida area.

Ms. Young asked why more cases come from the South Florida area. Mr. Ongley advised that this is due to population.

G. Chair's Report

#1. Report by the Chair

Mr. Burke asked the members who observed the exam locations for the October exams to report on their observations.

Ms. Garcia was impressed with the proctors and the attention to adherence to rules.

Dr. Bauer recalled an issue he noticed when observing an exam location last fall. At that site, he observed some students who made an appearance at the exam location obviously did not take the examination. His concern was inclusion of these blank score cards in the overall performance of the university. Dr. Bauer asked that Ms. Flynn contact ELSESES to determine ELSESES procedures on determine the universities performance.

Mr. Burke briefly discussed what is expected from Board Members as to attendance at Board meetings and committee meetings. It is sometimes difficult to meet all schedules. However, the business of the board is important. He believed all Board Members would have a better understanding after attending the Board training in January 15, 2009.

Mr. Burke advised the Board that at the February Board meeting there would be a discussion regarding the unlicensed activity trust fund. Mr. Burke asked the Board members to think about the best use of the money in the fund and be prepared to discuss at the next meeting.

H. Correspondence to the Board

#1. Response to letter from Leslie C. Roberts, P.E., regarding exempt employees and "umbrella of exemption" relating to Professional Engineers dated 8/24/08

Mr. Burke explained this letter was brought forward from the October Board meeting. At that meeting, discussion occurred and the consensus of the Board was that public utilities are exempt from licensure. Mr. Flury drafted a letter to respond to Mr. Roberts' inquiry, and advised the Board that he would revise the letter slightly and then wanted to mail the response.

Upon Motion to approve the letter as amended by Mr. Charland and seconded by Ms. Garcia, the motion passed.

- #2. Email from Brian Bennett with DOT regarding Utility Permits dated 9/24/08

Mr. Burke explained this letter was brought forward from the October Board Meeting. Mr. Bennett was not present. This is essentially the same issue as H#1.

Mr. Flury advised the Board he had a telephone conference with the General Counsel from Verizon. This gentleman wished to address the Board regarding this issue and may appear at the February Board meeting. Mr. Flury is concerned about any opinion coming from the Board on this issue.

Mr. Burke indicated that this matter did not have to be resolved at this meeting. It is his opinion that the Board should simply look to the Laws and Rules relating to engineering. There is a definition of engineering and what responsible charge means.

After further discussion the Board advised Mr. Flury to respond to the letter and advise that is an individual wishes to take responsible charge that is fine, until there is a problem.

- #3. Letter from Dan Engebretson, P.E., regarding resignation as Engineer of Record

Two separate scenarios were discussed by Dr. Hyder. In the first scenario, if an engineer wishes to walk away that is fine; however, he is still the engineer of record until and unless a successor engineers comes along and takes over a project.

In the second scenario, an engineer may walk away from an incomplete project. If this occurs, that engineer would not be considered the engineer of record and another engineer could walk in and complete the project. However, if an engineer does come in and finish a project, and uses the previous engineer's plans, then the original engineer is still in responsible charge.

- #4. Email from Darren Monzingo, P.E., regarding licensure for Naval Architecture/Marine Engineering

Mr. Flury advised the Board he had a conversation with Mr. Monzingo and he thinks there is an easy way to respond. The Board has previously discussed issues regarding marine engineering and naval architecture. In those discussions, it was determined the Board does not regulate this industry. It is Mr. Flury's opinion that we cannot stop a local authority from requiring or not requiring something specific during the permitting process. It was determined Mr. Flury respond to Mr. Monzingo and

advise him of this industry already being heavily regulated and this Board does not have authority to regulate marine engineering or naval architecture.

- #5. Letter from Bruce H. Woloshin, P.E., regarding preparation and certification of SPCC plans by persons other than Professional Engineers

Mr. Burke explained this issue is clear. Mr. Flury noted the Federal Regulations indicate that certification of SPCFC plans did not require signing by a Professional Engineer if it was that engineer's own facility. Generally, Federal Regulations preempt state and local requirements, but this specific regulation had a provision that said it did not preempt any state or local requirements.

Mr. Woloshin pointed out in his letter a provision in our exemptions which allows for an exemption. Mr. Flury indicated that our exemption stated that any person practicing engineering for the improvement of or otherwise affecting property legally owned by him or her is exempted unless such practice involves a public utility or the public health safety or welfare of employees.

Mr. Flury will respond to Mr. Woloshin's correspondence.

- #6. Email from Jeffrey Miller regarding Chapter 471.013, F.S

Mr. Flury explained this is a statutory issue. Mr. Miller is requesting we go to the Legislature and have the statute changed so that Engineering Technology degrees are accepted for purposes of licensure.

After further discussion it was determined Mr. Flury will respond to Mr. Miller the Board does not, at this time, wish to have the statute changed. Mr. Bauer suggested that a paragraph be added to the letter advising Mr. Miller could pursue a Master's degree and validate the previous engineering technology degree.

- #7. Email from Clifford H. Laubstein, P.E., regarding content of provider's Laws & Rules relating to Board Final Orders

Mr. Burke explained this issue arose from a Laws & Rules course which referenced a Final Order. There was a case in which a consultant opined certain counts of violations and the case was settled by stipulation.

The problem appears to be that the Board cited an individual for something that was incorrect. After discussion, it was determined the case was settled prior to the conclusion of the investigation. Mr. Creehan was told to pull the file and make sense of what happened and report back to

the Board. Once it is determine what occurred, Mr. Flury will offer an opinion on how best to respond to this question.

#8. Email from Samuel D. Lee regarding Laws & Rules credits for instructors

This question has been posed by instructors in the past. Current rules allow for credit only one time as an instructor. Mr. Burke directed this matter be taken to the Rules Committee to determine whether there is a need to change the rule.

#9. Email from Anthony J. Michuda, P.E., regarding a Professional Engineer's authority by law to certify elevation information

Mr. Burke explained this letter was requesting an opinion from the Board as to whether an engineer had "authority by law" to certify elevation information.

After discussion the Board determined Mr. Burke should contact the Board of Surveyor's and discuss this matter.

I. Old Business

J. New Business

Ms. Flynn advised the Board NCEES had requested the name of the "funded delegate" from FBPE. After discussion it was determined Mr. Burke would be the "funded delegate".

K. Public Forum

Application review followed the meeting.

