

**Minutes of
The Florida Board of Professional Engineers
February 20 & 21, 2008
8:30 a.m., Jacksonville, 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 Burke, P.E., Chair
David Charland, P.E., Vice Chair
Zafar Hyder, Ph.D., P.E.
Paul Tomasino, P.E.

Board Members absent:

Christian Bauer, Ph.D., P.E. – excused / sick
Henn Rebane, P.E. – not excused

Upon a motion by Mr. Tomasino, seconded by Mr. Charland, Mr. Rebane is not excused and Dr. Bauer is excused.

FBPE Staff present:

Carrie Flynn, Executive Director
Patrick Creehan, Prosecuting Attorney
Frances Ingram, Coordinator of Applications and Licensure
Sean Benjamin, Licensure Analyst

Michael Flury, Esquire, Counsel to the Board

Others present:

Charlie Geer, P.E., FES
John Springstead, P.E., FEMC Board Member

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

Ms. Flynn added the minutes from the Standard Detail Committee meeting and discussion of an endorsement denial for Joseph Fusillo.

Upon a motion by Mr. Charland, seconded by Dr. Hyder, the agenda was approved as amended.

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

Upon a motion by Mr. Charland, seconded by Dr. Hyder the Consent Agenda was approved.

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

- a. Minutes from the December 5 & 6, 2007 Board Meeting*

Mr. Burke expressed concerns with the wording under the Standard Details Committee meeting. Mr. Burke asked the Board to approve the minutes pending completion of rewording.

Upon a motion by Dr. Hyder seconded by Mr. Charland, the minutes of the December 2007 meeting will be posted on the website with noted corrections to be completed by staff and approved by Mr. Burke.

Rewording approved and appears as follows:

Mr. Burke briefed the Board on the outcome of the first conference call committee meeting to address Standard Detail Drawings. In the conference call, Mr. Burke outlined the events leading to the appointment of this committee and the reason for the Board having responded to a letter received from Mr. Meister, Chair of the FES Ethics Committee. The letter outlined apparent issues with the requirement of engineers of record being required to sign and seal standard detail drawings submitted as part of the design documents. Mr. Burke explained the different issues related to the use of standard details and clarified that the Board's intent was to address engineers signing and sealing standard details outside their discipline of practice.

Mr. Meister and Mr. Lorenz understood the Board's position in this particular instance and they were seeking the Board's response to other issues associated with use of Standard Details Package.

As part of the discussion, the following examples were presented to illustrate the occasions where Standard Details are used.

1. FDOT standard index sheets used to be signed and sealed by a Department's Engineer. FDOT no longer signs and seals the standards but requires that the Engineer's design documents reference the standard index details.
2. Cities, Counties and Utilities are requiring that the Engineer's design documents reference their standards which may or may not be signed and sealed.
3. Cities, Counties and Utilities are requiring that the Engineer sign and seal their standard details and include them in as part of the design documents.
4. FDEP requires engineers seeking permits to sign and seal all drawings including standard details that may have not been prepared by the Engineer.

It was the consensus of all parties to schedule a future conference call. Prior to that call, Mr. Flurry, Board Counsel and Mr. Rimes, Staff Attorney will review the Board's present rules, determine their applicability and the potential for any new rule making on this subject matter. Depending on the results of the review possible rulemaking or issuance of a public statement would be the decision of the full Board.

- b. Minutes from the January 25, 2008 Conference Call*

Approved under the Consent Agenda

B. Committee Reports

- #1. Applications Committee (**Next meeting 3-12-08**)
(John Burke, P.E., Chair; David Charland, P.E.; Henn Rebane, P.E.; Zafar Hyder, Ph.D., P.E.) (Alternates: Christian Bauer, Ph.D., P.E.; Paul Tomasino, P.E.)

Mr. Burke confirmed earlier notification that Dr. Hyder would not be able to attend the March review. All remaining members should attend to provide a quorum.

- #2. Educational Advisory Committee (**Next meeting 3-12-08**)
(Christian Bauer, Ph.D., P.E., Chair; Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E. (Consultant))

Mr. Burke announced his plan to add Dr. Earle to the Educational Advisory Committee once he is officially a Board member and to update the Board member Committee appointments.

Due to Dr. Bauer's illness and lack of quorum, Mr. Burke appointed himself to the Educational Advisory Committee to allow review of certain applications following the recess of the Board meeting.

- #3. Probable Cause Panel (**Next meeting 3-13-08**)
(Henn Rebane, P.E., Chair; Allen Seckinger, P.E., Consultant) (Alternate:
John Burke, P.E.)

- a. PCP Memo from January 17, 2008 Meeting.

Mr. Burke affirmed that Mr. Rebane has not been replaced and he continues his position on the Board and position of Chair of the Probable Cause Panel.

- #4. FBPE Rules Committee (March 11, 2008)
(John Burke, P.E., Chair; Henn Rebane, P.E.; David Charland, P.E., Paul
Tomasino, P.E.)

- a. Committee Chair's Report.

Mr. Burke discussed the Rules Workshop held in January. Mr. Flury has completed the updates on the new version of the responsibility rules. They will be published in Administrative Weekly in the near future. Mr. Burke again thanked FES for their assistance in the revisions.

Mr. Charland will be the point person to work with FES in the rewrite of the Responsibility Rules for Structural Engineering. Ms. Flynn has contacted Samantha Hobbs regarding this task.

- #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 confirmed no meetings as of this date. He will be working with Ms. Flynn to set Legislative Committee Meeting. Items for discussion at this time are statutory revisions addressing EAC/ABET accredited degree. Review of proposed changes to the continuing education process. Mr. Geer asked to be included in the committee discussion to allow coordination of any involvement by FES. Ms. Flynn will get with Mr. Tomasino and Mr. Geer to set a date.