THURSDAY, December 4, 2008

- L. Call meeting to order and address general comments to the audience. Preliminary Matters before beginning hearings. Introductions.
- M. Renewal 2009 Workshop Presentation – Sean Benjamin & Frances Ingram
- N. Rules Report - Michael Flury, Esquire, Board Counsel
(Exhibit #N)

Mr. Flury made the following rules report:

Rule No.	Title	Develop. Published	Notice Published	Adptd.	Effect.
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The following rules are **ON HOLD** or **PENDING**:

- 61G15-19.004 Disciplinary Guidelines.. 3-7-08 8-8-08 (Waiting for Board to resolve JAPC issues)
- 61G15-32.001 General Responsibility 11-21-07 3-14-08 (On JAPC hold)
- .002 Definitions
- .003 Comm. Req. to all Fire Protectn.Eng.Docs.
- .008 Design of Fire Alarms, Signal and Control Systems

The following rules are **IN PROCESS**:

- 61G15-20.001 Definitions, Appl. For 8-1-08 (Waiting for approved text)
- .0015 Lic. By Endorsement,
- .007 Dem. Of Subs. Equiv.
- 61G15-21.009 Endorsement 8-1-08 (Waiting for approved text)
- 61G15-22.001 C.E. Requirements 8-8-08 (Waiting for approved text)
- 61G15-22.011 Bd. Appr. Of CE Prov. 8-1-08 (Waiting for approved text)
- 61G15-23.002 Elect. Seals, Signatures 8-1-08 (Waiting for approved text)
- .003 And Procedures
- 61G15-37.001 Perform. Stds. And 8-1-08 (Waiting for approved text)
- Meas. Outcomes

The following rules are **ADOPTED**:

- 61G15-18.011 Definitions 12-7-07 4-11-08 5-16-08 6-5-08
- 61G15-30.001 Purpose 12-7-07 3-14-08 10-24-08 11-13-08
- .002 Definitions Common to All Engineer's Responsibility Rules
- .003 Engineering Document Classification
- .005 Request for and Review of Delegated Engineering Documents

- .006 Delegated Engineer's Responsibility
- .007 Prime Professional's Responsibility
- .009 Retention of Engineering Documents
- .010 Energy Conservation Compliance

61G15-33.001	General Responsibility	12-7-07 08	3-14-08	10-24-08	11-13-08
.002	Definitions				
.003	Design of Power Systems				
.004	Design of Lighting Systems				
.005	Design of Communications Systems				
.006	Design of Alarm Systems				
.007	Design of Lightning Protection Systems				
.008	Design of Grounding Systems				
.010	Certification of Electrical Systems of Public Interest				

61G15-34.001	General Responsibility	11-21-07 08	3-14-08	10-24-08	11-13-08
.002	Definitions				
.003	Design of HVAC Systems				
.007	Design of Plumbing Systems				

Petitions:

Grable Walls, et all (Petition for Variance) 7-25-08

FMAEF (Petition for Variance) 9-5-08

Upendra Poudel 10-17-08

Simon Coleman 11-14-08

Rule amendment text submitted to the FAW (for rules Pending and In Process):

61G15-32.001 General Responsibility.

Fire protection engineering documents shall be prepared in accordance with applicable technology and the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the project. Both the Engineer of Record for the fire protection system and the delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules, Chapter 61G15-30, F.A.C., and with the requirements of the more specific rules contained herein. The Engineer of Record for the Fire Protection System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance with his written instructions in accordance with Rule 61G15-30.005, F.A.C. Any Fire Protection Delegated Engineering Documents must be included in the final set of documents filed for permit.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History–New 5-19-93, Formerly 21H-32.001,_____.

61G15-32.002 Definitions.

(1) to (3) No change

(4) Listed: A fire protection component tested by a nationally recognized fire protection equipment testing organization. Recognized organizations include, ~~but are not limited to~~ Underwriters Laboratories, Inc. and Factory Mutual Research Corporation.

(5) to (6) No change

(7) Codes and Standards: Those nationally recognized codes and standards adopted directly or by reference in Chapter 633, Florida Statutes, Florida Building Code and Florida Fire Prevention Code set forth in Chapter 69A-60, Florida Administrative Code. Applicable codes and standards also include those promulgated by ~~the State Fire Marshal as well as by~~ State and local authorities having jurisdiction. In the event the codes and standards fail to cover or address a specific protection requirement, alternative research, test results, and engineering data may be utilized, relying on the Engineer of Record for Fire Protection to make an informed engineering decision. This definition is not intended to preclude the use of new technologies when said technology has been demonstrated to provide equivalent or improved protection above that of published National Fire Protection standards.

(8) to (9) No change

(10) Fire Protection Delegated Engineering Documents. Fire Protection System Engineering Documents prepared by a delegated engineer to whom the Engineer of Record for the Fire Protection System has delegated responsibility for the design of a fire protection component or system and which are signed sealed and dated by the delegated engineer. These documents shall be included in the final set of documents submitted to the owner to be filed for a building permit and Fire Marshall approval.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History—New 5-19-93, Formerly 21H-32.002, Amended 4-2-00, 6-26-01,_____.

61G15-32.003 Common Requirements to All Fire Protection Engineering Documents.

(1) to (8) No change

(9) Fire Protection Electrical Engineering Documents shall additionally meet the requirements of 61G15-30.003, Engineering Documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History—New 5-19-93, Formerly 21H-32.003, Amended 4-2-00, 6-26-01,_____.

(A substantial rewriting of Rule 61G15-32.008. See Florida Administrative Code for present text)
61G15-32.008 Design of Fire Alarms and Detection Sytems. ~~Signaling Systems and Control System.~~

(1) Fire alarms and detection systems include fire protection supervision, emergency alarm circuits, activation of life safety system controls and remote signaling of emergency conditions.

(2) The design specifications shall be based on the Florida Building Code, the Florida Fire Prevention Code, or as required by the local authority having jurisdiction.

(3) For fire alarm plans on small systems below the threshold requirements for mandatory use of professional engineering services, the Engineer of Record shall specify the minimum system requirements.

(4) To ensure minimum design quality of Fire Alarm and Detection Systems Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) The plans shall be clear, with a symbols legend, system riser diagram showing all initiation and notification components, and cabling requirements. Indicate locations where fire ratings are required as determined by the system's survivability requirements. Identify the general occupancy of the protected property, and for each room and area unless it is clear from features shown.

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity.

(c) Strobe intensity and speaker output ratings for all notification devices.

(d) Identify the Class and Style of circuits as listed in the NFPA 72.

(e) Identify the functions required by the alarm and control systems including the transmission of emergency signals being monitored or annunciated.

(f) Indicate whether the fire alarm is conventional or addressable, and indicate all zoning.

(g) Locate surge protective devices and required protective features.

(h) Locate system devices that are subject to environmental factors, and indicate requirements for the protection of equipment from temperature, humidity or corrosive atmospheres, including coastal salt air.

(i) The plans shall include a site plan of the immediate area around the protected building, structure or equipment when alarm devices are required outside the structure.

(j) In buildings where smoke detection will be obstructed by walls, beams or ceiling features, the Engineer of Record shall provide applicable design and details to direct the installer to mitigate the obstructions. In buildings with smoke detection under a pitched roof, the plans shall indicate the roof pitch and a building section shall be provided as part of the Engineering Design Documents.

(k) Fire detection systems utilizing smoke detection in situations where smoke stratification is anticipated, the design shall provide the necessary criteria to mitigate the detection problems.

(l) Systems designed using Performance Based criteria shall be identified and referenced to design guides or standards approved by the local authority having jurisdiction consistent with standards adopted by the Florida Fire Prevention Code and the Florida Building Code.