- #6. Joint Engineer/Architect Committee
(John Burke, P.E., Chair; Zafar Hyder, Ph.D., P.E.)
- a. No Report.
- #7. Standard Detail Drawings Task Force
(John Burke, P.E., Chair; Paul Tomasino, P.E., Zafar Hyder, Ph.D., P.E.)
- a. Minutes from the December 2007 meeting.*
- Approved under the Consent Agenda.
- #8. Nominations Committee
(John Burke, P.E., Chair; David Charland, P.E.)
- a. Application filed by Ernest Cox, P.E. for consideration of appointment to FEMC Board

Mr. Burke reminded the Board of expiration of terms for two FEMC Board members. Pursuant to Gary Kuhl's request he was reappointed to the FEMC Board. Mr. Springstead had agreed to serve in his position until a replacement was named.

Through efforts of FES and Mr. Geer specifically, Mr. Ernie Cox submitted an application for the position. The Board reviewed the application and the following action was taken.

Upon a motion by Mr. Tomasino, seconded by Mr. Charland, Mr. Ernie Cox was appointed to the Florida Engineers Management Corporation Board of Directors for a term to expire in 2012.

Mr. Springstead addressed the Board to convey his deep appreciation for the opportunity to serve on the Board of Professional Engineers followed with service on the Florida Engineers Management Corporation Board of Directors. He complimented staff and members of the FBPE for their dedication and hard work in executing the huge workload.

Mr. Burke noted that Mr. Springstead was one of the key players in keeping up the momentum with the Department during the early years of operation of FEMC.

- C. NCEES
(John Burke, P.E., FBPE Liaison)
- #1. Chair's Report.

The Southern Zone meeting will be in Puerto Rico in May. Please have your applications to the Board office by March 17th.

Mr. Burke advised the Board of a recent contract by Gene Dinkins, Vice President of the Southern Zone, regarding the Tennessee meeting in 2009. Due to funding issues Tennessee had to cancel their plans to host the meeting. The Louisiana Board of Professional Engineers offered to host the meeting and it was accepted. The 2009 meeting will now be held in New Orleans.

2. Zone Update*

Approved under the Consent Agenda

#3. Letter regarding proposed merger of Constitution and Bylaws

Mr. Burke announced this issue will be voted on in the May Southern Zone meeting.

#4. CPEES announces availability to perform evaluations of domestic non-EAC/ABET engineering degrees.

CPEES has notified the Board regarding an expansion of services to include evaluation of non EAC/ABET engineering degrees.

D. Advisory Attorney's Report

#1. Rules Report

This item will be discussed tomorrow.

#2. Revised Responsibility Rules

With regard to the Responsibility Rules, Mr. Flury advised that he made grammatical changes and the rules were published in the Florida Administrative Weekly.

Mr. Burke advised that most of the changes involved word semantics. The fire protection engineers and Fire Marshall who attended the meeting wanted to make sure fire protection engineers maintain responsible charge of the delegated work the same as the other disciplines.

Upon a motion by Mr. Charland seconded by Dr. Hyder, to accept the Responsible Rules as amended and have Mr. Flury publish the language.

#3. Response letter from Marjorie Holladay, JAPC, dated January 23, 2008 re: Rules 61G15-31.003-007 and .009, F.A.C.

JAPC has taken issue with the FBPE disciplinary guidelines in 61G15-31.001 and 61G15-31.004, F.A.C. They are requesting the Board enumerate a range of penalties and define minor and major offenses. Mr. Flury will work with Mr. Creehan and Mr. Rimes on this matter and discuss at the Rules Committee meeting.

Upon a motion by Mr. Tomasino seconded by Mr. Charland, the Board approved Mr. Flury to begin the rule development for Rule 61G15-19.001 and 61G15-19.004, F.A.C.

- #4. Response letter from Marjorie Holladay, JAPC, dated January 23, 2008 re: Rule 61G15-21.007, F.A.C.

JAPC is currently reviewing this rule.

- #5. Response letter from Marjorie Holladay, JAPC, dated February 8, 2008 re: Rules 61G15-31.003-.009, F.A.C., and Rule 61G15-19.001 and .004, F.A.C.

See comments above.

- #6. Update on self-study report and progress of Rule 61G15-20.006, F.A.C.

This rule is currently being reviewed by JAPC.

- #7. Update on Rule 61G15-20.007

This rule has been adopted.

- #8. Update on proposed changes to signing and sealing rule

The Board had directed staff to review the NCEES Model Rules on Electronic Signing and Sealing. Staff located the information and forwarded to Mr. Flury for review. This issue will be discussed in the next Rules Committee. Mr. Geer affirmed the problems within industry when it involves electronic signing and sealing and what should be included in the title block.

- #9. Update on letter to Robert O'Neill, Florida Gulf Coast University re: Instructions of filing Petition for Variance and Waiver

Mr. Flury confirmed the requirement of each student from FGCU to a Petition for Variance and Waiver along with their application. When the Petition comes in, they will be reviewed by the Educational Committee and the decision to grant or deny would be ratified by the full Board.

#10. Opinion from the District Court of Appeal, Third District re: Rizov v. FEMC

The applicant challenged the board regarding experience acquired prior to graduation. The Court upheld the Board's rule on experience requirements. Mr. Rizov will have 21 days to file a Motion for Rehearing.

E. Executive Director's Report

#1. List of Applicants Requesting Retired Status*

Mr. Springstead called attention to the name of Pedro O. Martinez. Mr. Martinez has received several awards from NCEES, he served on the FBPE for two terms and he was well known for his work with the Broward County School Board. Mr. Springstead suggested a letter from the Board congratulating him on his service to the engineering community. The Board was in agreement and Ms. Flynn will issue the letter and place an article in the next Board newsletter.

#2. Quarterly Report

Ms. Flynn reported no comments from the Department on the quarterly report. Ms. Flynn confirmed Ms. Benson's acceptance of the position of Secretary with the Agency for Health Care Administration. DBPR has not named a new secretary at this time.

Ms. Flynn advised the Board of a holding pattern for the press release by DBPR on the proposed fee holidays. If the Department does not move forward with the fee holiday, this Board would have to consider a rule amendment to address the fee holiday.

Mr. Geer advised the legislature does not favor the fee holiday for the 2009 renewal cycle. The legislature could "sweep" all trust funds due to proposed budget cuts.

Mr. Jeffery, Mr. Burke and Ms. Flynn conducted interviews for the Assistant Executive Director position, an offer has been made and no response has been received to date.