(m) The system design must indicate if the system is to provide a general evacuation signal or a zoned evacuation for all high-rise buildings or multi-tenanted properties.

(n) Wiring requirements for underground, wet locations, campus style wiring, protection against damage and burial depth shall be specified or indicated on the engineering design documents.

(o) Requirements for operations and maintenance procedures, manuals, system documentation, and instruction of Owner's operating personnel, as needed to operate the systems as intended over time.

(5) In the event that the Engineer of Record elects to specify specific equipment and to show the required wiring, battery and voltage drop (circuit analysis) calculations shall be completed. The calculations shall be completed using the equipment manufacturer's data and applicable NFPA 72 procedures.

(6) System test requirements shall be noted on the Engineering Design Documents.

(7) When the engineer determines that special requirements are required by the owner, insurance underwriter or local fire code amendments these requirements shall be documented or referenced on the Engineering Design Documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.008,_____.

O. Endorsement/Continuing Education Committee
(Christian Bauer, P.E., Chair)

a. Report on Educational Requirements by Chair of Educational
Advisory Committee (Christian Bauer, Ph.D., P.E., Chair)

Part II
Informal Hearing Agenda

- P. Consideration of Petition for Formal Hearing
- Q. Informal Hearings on Denial of Application for Fundamentals Examination
 - #1. Cesar Segovia
(Exhibit Q#1)

Mr. Segovia's application for the Fundamentals examination was approved pursuant to Rule 61G15-20.007 (b), F.A.C. for Conditional Approval. Mr. Segovia's evaluation from Silny and Associates confirmed 14.67 hours of deficiency in Humanities and Social Sciences and a course in Probability and Statistics. Review of the MS transcript confirmed a course satisfying the Probability and Statistics and Conditional Approval was granted. Mr. Segovia submitted an Election of Rights form to supplement and to have an Informal Hearing. The supplemental information did not resolve the Humanities and Social Sciences and the application remains in the status of Conditional Approval. The Informal Hearing is scheduled for December.

Mr. Segovia was present and sworn in prior to addressing the Board.
After discussion of

LISTEN TO CD

- #2. Tomas F. Ramis
(Exhibit Q#2)

Mr. Ramis' application for the Fundamentals examination is denied for educational deficiencies. The Board reviewed the evaluation of his transcripts by Josef Silny & Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. The review determined Mr. Ramis to be deficient 6.25 semester credit hours in Humanities and Social Sciences and course in Statistics or Probability.

Mr. Ramis submitted an Election of Rights form to supplement and to have an Informal Hearing. The Informal Hearing was scheduled for the October meeting. Mr. Ramis requested it be held for December to allow review of supplemental information by Silny and Associates.

The latest evaluation confirmed a course in statistics and it reduced deficiencies of 6.5 hours to 4 hours in Humanities and Social Sciences. Although the deficiencies were reduced the applicant remains deficient in Humanities and Social Sciences.

Mr. Ramis was not present at the Board meeting.

Upon Motion by Dr. Bauer to conditionally approval to application and seconded by Dr. Panigrahi, the motion passed. Mr. Flury was directed to meet with Dr. Bauer and respond to Mr. Ramis email to explain how to satisfy the deficiencies and have the conditions removed.

- #3. Charles R. Metz, Jr.
(Exhibit Q#3)

Mr. Metz's application for the Fundamentals examination was first denied for failing to submit an evaluation to articulate his non EAC/ABET accredited BS in engineering degree. Once denied Mr. Metz elected to supplement his application and to have an Informal Hearing. Supplemental information consisted of an evaluation from Silny and Associates dated May 6, 2008. This evaluation was reviewed to determine substantial equivalency to Rule 61G15-20.007, F.A.C. The evaluation confirmed deficiencies of 24 semester credit hours in Engineering Sciences/Design and a course in Differential Equations. A revised evaluation from Josef Silny & Associates dated May 12, 2008 was submitted. It is uncertain as to the second evaluation having been reviewed by the Educational Advisory Committee. This evaluation should be reviewed as it would reduce the 24 hours to 15 hours of Engineering Sciences and Design and a course in Differential Equations. Mr. Metz requested an Informal Hearing scheduled for December 2008.

Mr. Metz was not present at the Board meeting.

Upon Motion to uphold the denial by Dr. Bauer and seconded by Mr. Charland, the motion passed.

- #4. Joseph Vincent
(Exhibit Q#4)

Mr. Vincent's application for the Fundamentals examination was denied for educational deficiencies. The Board reviewed the evaluation from Silny and Associates dated May 6, 2008 to determine substantial equivalency to Rule 61G15-20.007, F.A.C. It was determined Mr. Vincent was deficient 9.25 hours in Mathematics and Basic Sciences to include a sequence course of study in chemistry or physics and 13.75 hours in Humanities and Social Sciences. In September of 2008, the file was reconsidered and it was determined the Valencia Community College transcript dated May 2008 reduced the Humanities and Social Sciences to

1.75 hours and based on transfer credit reflected on transcript reduced the Mathematics and Basic Sciences to a sequence course in chemistry or physics. The application remains denied for 1.75 hours in Humanities and Social Sciences The Informal Hearing is scheduled for the December 2008 Board meeting.

Mr. Flury explained to the Board that Mr. Vincent had requested a continuance.

Upon Motion to continue this matter by Dr. Bauer and seconded by Dr. Earle, the motion passed.

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

#1. Agim Demiraj
(Exhibit R#1)

Mr. Demiraj's application to sit for the Principles and Practice examination was denied for educational deficiencies. Review of the evaluation by Josef Silny & Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. proved deficiencies of 6.5 semester credit hours in Math and Basic Sciences including a course in Probability and Statistics and Chemistry. Mr. Demiraj submitted transcripts in December of 2007 and the Committee determined the chemistry course requirement satisfied. This left a deficiency of 3.5 hours in mathematics and basic sciences to include Probability and Statistics and the application remained denied.

Mr. Demiraj submitted an Election of Rights form to supplement and to have an Informal Hearing. The supplemental information did not satisfy the deficiencies. The Informal Hearing was scheduled for the April 2008 meeting. Mr. Demiraj requested the Board to review and accept courses from his graduate program. The Board advised Mr. Demiaj to seek a revised evaluation from Josef Silny and Associates and the hearing would be continued until such time as the revised evaluation was submitted. The revised evaluation was submitted and the hearing scheduled for the October 2008 Board meeting. The revised evaluation confirms a deficiency of 3.50 semester credit hours in Mathematics and Basic Science including a course in General Chemistry. The Board previously considers the Chemistry satisfied; therefore, the deficiency is for 3.50 semester credit hours in Mathematics and Basic Sciences.

Mr. Demiraj was present and sworn in at the Board Meeting.

Mr. Flury explained that Mr. Demiraj had satisfied his deficiencies. He also noted that prior to the December Board Meeting, Dr. Bauer reviewed Mr. Demiraj's file and advised Mr. Burke that Mr. Demiraj should be approved.