Ms. Flynn advised the new telephone system is operational.

Dr. Hyder has problems with our new phone system and he does not believe staff gives the engineers and applicants good customer service. His experience calling the Board office is less than positive. He noted his calls and his withholding identification because he wants to be treated as just an engineer. This allows him to determine how the normal applicant is treated.

Mr. Burke suggested that he speak to Ms. Flynn with specific problems regarding staff and problems with customer service.

Ms. Flynn introduced Ms. Deborah Head, the new FEMC Comptroller. Ms. Head briefed the Board on her background prior to assuming her position with FEMC. Ms. Head advised the Board of her plan to work on the Board's request for a five year projection. The decision as to how the proposal moves forward will depend on the Board's decision to reduce present fees.

Mr. Burke believed this matter would require further review in view of Mr. Geer's comments and the possible sweep of the trust fund by the legislature.

Ms. Flynn advised that there are six applications to be reviewed at the conclusion of this board meeting.

#3. Applications for review following meeting: Jennifer Perone, Matthew Landschoot, William Wilcox, Rebina Barbeyto, David Weinsberg and Walter Jarvis.

#4. Update on website design and server maintenance

Ms. Flynn was pleased to announce completion of the new website and plans to continue to update all information.

The Spring Newsletter will be forwarded to printer within the next few days and will be published in March.

Ms. Flynn gave an update on Xerox printer and printing of the licenses and certificates in house.

Chief Prosecutor's Report

#1. Non-Compliance Report

In the past there have been loopholes in the Stipulations and that has been corrected. Mr. Burke asked what type of tool Mr. Creehan is using to monitor the engineers. July Tomasi is the Compliance Officer, and she keeps track of all engineers who have fines and plans that are due. She tracks them on a database and tickler system.

2. February Open Case Report

All current open cases are ready for settlement or they are ready for a DOAH hearing.

#3. Profile of legal cases by year

Mr. Creehan gave a report on the number of current cases. Presently there are 175 mostly new open cases. FEMC recently won another DOAH hearing and an appeal which brings to a total of 7 wins and no losses since April of last year.

Mr. Creehan confirmed the procedure of providing electronic copies of cases for the PCP panel with exception of Mr. Seckinger. The hard copies of all documents are maintained for FEMC's records. To ensure against loss of plans during the investigative process both in house and with providing to experts, FEMC decided to have the plans copied. Experts will receive an electronic copy and originals will never leave the office. There was some concern with how the plans are delivered to the copy service. Mr. Creehan explained the procedure where the service comes to FEMC's office to pick up the plans. Once copied, they are returned. There was some concern with the fact the service has access to information that is confidential. It was suggested the service sign a non-disclosure agreement. Mr. Creehan agreed to look into this matter.

Mr. Geer expressed the concerns that FES has with more cases coming in each month more than going out. Mr. Creehan advised FEMC is prosecuting about one third the cases. Many cases are closed for legal insufficiency. FEMC receives an average of 20 cases a month. Of this number 5 to 6 go forward as Administrative Complaints, 10 or 11 are closed with a letter of guidance, 4 or 5 cases are closed as legally insufficient. Mr. Geer expressed that the feedback from his constituents was positive regarding the improved efficiency of the complaint process

Mr. Burke has come to the conclusion that the investigators are the key to making the complaint process successful in content and moving through process timely. The attorneys should provide constant supervision to ensure that all procedures in the investigative process are followed timely.

Mr. Charland was concerned with the investigators workload. Mr. Charland asked for a time frame in responding to initial complaints. Mr. Creehan responded with a time frame of 2 weeks.

Ms. Flynn confirmed the plans to review the need for recreating a third investigative position.

F. Chair's Report

#1. Chair's Report.

- a. Communication between Board Members and applicants or P.E.'s under disciplinary review

Mr. Burke advised Board members to forward any questions received from applicants or the public to Ms. Flynn. Ms. Flynn will respond on behalf of the Board. Board members should use caution in becoming involved in emails or phone calls concerning application process, complaint process or other issues unless they respond as stating their own "personal opinion" and not the opinion of the Board.

Mr. Burke commented on the return of the Board to a full complement of eleven members. As the new members come on board they will need assistance from present Board members in becoming aware of their responsibilities. Staff will also be presenting a Board member training sessions once positions are filled.

H. Correspondence to the Board

- #1. Request from David R. Sirota, Ph.D. of Educated Choices, LLC, for approval as evaluator of foreign engineering degrees

Ms. Flynn advised other evaluators have requested to provide evaluation services for the Board. They need to appear at a Board meeting, address the Board, and the Educational Advisory Committee. Ms. Flynn will do a follow up letter to Educated Choices.

Dr. Hyder would like to see an example of the evaluator's work before considering approval. Ms. Flynn confirmed the procedures followed previously approving evaluators. A letter is submitted with an example of their work and the Board usually requests an appearance as part of the approval process.

- #2. Letter from Investigative Engineers Association, Inc

This association is requesting the Board's opinion on waiving licensure requirements for engineers coming into Florida from other states to do engineering following a catastrophic event.

Mr. Burke confirmed previous discussions internally and in NCEES meetings. This Board has deemed the need for individuals and companies to be licensed in Florida if they perform engineering services.

Ms. Flynn will respond with confirmation on the need for licensure.

- #3. Email from Michael Teele re: review of calculations by plan reviewers not licensed as Professional Engineers

Mr. Flury advised the issue is local building department reviewers are not licensed, yet they are reviewing plans of licensed engineers and advising them that they are not sufficient.

Mr. Geer interprets the email as taking exception to building officials reviewing the calculations and plans submitted by a professional engineer.

Mr. Springstead stated that some cities and counties do not have funding for staff engineers. The agencies usually hire engineering consultants to review the plans. The building officials are not structural engineers and they cannot question the structural engineer as the plan may contain innovative new ideas.

Mr. Burke believed the question centers around possible unlicensed activity.

Mr. Flury will assist Ms. Flynn in responding to explain employees are exempt and as long as they are under supervision of a licensed professional they are not performing unlicensed activity.