Upon Motion to approve the application by Dr. Bauer and seconded by Dr. Earle, the motion passed.

#2. Bikash Saha
(Exhibit R#2)

Mr. Saha's application for the Principles and Practice examination was denied for educational deficiencies. The Board reviewed the evaluation of his undergraduate studies by Silny and Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mr. Saha was determined to be deficient 8.68 hours in Math and Basic Sciences and 12.25 hours in Humanities and Social Sciences. Review of the MS transcript did not change the noted deficiencies. The Informal Hearing is scheduled for December 4, 2008.

The applicant is requesting the Board to consider content of his education in India. Board has determined all information must be presented to the evaluation service to determine if a revised evaluation is appropriate.

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

After discussion the Board advised Mr. Saha to have his Master's degree evaluated by Josef Silny & Associates and to make sure that Silny was provided with ALL transcripts.

Upon Motion by Dr. Bauer to continue this matter pending a new evaluation by Silny and seconded by Mr. Charland, the motion passed.

#3. Upendra Poudel
(Exhibit R#3)

Mr. Poudel applied for the Principles and Practice examination and is denied for educational deficiencies. The Board reviewed the evaluation of his undergraduate studies by CPEES to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mr. Poudel was determined to be deficient **16** hours in Humanities and Social Sciences and **7** hours in Math and Basic Sciences. The worksheet completed by committee did not cite the math and basic science deficiency and staff did not catch the oversight. The denial letter was issued reflecting Humanities and Social Sciences.

Mr. Poudel filed a Petition for Variance and Waiver. The Petition for Variance and Waiver provides the opportunity for the Board to review the case and determine if the case presented by the applicant justifies waiving the requirement of rule.

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

Mr. Flury advised that the first thing that needed to be done was that staff needed to amend the denial letter to include the deficiencies in math and basic sciences and allow him an opportunity to respond to those deficiencies.

Upon Motion to amend the denial letter to include the deficiencies in math and basic sciences by Dr. Bauer and seconded by Dr. Earle, the motion passed.

Upon Motion to continue the informal hearing based upon the need for an amended denial letter by Dr. Bauer and seconded by Ms. Garcia, the motion passed.

Mr. Flury then advised that the Board needed to act on the Petition for Variance & Waiver.

Upon motion to deny the Petition for Variance & Waiver by Dr. Bauer and seconded by Mr. Charland, the motion passes.

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

#1. Luay Subhi Esho
(Exhibit S#1)

Mr. Esho applied for licensure by endorsement and is denied for educational deficiencies. The Board reviewed the evaluation of his undergraduate studies by ECEI to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mr. Esho was determined to be deficient **14** hours in Math and Basic Sciences; he lacked a **course in physics or chemistry** as well as **11.5** hours in Engineering Sciences and Design. Mr. Esho elected to supplement and to have an Informal Hearing. The supplement was missing pages from his ECEI evaluation and upon review the **11.5** hours in Engineering Sciences were resolved. Although his hearing for October had to be rescheduled Mr. Esho hand delivered a transcript from Macomb Community College. It confirms a course in General Chemistry for total of 4 hours. It appears the only deficiency at this time is **14** hours in Math and Basic Sciences.

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

Upon Motion to continue this matter by Mr. Charland and seconded by Dr. Bauer, the motion passed.

#2. Simon Coleman
(Exhibit S#2)

Mr. Coleman applied for licensure by endorsement and is denied for educational deficiencies. The Board reviewed the evaluation of his undergraduate studies by Silny and Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mr. Coleman was determined to be deficient 16 hours in Humanities and Social Sciences .05 hour in Math and Basic Sciences. The Board waived the .05 hours Math and Basic Sciences.

Mr. Coleman engaged counsel and subsequently filed a Petition for Variance and Waiver and Hearing Not Involving Disputed Issues of Material Fact.

The Petition for Variance and Waiver provides the opportunity for the Board to review the case and determine if the case presented by the applicant justifies waiving the requirement of rule.

The Hearing requested provides the opportunity for the applicant to attend with counsel for purposes of discussing the Petition for Variance and Waiver.

Board Counsel will explain in detail all legal avenues in considering this case.

Mr. Coleman was present and sworn in prior to addressing the Board. Mr. Coleman's counsel, Ed Bayo' was also present at the hearing.

Mr. Flury advised the Board that they should grant the Petition for Variance & Waiver and also grant a conditional approval in order for Mr. Coleman to complete his coursework.

Upon Motion to grant the Petition for Variance & Waiver and to grant a conditional approval with a two year waiver in which to pursue the humanities and social sciences by Dr. Bauer and seconded by Mr. Wallis, the motion passed.

#3. Raghu Veturi
(Exhibit S#3)

Mr. Venturi applied for licensure by endorsement and is denied for educational deficiencies. The Board reviewed the evaluation of his undergraduate studies by CPEES to determine substantial equivalency to

Rule 61G15-20.007, F.A.C. Mr. Venturi was determined to be deficient 4 hours in Math and Basic Sciences and 13 hours in Engineering Sciences and Design. Mr. Venturi elected to supplement and to have an Informal Hearing. The Informal Hearing was scheduled for June 2008 and to allow further consideration of educational documents, the hearing was continued. Board Counsel has been corresponding with Mr. Veturi since that time. The file was reconsidered on September 17, 2008 to review CLEP examination and courses from Hillsborough Community College. The additional information reduced the Humanities and Social Sciences from 13 to 12 hours. The Board waived the one hour deficiency. The Board did not accept the CLEP examination to clear the mathematics and Basic Sciences.

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

Upon Motion to accept the application and grant licensure by Dr. Bauer and seconded by Mr. Chaland, the motion passed.

T. Consideration of DOAH Recommended Orders

#1. Thomas Norris – Application for Licensure by Endorsement
(Exhibit T#1)

Mr. Norris applied for licensure by endorsement and is denied for education. Mr. Norris holds an engineering technology degree. His education does not satisfy requirements of Section 471.013 (1) (a) 2., F.S. Mr. Norris submitted and Election of Rights to supplement and to have a Formal Hearing. The file was copied to Board counsel and the Formal Hearing was schedule. The Hearing Officer issued a Recommended Order upholding the denial of the application. Mr. Norris filed exceptions to the Recommended Order. Board Counsel filed a Response to the Exceptions recommending the Petitioner's Exceptions be denied.

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

Because Mr. Flury defended this case at the Division of Administrative Hearings, John Rimes acted as Board Counsel for this case.

Upon Motion to accept the filing of the Exception and deny the relief sought in the Exception by Dr. Earle and seconded by Dr. Bauer, the motion passed.

Upon Motion to deny the Motion to Strike and not recognize anything attached to that Motion by Dr. Bauer and seconded by Dr. Earle, the motion passed.

Upon Motion to accept the Recommended Order by Dr. Earle and seconded by Dr. Bauer, the motion passed.

Part III Disciplinary Hearings

Description of Disciplinary Process by John C. Burke, P.E.

U. Settlement Stipulations

- #1. Peet, Stiles T.
PE 49200
FEMC Case Number 2007043799
Probable Cause Panel:Rebane, Seckinger
(See Red Book 1)

Mr. Peet was retained by W. Kost Roof and Truss, Inc., to design the roof truss system for a commercial building located at 6801 Lake Worth Rd. Green Acres, FL (the Project). Mr. Peet's practice regularly involves providing roof truss system design services to W. Kost Roof and Truss, Inc. W. Kost Roof and Truss had been retained by the contractor for the Project, Pat Whyte Construction, to provide the roof trusses for the Project. The roof trusses and the engineering design documents upon which they were to be based were intended to become a material part of the structural design system for the Project which was being designed by the Engineer of Record for the Project, Mark Duckett, P. E. Because Mr. Peet was responsible for the design of a component portion of the structural design for the Project he was the "Delegated Engineer" for the design of the roof truss design.

In the Administrative Complaint it was charged that Engineer of Record Duckett communicated his design intent for the Project including the roof trusses to Mr. Peet in April 2007 and was therefore ready to receive the completed delegated roof truss design from Mr. Peet within a reasonable period of time. Moreover, it was asserted that, despite the fact that Engineer of Record Duckett's design intent (including comments and revisions thereto) was adequately communicated to Mr. Peet it took six (6) roof truss design submissions (dated April 5, 2007, May 4, 2007, July 3, 2007, July 4, 2007, July 16, 2007, and July 24, 2007) before the roof truss design complied with the directions given to Mr. Peet by Duckett and were finally accepted on August 3, 2007. At the time that Probable Cause was found it was believed that the six preliminary submissions failed to adequately address revisions required by the Engineer of Record which had been made clear to Mr. Peet in the initial submission provided by Mr. Peet to Duckett and that as a result of Mr. Peet's failure to perform his

duties as Delegated Engineer, it took four months for the roof truss design approval process to be completed whereas a reasonable period of time for approval for a structure such as the Project would be no more than one month (30 days).

However, subsequent to the filing of the case discovery resulted in additional documentation being submitted by Mr. Peet relating to the interface between Mr. Duckett and Mr. Peet. This documentation was reviewed by FEMC Consultant Eddy and by FEMC Consultant Berryman. On August 22, 2008, Mr. Eddy revised his opinion as follows: "...further review of the file materials and design/submittal process indicated that the licensee was not solely responsible for the delays encountered and should not be charged with FS 471.033(1) (g) (negligence and misconduct) and FAC 61G15-30.006 by causing delay to the project." Mr. Berryman concurred in his August 22, 2008 opinion.

During the provision of the roof truss design documents for the Project, Mr. Peet on numerous occasions permitted his engineering seal to be placed upon such documents by employees or other members of W. Kost Roof and Truss, Inc. at times when Mr. Peet was not present and did not observe the placing of the seal upon the documents. Moreover, Mr. Peet did not place his autograph signature upon any of the roof truss design documents prepared and sealed for the Project but instead utilized a rubber stamp which contained his initials to substitute for the placing of his signature upon all of the roof truss design documents submitted to the Engineer of Record.

The evidence does not show, however, that Mr. Peet's rubber stamp of his initials was ever out of his control or that anyone other than Mr. Peet applied the stamp to the sealed documents. In addition, the embossed seal has been retrieved from the truss manufacturer and is now in Mr. Peet's possession. There is also no evidence that the documents were ever sealed after Mr. Peet applied his stamp but rather that the sealed documents were sent to Mr. Peet for him to apply the signature stamp. The evidence does bear out the assertion by Mr. Peet that he did have a serious impediment to his hand which severely hampered his ability to hand sign his engineering documents.

On January 17, 2008 Probable Cause was found and an Administrative Complaint issued. Mr. Peet requested formal hearing at DOAH which was ultimately set for September 2008. On – 2008, the parties entered into a signed stipulation to resolve this case.

PCP Recommendation: Reprimand; \$2,000.00 administrative fine (\$1,000.00 per count for (2) counts); costs of \$2,181.53; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 2 year(s) probation with plan review (5 truss

projects for each review period) at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; on-site visit by Board Investigator; and appearance before the Board to explain: what steps he's taken to maintain control of his seal, and his understanding of the responsibility rule.

Stipulation: DISMISSAL of COUNT I of the AC (the count relating to the delay in finalizing the design documents). Respondent agrees to pay COSTS in the amount of \$306.53. APPEARANCE for Mr. Peet to discuss: (1) the procedure(s) that he has put in place through which he can assure the Board that he will maintain control over the manner by which his P. E. seal will be applied to truss design documents; (2) the procedure(s) that he has put in place by which he can assure the Board that he will personally physically sign each page of all sealed final engineering design documents; (3) the procedure(s) that he intends to use to electronically seal, sign & date engineering design documents in accordance with Rule 61G15-23.003. Board approved course in Engineering Professionalism and Ethics; study guide; on-site visit by Board Investigator at Mr. Peet's expense. Issuance of a LETTER OF GUIDANCE to Mr Peet reflecting that (1) he is aware that his previous use of a signature stamp was in violation of the Board's rules and (2) that the affixing of his seal to engineering documents by others at a location(s) that was not under his direct control and supervision was a violation of the Board's Rules. Mr. Peet agrees that he fully accepts the intent of the LETTER OF GUIDANCE and that he will adhere to its admonitions in his future engineering practice.

The deviations from the PCP recommendation are explained by two separate analyses. Due to the fact that the charge of violating the Responsibility Rules cannot be sustained in the opinions of 2 FEMC Consultants the portions of the PCP's proposed stipulation relating thereto were not included. Thus, only the COSTS attributed to that portion of the case were removed and only those relating to the signing and sealing issues remain. Additionally, the review of plans-which was also tied to that issue-has been removed as well as the FINE (\$1000.00) relating thereto. As to the deletion of the PROBATION and FINE relating to the sealing and signing issues, I have to note that the Board's rules relating to these issues are not as clear as they could be and that Mr. Peet might be able to raise a legitimate defense to his practices especially in light of the fact that FEMC has developed no evidence that Mr. Peet actually permitted a set of plans to be sent out without Mr. Peet placing the final check (the rubber stamp) on the documents himself. While there is some suspicion that this might have occurred there is no smoking gun to prove it and, since Mr. Peet plainly has a long term working relationship with the truss company, it is practically impossible to prove that plan stamping actually occurred, since the plans were ultimately accepted by the EOR and there is no evidence that Mr. Peet was not

directly involved in the design process-a burden which FEMC would have to shoulder. Secondly, the Letter of Guidance will be a Final Order of the Board and it and the other terms will be enforceable so that any failure to comply with the Order or subsequent violations when coupled with the admissions of wrongdoing contained in the stipulation would justify severe penalties in the future in light of Mr. Peet's plain acceptance of his erroneous conduct and his commitment to comply in the future.

Neither Mr. Peet nor his attorney were present at the Board meeting.

Mr. Rimes explained to the Board that counsel for Mr. Peet filed a Motion to continue this case until a later Board meeting due to a conflict with the date.