Ms. Flynn confirmed the plans to reinstate the task list following each meeting. This will ensure closure to all outstanding items.

4. Letter from Abdul Cumber re: engineers providing building code inspection services

Mr. Flury will assist Ms. Flynn in writing a response letter. The Board agreed that Section 471.045, F.S., was clear.

I. Old Business

- #1. Update from National Society of Professional Engineers (NSPE) on development of software engineering examination

Mr. Geer advised that FES is considering this issue and opinion and he believes that FES will come out with a position. Mr. Geer suggested that this issue be tabled until FES has issued an opinion.

Mr. Geer questioned the need for developing an exam when there is no licensure requirement in place. Licensure would only apply if they are writing the software. The NSPE letter should not guide the Board one way or the other regarding the need for a software engineering examination.

Mr. Springstead advised that this is an old issue with NCEES and one that the State of Texas has been seeking for a number of years.

Ms. Flynn advised the Board of having received the Resolution. It has not been signed and submitted.

Mr. Tomasino requested that this issue be tabled until the April Board meeting when Dr. Bauer is present.

- #2. Report from Paul Tomasino on attendance to January Professional Surveyors and Mappers Board meeting.

Mr. Tomasino outlined the information shared in his attendance for the January Professional Surveyors and Mappers Board meeting.

A presentation was made by CADD Centers outlining the process for DTM generation and machine control application development. After the presentation, the board discussed the position that other states have taken in regard to this subject and the exemptions in Chapter 472.003(3), F.S., with a particular focus on contractors or their employees, leased employees and engineers when performing construction layout.

After discussion regarding the exemptions, it was the consensus of the board that Chapter 472.003(3), F.S., appears to cover this subject and who can perform these services. There was no need for further action. Mr. Tomasino was in agreement with the decision.

Upon a motion by Mr. Charland seconded by Dr. Hyder the meeting was recessed until Thursday.

J. New Business

K. Public Forum

THURSDAY, February 21, 2008

Opening Comments before hearings.

Mr. Burke addressed the audience with an overview of FEMC and FBPE. Mr. Burke presented Mr. John Springstead, PE with a plaque for his years of service to the Florida Engineer's Management Board of Directors.

Mr. Burke also recognized Mr. Tomasino on his recent award as the 2007 Tampa Bay Engineer of the Year.

Mr. Benjamin gave a presentation on the 2009 continuing education renewal process.

#1. Endorsement/Continuing Education Committee
(Vacant, Chair)

a. Committee Chair's Report.

The committee approved six applications: Jennifer Perone, Matthew Landschoot, William Wilcox, Rebina Barbeyto, David Weinsberg and Walter Jarvis.

Upon a motion by Dr. Hyder seconded by Mr. Charland, the Committee approved the applications.

#2. Rules Report

Mr. Flury advised updated Responsibility Rules will be published for 21 days, which will allow any type of comments and/or hearing requests to be submitted. The next step would be filing the rules for adoption. Two Responsibility Rules were repealed 61G15-30.004 and 61G15-33.009, they were taken out completed or dovetailed into another rule. Two rules that are on hold by JAPC, one is the Board's rule on approving programs that are not ABET accredited, and the other is the re-examination of an three/five time failure applicants.

Rule Number	Title	Adopted	Effective
61G15-20.001 61G15-20.007	Definitions Demonstration of substantial equivalency	1-11-08	1-31-08
61G15-23.002	Seal, Signature and date shall be affixed	1-11-08	1-31-08

Part II
Informal Hearing Agenda

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

L. Consideration of Petition for Formal Hearing

Mr. Burke briefed the audience on the education, experience and examinations required for licensure in Florida. He called specific details to the evaluation of education that applies when the applicant does not hold a Board approve engineering degree.

#1. Isaac Shvartzman

Mr. Shvartzman was sworn in prior to addressing the Board. Mr. Shvartzman's application was denied for educational deficiencies and failure to evidence the NCEES Fundamentals and Principles and Practice examinations. Review of the transcript evaluation to determine equivalency to Rule 61G15-20.007, Florida Administrative Code resulted in a determination of deficiency of a course in Probability and Statistics and Differential Equations. Further Mr. Shvartzman does not meet requirements of Section 471.015 (5) (a) 1 and 2, F.S. to waive the examinations.

Mr. Shvartzman elected a Formal Hearing. The file was copied to Mr. Flury, Board Counsel. Mr. Flury returned the file to the Board and requested that it be placed on the February agenda. He would recommend denial of the Formal Hearing and the matter proceed as an Informal Hearing.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board denied the request for Formal Hearing.

Mr. Shvartzman addressed the Board. He found an independent expert to review his transcripts. The expert works at a University in St. Louis. The expert determined Mr. Shvartzman has met the qualification for license in Florida. Mr. Burke reminded him that he has not shown written exams from NCEES. He has worked as an engineer since his graduation from college in 1977. Mr. Shvartzman argued the definition of state. He believed it could apply to a state within any country. Mr. Flury confirmed to Mr. Shvartzman that the interpretation of the Statute means United States.

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

Mr. Flury advised Mr. Shvartzman that he could re-apply and the letter from the University would be reviewed as part of his application.

#2. Pavel Pavlov

Mr. Pavlov was present and sworn in prior to addressing the Board. Mr. Pavlov's application is denied for educational deficiencies. The transcript evaluation was reviewed by the Committee to determine equivalency to Rule 61G15-20.007, Florida Administrative Code. It was determined that Mr. Pavlov was deficient 15 hours in Math and Basic Science. The Committee requested Mr. Pavlov sent copies of all transcripts from university in North Carolina for review to determine if the deficiencies would be revised. In response, Mr. Pavlov elected a Formal Hearing. Mr. Flury requested that it be placed on the February agenda, he would recommend denial of the Formal Hearing and the matter would proceed as an Informal Hearing.

Mr. Pavlov was sworn in by the court reporter. As he began his presentation it appeared he had disputed issues of facts and Mr. Flury recommended the proceeding cease and the matter be referred to the Division of Administrative Hearings.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board referred the file to the Division of Administrative Hearings for a formal hearing.