Upon Motion to continue by Dr. Bauer and seconded by Ms. Garcia, the motion passed.

- #2. Wells, John W.
PE 49347
FEMC Case Number 2006000884
Probable Cause Panel:Rebane, Seckinger
(See Red Book 1)

This investigation was predicated on the receipt of a complaint from Brian Foster, P.E., who alleges that the fire sprinkler plans brought to him for review contained deficiencies that rose to a level of negligence in the practice of engineering.

In reviewing the plans FEMC Consultant Homer Ooten, P.E. opined that the plans as signed and sealed by the Respondent failed to reach a level of acceptable engineering principles. Specifically, that the plans in question lacked detail and specifications as required by the National Fire Protection Association (NFPA) and by Rule 61G15-32.004, F.A.C. for the design of water based fire protection systems.

In lieu of formal administrative proceedings the parties reached this settlement agreement.

Adoption of the Proposed Stipulation which includes; an \$1,000.00 administrative fine, costs of \$156.00, a reprimand, probation to last two years with plans review at 6 and 18 months, study guide, and course in Professionalism and Ethics and an appearance before the Board at the time the stipulation is to be presented to discuss the experience and education he has to perform engineering in the area of fire protection and sprinkler design, and why he specified on his plans that, "All fire protection work shall be in strict accordance with the Florida Fire Prevention Code 2001,

NFPA Volume 13, 14 and 20 underwriters laboratory, Factory Mutual, and all state and local codes.”

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

Mr. Wells began by going over his education and experience, this experience included fire protection systems. Mr. Burke asked Mr. Wells whether the responsibility rules were clear. Mr. Wells indicated that they were clear.

Upon Motion by Dr. Bauer to accept the stipulation and seconded by Mr. Wallis, the motion passed.

- #3. Contreras, Remberto
PE 21522
FEMC Case Number 2008015766
Probable Cause Panel:Rebane, Seckinger
(See Red Book 1)

Mr. Contreras was Structural Engineer of Record for the design of an aluminum stairway to be constructed on a building located at 90 Edgewater Drive, Coral Gables, Florida (Stairway Project). As such, Mr. Contreras sealed, signed and dated a set of structural engineering design documents and calculations which were filed as part of the application for a building permit with the City of Coral Gables Building Department (the City). The last iteration of Mr. Contreras’s engineering design drawings for the Stairway Project filed with the City were sealed, signed and dated on December 20, 2007 and February 11, 2008. The calculations were sealed, signed & dated by Mr. Contreras on December 12, 2007.

Mr. Contreras’s drawings and calculations for the Salamanca Avenue Project contain deficiencies including; but not limited to, those set forth in Paragraph 4. Mr. Contreras has therefore violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by sealing, signing and dating engineering documents that were issued and filed for public record when such documents were materially deficient in respect to and not in compliance with applicable code requirements or acceptable engineering principles.

Based on the foregoing, Probable Cause was found and Mr. Contreras was charged in an Administrative Complaint with violating Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by being negligent in the practice of engineering.

PCP Recommendation: Reprimand; Costs of \$500.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Restriction of practicing Structural engineering until he takes and passes

and submits proof of passing the NCEES Structural 1 or equivalent. Board approved course in Engineering Professionalism and Ethics; Study Guide, and Appearance before the Board to explain: what areas of engineering he feels he is competent to practice, and his experience and courses (documentation to be brought before the Board) he has taken to support this.

Stipulation: SAME AS PCP PANEL RECOMMENDED

Mr. Contreras was not present at the Board Meeting.

Upon Motion to continue this matter until the February Board meeting by Dr. Bauer and seconded by Dr. Earle, the motion passed.

- #4. Shumate, David
PE 47088
FEMC Case Number 067561
Probable Cause Panel:Rebane, Seckinger
(See Red Book 2)

This investigation is predicated on the receipt of a complaint generated by FBPE, alleging a possible violation of F.S. 471 in the collapse of the Turner Agri-Civic Center in Arcadia, Florida with over 1000 people inside.

A response was received from Edward McCarthy, (the employer of Subject through McCarthy & Associates) on 10/13/06, in which he responded that he was not the engineer of record for the Turner Civic Center project and provided a copy of one sheet of drawings with the name of David Shumate, P.E. as the engineer of record. "The structural drawings and specifications were prepared in our Fort Myers, FL office under the direct supervision of Mr. David Shumate, PE, (FL PE 47088). Mr. Shumate was a Vice President of the firm at that time and was in charge of the branch office. We have since closed that office and Mr. Shumate is no longer employed by our firm. In addition to preparing the construction documents, Mr. Shumate handled the construction administration for the project including shop drawings reviews and response to questions from the contractor."

A complete copy of the file and all documentation then available was forwarded to Mehdi Ashraf, P.E., for review. Mr. Ashraf's report was received 11/6/07 in which he opined that the structural drawings by the structural engineer of record (who was the Subject acting on behalf of McCarthy & Associates) were negligently prepared.

The plans were also sent to FEMC Consultant Joseph Berryman, P. E., who also opined that the documents produced by Subject were materially deficient and failed to comply with acceptable standards of due care and

did not meet acceptable standards of due regard for engineering principles. Mr. Berryman also reviewed Subject's response to the complaint in the formulation of his opinion.

PCP Recommendation: Reprimand; costs of \$3,847.30; Suspension of licensure for 2 years; Following suspension, Subject will be placed on 5 year(s) probation with plan review at 6, 18, 30, and 42 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: what steps he will take to improve quality control in his practice, and his understanding of the Delegated Engineer's Responsibility Rule.

Stipulation: Reprimand; costs of \$3,847.30; 2 years Probation with plan review at 6 & 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: what steps he will take to improve quality control in his practice, and his understanding of the Delegated Engineer's Responsibility Rule.

Mr. Shumate was present and sworn in prior to addressing the Board. Mr. Shumate's counsel, Ed Bayo' was also present.

Mr. Burke reminded Mr. Shumate that he was to discuss the quality control issue as stated in the Settlement Stipulation. Mr. Bayo' indicated that he talked at length with Mr. Shumate about the responsibility rules. Mr. Shumate discussed his quality control. For instance, he attends seminars, updates his software, and if he has any questions, he asks others to review his work. Mr. Shumate no longer works for the company he worked for at the time of the incident.

Upon Motion to accept the Stipulation by Mr. Charland and seconded by Ms. Garcia, the motion passed.

- #5. Fitzgerald, Walter
PE 24636
FEMC Case Number 2007005175
Probable Cause Panel: Rebane, Seckinger
(See Red Book 2)

On July 27, 2004, Subject sealed, signed & dated an Electrical Photometric Site Plan (Site Plan) for the Melrose Apartments in West Palm Beach, Fl. The Site Plan showed the illumination levels from outside security lights which had been erected pursuant to a lighting design created by Power Design, Inc., a Florida Licensed Electrical Contractor (ECLB License No. 0000841). Power Design, Inc. does not and never has possessed a Certificate of Authorization issued by the Board to offer or provide engineering services in Florida.