M. Informal Hearings on Denial of Application for Fundamentals Examination

#1. Roy Burton

Mr. Burton was sworn in prior to addressing the Board. Mr. Burton holds an undergraduate degree from the United Kingdom, an MS degree from University of Central Florida and transcripts of coursework from Brevard Community College.

Mr. Burton applied for the Fundamentals examination and was granted Conditional Approval pursuant to Rule 61G15.20.007, F.A.C. Mr. Burton was deemed to be deficient 14 Hours of Humanities and Social Sciences. In response to the Conditional Approval, Mr. Burton submitted an Election of Rights form to have an Informal Hearing.

Mr. Burton is requesting a waiver of the social sciences requirements as he received undergraduate degree in 1972 before he took his masters degree at UCF and in 1972 he was not required to complete social sciences.

Mr. Flury advised that the Board cannot waive a rule. He could, however, file a Petition for Variance and Waiver.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board upheld the conditional approval of Mr. Burton's application.

#2. Muhammad Aslam

Mr. Aslam was not present. Mr. Aslam holds an undergraduate degree from Pakistan, MS degree from University of Tokyo and Certificates from various Business Management Courses.

Mr. Aslam's application was denied based on educational deficiencies. The Board determined although Mr. Aslam was deficient 3.43 semester credit hours in Mathematics and Basic Sciences, he failed to evidence a course in Probability and Statistics and a secondary level course of Chemistry or Calculus Based Physics. Further Mr. Aslam was deficient 8 semester credit hours in Humanities and Social Sciences.

At the Board's September Application Review, the Committee reviewed additional educational documents that Mr. Aslam submitted. The deficiencies were not deemed satisfied and the denial was upheld.

Mr. Aslam requested a continuance from the December meeting to the February Board meeting.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board upheld the denial.

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

#1. Jose Subero

Mr. Subero was sworn in prior to addressing the Board. Mr. Subero applied to sit for the Principles and Practice examination. His application was denied based on education. Review of the evaluation of undergraduate studies by Josef Silny & Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. proved deficiencies of 8.75 semester credit hours in Humanities and Social Sciences.

Mr. Subero submitted an Election of Rights form to supplement and to have an Informal Hearing. The Board reviewed the supplemental information and determined to uphold the denial.

Mr. Subero asked if the Board would review his Masters degree. Mr. Flury advised Mr. Subero that he could submit the courses to the Educational Advisory Committee to review at such time as he reapplies. Following reapplication he would be advised of exact deficiencies.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board upheld the denial.

2. Hari Kapalavai

Mr. Kapalavai was sworn in prior to addressing the Board. Mr. Kapalavai applied to sit for the Principles and Practice examination. His application was denied based on education. Review of the evaluation of undergraduate studies by Josef Silny & Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. proved deficiencies of 13.5 semester credit hours in Humanities and Social Sciences and 12.5 semester credit hours in Math and Basic Sciences including a Chemistry or Physics sequence.

Mr. Kapalavai submitted an Election of Rights form to supplement and to have an Informal Hearing. The supplement submitted addressed certain continuing education courses and other information that did not satisfy the deficiencies. The denial was upheld.

Mr. Flury advised the Board that an updated Silny evaluation was submitted which evidences that Mr. Kapalavai has now satisfied the Math and Basic Sciences deficiency. This leaves the deficiency in Humanities & Social Sciences.

In discussion the rules were explained to Mr. Kapalavai.

Upon a motion by Mr. Charland seconded by Dr. Hyder, the course work submitted was not accepted and the denial was upheld for 13.5 hours in Humanities and Social Sciences.

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

#1. Randall Crews

Mr. Crews was not present.

Mr. Crews was denied based on educational deficiencies. Mr. Crews holds a Bachelor of Engineering Technology from Southern Polytechnic State University and a Masters degree in Civil Engineering from Norwich University. The Board determined that Mr. Crews is deficient 12.35 semester credit hours in Math and Basic Sciences, including a course in Probability and Statistics and a second level of study in Calculus-Based

Physics or Chemistry. In response to the Notice of Denial, the applicant submitted an Election of Rights to supplement his application and to have an Informal Hearing. The Committee reviewed the supplemental information and the denial was upheld and the matter was to proceed as Informal Hearing.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board upheld the denial.

#2. Joseph Fusillo

Mr. Fusillo was sworn in prior to addressing the Board with his attorney Mr. Slepik. Mr. Fusillo was denied as he holds a Bachelor of Engineering Technology from Youngstown State University awarded in 1998. Mr. Fusillo does not hold a Board approved degree.

Mr. Fusillo began his comments by citing statute and rules he thought would qualify him for licensure. As it appeared the applicant was disputing facts, Mr. Flury advised the Board to stop the proceeding and continue for a future meeting. Mr. Flury would discuss the denial with Mr. Slepik. If there are no issues, the formal hearing will be withdrawn and an informal hearing will be rescheduled.

Upon a motion by Mr. Tomasino seconded by Mr. Charland the case will be continued until Mr. Flury can further research the issue. A vote was called and the motion passed.

#3. Francis Prisk, III

Mr. Prisk was not present and he was not represented by counsel.

Mr. Prisk was denied based on his BS in Civil Engineering Technology from the University of Pittsburg in 1990. Mr. Prisk does not hold a Board approved degree.

Upon a motion by Mr. Charland seconded by Mr. Tomasino, the Board upheld the denial.

Part III
Disciplinary Hearings

Mr. Burke briefed the audience on the disciplinary process.

P. Recommended Orders

- #1. Joseph Potts, P.E.
PE 22656
FEMC Case Number 2006003567
Probable Cause Panel: Matthews & Seckinger
(See P#1 Red Book)

On September 23, 2005, and December 13, 2005, Subject sealed, signed, and dated engineering documents for the construction of an aluminum screened pool enclosure to replace one which had been damaged in Boca Raton, Florida (the Hacker Project). The documents consisted of a hand-drawn design of the enclosure, a handwritten sheet of specifications sealed on September 23, 2005; and three handwritten pages of engineering calculations sealed on December 13, 2005 (DOAH Recommended Order ¶2) . Some of the engineering documents for the Hacker Project were submitted to the Palm Beach County Building Department to obtain building permit approval on October 4, 2005. The calculations were submitted in December (RO ¶6).

The documents for the Hacker Project contained several deficiencies when they were reviewed by employees of the Building Department. These included, among other things: lack of bracing, inadequate depiction of connection, and inappropriate stress increases (RO ¶ 7). There were numerous errors and deficiencies in the design and specifications documents prepared by Subject and filed with the Palm Beach County Building Department. The deficiencies are fully set out in the Recommended Order (¶¶s 11-20).

Additionally, Subject submitted a revised set of sealed and signed design drawings, specifications, and calculations to FEMC Consultant Berryman in February 2006 but not to the Palm Beach County Building Department (RO¶ 10). These documents were also deficient (RO ¶¶s 21-25).

On August 13, 2007 a hearing was held at the Division of Administrative Hearings which resulted in a Recommended Order dated September 26, 2007 finding Subject violated Section 471.033(1)(g), Florida Statutes, as alleged in Counts One and Two of the Administrative Complaint (RO ¶¶s 32-33). Penalties of a REPRIMAND, PROBATION for two years with appropriate conditions for this case, and an ADMINISTRATIVE FINE in the amount of \$5,000 were recommended by the Administrative Law Judge (RO Recommendation).

The ALJ rejected FEMC's request for the imposition of costs (RO ¶33). An exception to this ruling has been filed with the Board seeking the award of costs in the amount of \$5,534.80

Recommendation: Adopt ALJ's Recommended Order in its entirety (except for the finding in RO Paragraph #33) and impose reprimand, fine and terms and conditions of probation as appropriate. Grant Exception and impose costs by separate order.

Mr. Potts was not present at the meeting.

Mr. Burke asked what is the normal procedure for Administrative Law Judge's in regard to costs? Does each judge handle these situations in a different way? Did we not have costs tabulated? Is that the problem?

Mr. Creehan indicated that what he would do would be to get a certified statement of costs admitted into evidence which never presented any problems for him, but he was not sure whether this judge was really particular about things.

Mr. Flury indicated that generally, costs were a separate issue from the issues of the Administrative Complaint because there are separate issues of fact that have to be dealt with. It is the Board's ultimate responsibility to assess the costs but the amount of costs can be disputed, and in this case, what we should do and what is being recommended by Mr. Rimes is to assess the costs and Mr. Potts would have further DOAH rights on the amount of costs if he chooses to go forward with that.

Mr. Flury indicated that there were no exceptions filed to the Findings of Fact. It would be appropriate for the Board to make a motion either accepting or rejecting the Findings of Fact as the Board's findings of fact.

Upon motion by Mr. Charland and seconded by Mr. Tomasino the Board voted to accept the Administrative Law Judge's findings of fact as the Board's findings of fact.

Mr. Flury discussed the exception relating to costs.

Upon motion by Mr. Tomasino and seconded by Mr. Charland, the board voted to strike paragraph 33 of the Recommended Order.

Upon motion by Mr. Charland and seconded by Dr. Hyder, the board voted to accept the remainder of the Administrative Law Judge's Conclusions of Law.

Mr. Burke suggested a 24 month period of probation with plan review at 6 and 18 months per the Administrative Law Judge's Recommended Order.

Upon motion by Mr. Charland and seconded by Dr. Hyder, the Board agreed to a 24 month period of probation with plan review at 6 and 18 months.

Upon motion by Mr. Charland and seconded by Dr. Hyder, the Board voted to assess costs in the amount of \$5,534.80.

- Q. #1. Dennis Wood, P.E. & McVay-Wood & Associates
PE 17646; CA 26683
FEMC Case Numbers 2005007791, 2005015627
Probable Cause Panel: Burke, Seckinger
(See Q#1 Red Book)

On or about June 29, 2000, an Engineering Construction Plan which, material to the matters herein, included a "Drainage Plan" for the Grand Pines Subdivision was sealed, signed and dated by a Professional Engineer on behalf of an engineering firm entitled Monreal Engineering and was filed for public record. The "Drainage Plan" contained an accurate "North" arrow and at Lot 10 of the Grand Pines Subdivision contained a flow path arrow that also pointed to the North. In addition, at Lot 6, the "Drainage Plan" contains a label noting a "15 [feet] Drainage and Utility Easement." The above information supports the conclusion that the "Drainage Plan" was designed to drain Northerly within a 15 foot wide Drainage and Utility Easement located at the rear property line of Lots 5-20. Moreover, the same Drainage and Utility Easement was also intended to drain Lots 3 and 4 to the North based upon a proposed spot elevation located adjacent to the Southeast corner of Lot 3. Based upon the information contained in the Engineering Construction Plan which included the "Drainage Plan" for the Grand Pines Subdivision an Environmental Resource Standard Construction Permit (# 4420815.000) was issued by the Southwest Florida Water Management District (SWFWMD) on October 20, 2000 During 2000-2001 the Grand Pines Subdivision was supposedly constructed in accordance with the permitted plans.

Respondent, Wood prepared and submitted to SWFWMD a signed and sealed Statement of Completion (SOC) on October 9, 2001. On the SOC Respondent certified that "at the time of final inspection, the surface water management system was completed substantially in accordance with the permitted construction plans and information." Respondent's certification on the SOC further provided that any minor deviations from the permitted plans and specifications would not prevent the system from functioning as

required by the District's rules and that the accompanying as-built drawings and specifications would confirm the certification.

However, the As- Built survey for Phase I of the Grand Pines Subdivision reflects the fact that the Drainage & Utility Easement contains a rise in elevation between Lots 7 and 16 of the Subdivision which precludes drainage to the north and actually would result in the large portion of the surface water runoff from the property served by the Drainage & Utility Easement draining to the SOUTH. This fact was not in compliance with the SWFWMD permitted Drainage Plan, which called for all of the surface water collected in the Drainage & Utility Easement to drain to the NORTH. Thus, the certification contained in the SOC, which Subject signed, sealed, was materially in error, and did not reflect the actual conditions on the ground. Moreover, because the Drainage & Utility Easement as constructed was inadequate, a nuisance condition was created which detrimentally affected property owners who were entitled to rely on the permitted drainage system due to the fact that the actual surface water drainage system did not perform as intended resulting in an unacceptable level of standing water following precipitation.