Prior to placing his seal and signature on the Site Plan, Subject's supervision over the production of the Site Plan was limited to a review of data that had been submitted to him by personnel at Power Design, Inc. Subject performed none of the testing to determine whether the lighting information contained on the Site Plan was correct but relied on representations made to him by Power Design, Inc. personnel. Moreover, Subject never obtained or reviewed field test data upon which the Power Design information was purportedly based, never made a site visit, he did not have any information as to who purportedly performed the lighting testing nor was he aware of such persons qualifications to perform that task. (Deposition of Subject taken October 17, 2007)

On October 19, 2004, Subject signed, but did not seal, a "certification letter" which was sent to the Palm Beach County Planning, Zoning and Building Department as part of a permit application (Permit # E04011016). This letter, written on Power Design, Inc. stationary stated in material part that "Power design, Inc., performed a light test and certifies that light levels at Melrose Apartments...meets (sic) the lighting requirements per Palm Beach County Security Code Ordinance 87-26." That County Ordinance requires that a design professional, such as a Professional Engineer, must certify that the lighting levels meet the requirements of the Ordinance and that the design professional must perform the testing underlying the certification. The letter was intended by Subject to comply with the design professional certification requirements of Palm Beach County Security Code Ordinance 87-26.

Prior to signing the October 19, 2004, letter, Subject performed none of the testing which would have been required to determine whether the assertions to which he certified were correct but relied on representations made by Power Design, Inc. personnel. However, Subject never obtained or reviewed field test data upon which the Power Design information was purportedly based nor did he have any information as to who purportedly performed the testing or their qualifications to perform such a task or even if the testing was ever actually done.

Lastly, while the October 19, 2004, letter was signed by Subject on Power Design stationary and represented the enclosed engineering certification as that of Power Design, Power Design does not now and never has possessed a Certificate of Authorization from the Board. Thus, Subject's certification was on behalf of an unlicensed entity.

On January 17, 2008, Probable Cause was found and an Administrative Complaint was issued. After service, the parties entered into a Stipulation to resolve this matter which is being presented to the Board.

PCP Recommended Penalty: Reprimand; \$7,000.00 administrative fine (\$5,500.00 per count for (1) count, and \$1,000.00 per count for (2)

counts); costs of \$195.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 18 month(s) probation with plan review at 12 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: his understanding of the definition of responsible charge, and the responsibilities the engineer of record must perform.

Stipulation: Reprimand; \$5,000.00 administrative fine; costs of \$195.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 18 month(s) probation with plan review at 12 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: his understanding of the definition of responsible charge, and the responsibilities the engineer of record must perform.

Mr. Fitzgerald was present and sworn in prior to addressing the Board. Mr. Fitzgerald counsel, Ed Bayo' was present.

Mr. Bayo' pointed out that Mr. Fitzgerald has been an engineer for 42 years and has never been disciplined before. Mr. Fitzgerald had a long-standing working relationship with the contractor he was working with on this project; however and unfortunately, his assumptions were incorrect and that is why he is here. Mr. Bayo' discussed the responsibility rules on several occasions and believes Mr. Fitzgerald has a clear understanding of those rules.

Mr. Fitzgerald indicated that his responsibility as an engineer is to make sure that everything is done and when submitting documents that it is completely understood by him and in compliance with all rules.

Upon Motion to approve the Stipulation by Dr. Bauer and seconded by Mr. Wallis, the motion passed.

#6 Bellace, Thomas A.
PE 52262
FEMC Case Number 2007067243
Probable Cause: Waived Probable Cause
(See Red Book 2)

This investigation is predicated on an anonymous complaint alleging that deficiencies in the plans for a condominium project called the Paramount to be located at Lake Eola in Orlando, Florida.

FEMC Consultant James Power, P.E., opined that the specifications and calculations used by Respondent failed to reach a level of acceptable engineering principles. Power found that the plans had numerous

violations of ACI (American Concrete Institute) 318-02, and thus failed to comply with the 2004 FBC, some of what he found, but not limited to were; failure to specify the development of positive moment reinforcement, that the 12” shear walls were designed with a single layer of reinforcement for the field steel, which ACI standards demand be two layers, that the full amount of the positive moment tension reinforcement in the deep beams has not been specified to be continuous or be spliced with that of adjacent spans as required by ACI, and that the type B stirrups as specified for deep beams TB-7 and TB-8 were insufficient to provide the minimum area of vertical shear reinforcement as required by ACI.

In lieu of further administrative proceedings, Respondent agreed to waive probable cause in this matter and in the face of an Administrative Complaint charging him with one count of negligence, accept the terms of the proposed settlement stipulation.

Recommendation: Adoption of Settlement Stipulation: Voluntary relinquishment of licensure, with agreement to never reapply again, and administrative costs of \$1,600.

Mr. Bellace was not present at the Board Meeting; however his counsel, Robert Crabill was present.

Upon Motion to accept the Stipulation by Mr. Wallis and seconded by Ms. Garcia, the motion passed.

#7 Panaro, Glenn
PE 57074
FEMC Case Number 2006019846
Probable Cause Panel: Waived Probable Cause
(See Red Book 3)

This investigation is predicated on the receipt of an anonymous complaint alleging errors and omissions in the drawings for a commercial project called the Paramount at Lake Eola, Orlando, Florida.

The plans were submitted By Respondent’s own admission when he relocated to Arizona in November of 2004, he left his seal at Tajmir-Davis’s Florida offices as “a matter of convenience”. The plan was for Respondent to review the plans as supplied by Tajmir-Davis and sign them and for said plans to be sealed by someone in the Florida offices where his seal remained. Issues arose when the Flagler County Building Department consistently found deficiencies by Tajmir-Davis projects “signed and sealed” by Respondent.

FEMC Consultant Michael Driscoll, P.E. was provided with six (6) separate sets of plans bearing Respondent’s signature and seal. Driscoll

opined that the specifications and calculations involved failed to reach a level of acceptable engineering principles. Respondent meanwhile reviewed his personal records and in regards to four (4) of these projects, Respondent claims no responsibility as he doesn't recall some of these plans and others he only made some preliminary review of. Three of these were residential projects and one commercial.

As to the four projects that bears the Respondent's signature and seal and in which Respondent claims no responsibility for, he is being charged with *permitting* his seal to be affixed to plans that were not under his supervision or control. By admittance of the "arrangement" that Respondent had with Tajmir-Davis it permitted an environment where something like this could and did happen.

In lieu of further administrative proceedings, Respondent agreed to waive probable cause in this matter and in the face of an Administrative Complaint charging him with four counts of permitting his seal to be placed on engineering plans that were not prepared under his supervision, direction or control. Respondent has been extremely cooperative with this prosecutor in this matter. Respondent still resides in Arizona and has not practiced engineering in the state of Florida since resigning from Tajmir-Davis.

Recommendation: Adoption of the Settlement Stipulation: Voluntary relinquishment of licensure, with agreement to never reapply again, and administrative costs of \$1,387.00.

Mr. Panaro was not present at the Board Meeting.