In reliance upon respondent's SOC, SWFWMD approved the permit for the Grand Pines Subdivision. Subsequently, as a result of complaints by the homeowners in the Grand Pines Subdivision, the SWFWMD staff found that the major deviation set forth above existed between the permitted plans and the actual construction and that the Drainage & Utility Easement was not constructed as permitted. Thus, Respondent's SOC certification that the Grand Pines Subdivision was constructed "substantially in accordance" with the permitted documents was materially erroneous.

An Administrative Complaint was filed on November 21, 2007. After negotiation a Stipulation resolving the matter was signed on December 11, 2007.

Probable Cause Panel Recommendation: Reprimand; \$2,000.00 administrative fine (\$2,000.00 per count for (1) count); costs of \$1,378.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: His understanding of the scope of work and extent of participation required by an engineer when providing a statement of completion.

Stipulation Terms:

Dismiss McVay-Wood & Associates, Assess Costs of \$1,378.00, Appearance before Board to discuss Mr. Wood's understanding of the scope of work and extent of participation required by an engineer when

providing a statement of completion; Board approved course in Engineering Professionalism and Ethics; study guide; Letter of Guidance which provides that Mr. Wood shall not execute any engineering certifications, such as Statements of Completion, without explicitly noting any reservation to or qualifications on the scope of the certification. Mr. Wood 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 reasons for the deletion of the fine (\$2000.00) & the Reprimand derive from the fact that Mr. Wood's explanation as to why he believed that the Statement of Completion was materially correct in light of the fact even with the elevation in the ditch it would work as anticipated when called upon to drain to the north in times of high runoff and that removing the elevation would have been detrimental to the project as a whole. He was able to show that he had inspected the site and did engage in engineering analysis before signing the SOC. Mr. Wood, moreover, readily agreed that he should have noted the fact that the constructed project did include a modification from the design documents and that he should have placed any reservations to or explanations of the reasons for the deviation on the SOC. These facts, when combined with the length of time since the complaint and the fact that Mr. Wood has never been the subject of a complaint justified the change from the PCP recommendation. The Chair of the PCP was involved in the discussions resulting in the Stipulation and concurred in the result.

Mr. Burke is recused from this matter.

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

Mr. Burke noted that as part of the Stipulation that Mr. Wood needed to discuss the scope of his work and the extent of participation required by an engineer when providing a statement of completion.

Mr. Wood indicated that it was the first time in 37 years he has had to appear before the Board and that he had done thousands of as-builts over the years. In this case, the certification was back in October 2001 and involved a swell to the rear of a few lots. The swell was supposed to drain to the north. Mr. Wood realized that there was a problem, but his justification for not having them come back out and lower the swell at the time was that were only approximately 150 feet that went into the swell. He stated that he made an error in not advising the district.

He first received a complaint from the Homeowner's Association and during that time period he became involved with the Association President and scheduled a meeting with the President and SWFWMD, the

developer, the contractor and some of the residents in order to review the issues.

The primary reason the issue occurred is that it was during that time period that two hurricanes came through which is why the complaints arose. After the meeting, the swells were cut down to an elevation where it would more appropriately drain to the north. The situation was corrected. Mr. Wood feels that he did everything in his power to correct the issue as soon as it came to his attention. He knew the procedure and even though he doesn't go out to every site, he makes sure his engineers check the retention ponds to make sure there are at proper elevation, etc. Pictures will be taken of any potential problems and at that time, Mr. Wood reviews the photographs and other information to make sure that he doesn't need to send the contractor back out. Through this experience, he has learned that if its gray, make it white and that his latitude in making judgments has changed and he will be more careful in the future.

Upon motion by Mr. Charland and seconded by Mr. Tomasino, the Board accepted the Stipulation.

- #2. Manuel Valdes-Linares, P.E.
PE 14393
FEMC Case Numbers 2004048070, 2004048091
Represented by: Roberta Fox, Esquire
Probable Cause Panel: Matthews, Burke, Seckinger
(See Q#2 Red Book)

This investigation is predicated on the receipt of a complaint from Eugenio M. Santiago, P.E., Chief Building Official for Key Biscayne, alleging the Mr. Valdes-Linares submitted an incomplete and incorrect set of plans and calculations for a second floor addition to an existing residence.

Through his attorney, Mr. Valdes-Linares states his client originally thought he would like to demolish the entire house; however, when the preliminary plans were presented to the Village of Pinecrest he changed his mind due to the costs. He states the owner of the existing residence asked his client to wait to do new plans which entailed remodeling until further instructions. The owner later decided he wanted to sell the property. Mr. Valdes-Linares asserts the plans were never submitted to the Village of Pinecrest again; a permit was never issued; and the project was never built.

Board Consultant Joseph M. Berryman, P.E., reviewed the investigative file and opines that Mr. Valdes-Linares structural drawings and calculations for the second floor addition are incomplete and/or contain

errors, and are not in compliance with the requirements of Rule 61G15-19.001(4), F.A.C.

Probable Cause was found on July 13, 2006. After an initial request for a hearing at DOAH this matter was submitted to contract counsel in early 2007. When that did not result in finalization the matter was taken back into the FEMC prosecution team. Negotiations with Subject's counsel then ensued, which, after some delay due to Subject's Counsel's serious illness, a stipulation was entered into on January 15, 2008.

PCP Recommendation: Reprimand; \$3,000.00 administrative fine (\$1,000.00 per count for 3 counts); costs of \$1,458.20; Suspension of licensure for 1 year(s)]; Subject will be placed on 2 years probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain what he will do while on suspension; how he will improve quality control; and the sequence of events explaining the steel versus aluminum railing construction.

Stipulation: Reprimand; costs of \$1,668.20; Subject will be placed on 1 year probation with plan review at 6 months; types of projects to be determined at Board Meeting; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to discuss what he has done to improve his engineering practice so that he will not be subject to discipline in the future.