Upon Motion to accept the Stipulation by Ms. Garcia and seconded by Dr. Panigrahi, the motion passed.

#8 Maples, Lester
PE 10214
FEMC Case Number 2006051138
Probable Cause Panel: Rebane, Seckinger
(See Red Book 4)

This investigation is predicated on the receipt of a complaint from Engineer Brian Foster, alleging that Lester Maples adopted another engineer's plans without permission and made changes that were in violation of NFPA. Mr. Foster lists 19 areas of concern after reviewing the plans as a 3rd part Fire Sprinkler Plan Reviewer for the project known as Walgreens #09914 at Hwy 331 & Bob Sikes Road in Defuniak Springs, Florida.

A response was received from Subject's Attorney on 3/23/07 and 4.10/97, in which he responded Mr. Maples did not copy the aforementioned plans for the Walgreen project. Further, Mr. Maples did not rely on any portion of the "other" set of drawings, and that Mr. Maples' drawings do indeed meet all requirements of the NFPA.

A complete copy of the file and all documentation was forwarded to Larry Simmons, P.E., for review. Mr. Simmons' report was received 11/20/07 in which he opines, "the plans do not meet the minimum standard of the engineering profession. This is a violation of S.S. 471.033(1)(g), prohibiting...negligence, incompetence or misconduct in the practice of engineering. The Engineer of Record, Mr. Lester M. Maples, P.E., has not utilized proper due care in conducting his engineering duties and in the opinion of this reviewer, has signed/sealed the drawings of a fire sprinkler system that fails to fully comply with the Responsibility Rules of the Florida Administrative Code." Mr. Simmons did not find that Mr. Maples was in violation of the rule concerning successor engineer as asserted by the Complainant. "It is apparent that Panhandle Fire Protection provided its own design for the project."

The file was also reviewed by FEMC Consultant Homer Ooten, P.E. by request of Prosecuting Attorney. Mr. Ooten's report was received 12/26/07, in which he "affirms the opinions of Consultant Simmons regarding the four aspects of the original Mr. Foster's complaint. In addition to the design deficiencies in Mr. Simmons's evaluation summary, the entry canopy, side canopies and drive-through show upright pendant heads only. Such heads are designed to protect the interior of the structures (i.e., inside the overhead canopies and the drive-through). However, such areas also need protection below these structures since Walgreen management cannot prohibit storage underneath these structures. Thus, the design should have included 17 pendant heads to protect the areas beneath the canopies and drive-through. The omission of these heads constitutes a violation of NFPA 13."

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

Upon Motion to accept the Stipulation by Dr. Bauer and seconded by Ms. Garcia, the motion passed.

#9 Bishop, Gary
PE 25357
FEMC Case Number 2006036172
Probable Cause Panel: Rebane, Seckinger
(See Red Book 4)

This complaint is predicated on a complaint made by Donnie and Cynthia Macks. The Macks allege that the Respondent made false statements in

his engineering roof truss inspection dated December 23, 2005 (Truss Affidavit). Respondent's inspection report stated that he had inspected the roof truss system and that it was installed correctly and there were no visual discrepancies. The Macks sought a second opinion from Vincent Margiotti, Jr, P.E. who found numerous discrepancies in the installation of the roof truss system. On April 17, 2006, in response to Margiotti's report, Respondent wrote to the Complainants stating that there were several deficiencies and deviations from the original plans he had provided for the residence and that he did not inspect the trusses.

Respondent was notified of the complaint by Certified Letter dated August 22, 2006 and again on August 27, 2007. On 9/17/07 Respondent replied to FEMC Investigator Jack Beamish and explained that his December 23, 2005 certification to the county was limited only to whether the front porch columns would interfere with the trusses. Respondent again admitted in this letter that he did not physically inspect the trusses.

This case was sent to FEMC Consultant Michael E. Driscoll, P.E. for review. Mr. Driscoll opined that Respondent issued a false statement in his December 23, 2005 Truss Affidavit.

The case was presented to the Probable Cause Panel on May 20, 2008 and a two-count Administrative Complaint was filed with one count of fraud/deceit in the practice of engineering and one count of making a report that the licensee knows to be untruthful.

The Respondent signed this settlement stipulation in lieu of further formal proceedings.

Recommendation: Adoption of the Proposed Stipulation which includes a reprimand; \$4,000.00 administrative fine (\$2,000.00 per count for (2) counts); costs of \$1,648.12; Subject will be placed on (2) year(s) probation with plan review at 6 and 18 months; Board approved course in Intermediate Level Engineering Professionalism and Ethics; and appearance before the Board to explain: the obligations of Certification, and it's importance; and his previous appearance before the Board, and why he is appearing for a similar mistake again.

This matter was pulled to be heard at a later date.

V. Motion to Dismiss

#10 Ribas, Alberto
PE 14452
FEMC Case Number 2008032978
Probable Cause Panel: Fast Track AC
(See Red Book 5)

On January 4, 2008, a Final Order (Final Order) was entered in Florida Engineers Management Corporation v. Alberto L. Ribas, FEMC Case Number 2005014604. This Order was not appealed.

The Final Order imposed the following disciplinary sanctions upon Mr. Ribas including the imposition of a FINE of \$3000.00, and COSTS of \$1274.52 to be paid within thirty (30) days of the entry of the Final Order. The 30-day time period within which Mr. Ribas was required to pay the FINE and COSTS expired on February 4, 2008. Mr. Ribas, despite numerous written and oral communications from FEMC reminding Mr. Ribas of his obligations under the Final Order, has not paid the FINE of \$3000.00, and the COSTS of \$1274.52 imposed by the terms of the Final Order.

By failing to comply with the requirements imposed upon his license under the terms of the Final Order in the manner set forth in Paragraph 5, Mr. Ribas has violated the provisions of Section 471.033(1)(k), Florida Statutes, and Rule 61G15-19.001(6)(o), Florida Administrative Code.

An Administrative Complaint and accompanying forms were hand served upon Mr. Ribas. No response has been forthcoming. As a result, a Motion To Determine That Respondent Has Forfeited His Right To An Administrative Hearing Under Sections 120.569 And 120.57(1), Florida Statutes, And To Convene Proceedings Under Sections 120.569 And 120.57(2), Florida Statutes, was served upon Mr. Ribas. No response has been filed to that Motion.

Since that time, the Florida Engineers Management Corporation has learned by Mr. Ribas passed away and Mr. Rimes made an oral Motion to Dismiss the Complaint to resolve this case.

Upon a motion to dismiss the case by Mr. Wallis and seconded by Ms. Garcia, the motion passed.

* * *

Prior to the meeting being adjourned, the Board Members reviewed the list of applicants whose files were reviewed in an application review on December 3, 2008.

Upon Motion by Dr. Bauer to ratify the list of applicants approved 12/3/08 for the PE Exam with names Brooke Ahrens through Noah Mundt and Ryan C. Newcomb through Lawson J. Young and seconded by Mr. Halyard, the motion passed. **(LIST ATTACHED)**

W. Adjourn