Recommendation:

The parties agreed to the stipulation which removes the suspension & fine & lessens the probation to 1 year based upon the fact that this is a first time case of negligence on a relatively minor set of residential projects that would almost certainly not have resulted in such a similar recommendation from the present PCP. In addition, there have been no complaints of any kind against Respondent in the more than 7 years from the one instance of a violation and almost 4 years from the other. Under such circumstances it appears that having the opportunity to review Respondent's present work will adequately assure the public the Respondent is now practicing at an acceptable level.

Neither Mr. Valdes-Linares nor his attorney were present.

Mr. Creehan suggests the Board accept reprimand, ethics course, to appear before the Board. He indicated that the reason for lesser penalty is due to the fact that it is Mr. Valdes-Linares' first time offense.

Mr. Flury suggested that the matter be continued. Mr. Charland made a motion to continue which was not seconded.

Upon motion by Mr. Tomasino and seconded by Mr. Charland, the Board voted to impose the original PCP recommendation and to reject the proposed stipulation.

- #3. Christopher Lynch, P.E.
PE 40174
FEMC Case Number 2006001309
Probable Cause Panel: Matthews, Seckinger,
(See Q#3 Red Book)

This investigation is predicated on the receipt of a complaint from Ramon Gavarette, Highlands County Engineering Department, alleging that the Respondent was negligent in his role as in signing and sealing As-Built plans on October 30, 2006 for the Arbor Cove Condominiums project and in submitting a certificate to Highlands County that the project was built in accordance with those plans.

Board Consultant Nevins Smith, PE opined that the Respondent was negligent in his role as engineer in certifying the Arbor Cove project was constructed in accordance with the as-built plans in regards to the following items;

- a. Diverter swale along western property line NOT constructed.
- b. Culvert into storm water pond not located according to plans.
- c. Open swale draining parking lot changed to pipe.
- d. Diverter swale actually installed along easterly property line NOT shown on approved or As-built Plan.
- e. Spreader swale at the NE corner of plans NOT constructed.
- f. Drain system NOT shown on approved plans. Approved plans call for 18" poly.
- g. Diverter swale along southern property line NOT constructed.
- h. Retaining wall NOT constructed.

Respondent was also charged with a second count for making or filing a report licensee knows to be false.

Recommendation: Adoption of the Proposed Stipulation which includes a reprimand; \$2,000.00 administrative; costs of \$1,539.00; Board-approved course in Engineering Professionalism and Ethics within 1 year; study guide; and appearance before the Board to discuss what improvements he has made in his quality control procedures.

Related Comments: PCP Recommendation: Reprimand; \$2,000.00 administrative; costs of \$1,539.00; Board-approved course in Engineering Professionalism and Ethics within 1 year; study guide; and appearance

before the Board to discuss what his intent was in certifying these as-builts without site inspection.

Mr. Lynch was present and sworn in at the Board meeting.

Mr. Lynch indicated that he reviewed the Settlement Stipulation and agrees to its conditions. Since the incident, he has enacted a policy of having walk throughs prior to the submittal of as-builts. He has performed at least six as-builts in the last six months using this procedure, and the procedure has resulted in a better process.

Mr. Burke notes that the County accepted the second set of plans after modification. He notes that the issue here is that our clients would like to have perfect as-builts with an engineer's seal on it and not pay anything to do it and it becomes difficult to be able to certify about as-built drawings. NCEES has recommendations about what your seal means on as-builts. Mr. Burke hopes that Mr. Lynch has picked up on the problem.

Mr. Burke hopes that Mr. Lynch has learned his lesson.

Mr. Lynch indicated that he had learned his lesson.

Mr. Tomasino asked who Mr. Lynch was representing. Mr. Lynch indicated that originally he was contacted by the contractor, who he has worked with in the past. He was then hired by the developer.

Mr. Tomasino indicates that he sees about 8 items that were not built according to plan. Mr. Lynch says he submitted a second submittal. He had several conversations with SWFWMD.

Upon motion by Mr. Charland and seconded by Dr. Hyder, the stipulation was adopted.

- #4. Oliver J. Turzak, P.E.
PE 18230
FEMC Case Number 20040037005
Probable Cause Panel: Matthews, Seckinger, Hogenkamp
(See Q#4 Red Book)

Mr. Creehan pulled the case due to a request by counsel for the engineer's family emergency.

#5 Costa S. Vatikiotis, P.E.
PE 45631
FEMC Case Number 2005055304
Probable Cause Panel: Burke & Seckinger
(See Q#5 Red Book)

This investigation is predicated on the receipt of a complaint filed by homeowner Kathleen Yacone, Complainant alleges that the as-built report as done by Subject in relation to the installation of screw piles at her home was not based on sufficient information to complete such a report.

Florida Board of Professional Engineers forwarded the file for review to Chen Lin, P.E. Mr. Lin opined that the Subject “did not have enough information to certify that the screw pilings had been installed with the manufacturer’s specifications.” Chin opines that as such the Subject is negligent in the practice of engineering.

Subject was notified of the complaint against him on or around November 18, 2005. He asserts that he was merely retained to make a determination of whether the installation of the screw piles was correct based on information provided to him and that he did not visit the site nor overview the installation of the screw piles. Subject insists that this was a standard “desktop analysis” of the situation, nothing more.

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

Recommendation: Adoption of the Proposed Stipulation which includes a reprimand; \$1,000.00 administrative; costs of \$556.00; Board-approved course in Engineering Professionalism and Ethics within 1 year; study guide; and appearance before the Board to discuss what his understanding of the scope of work and extent of participation required by an engineer when providing an installation certification letter.

Related Comments: PCP Recommendation: Reprimand; \$2,000.00 administrative; costs of \$556.00; Board-approved course in Engineering Professionalism and Ethics within 1 year; study guide; and appearance before the Board to discuss what his understanding of the scope of work and extent of participation required by an engineer when providing an installation certification letter.

Mr. Vatikiotis was present and sworn in at the Board meeting.

Mr. Burke is recused on this case due to his service on PCP.

Mr. Tomasino had a question about the three letters he had to write. Mr. Vatikiotis indicated that in the third letter he removed certain words to

satisfy the home owner and the building department but the intent and purpose of the initial letter didn't change with this revision.

Mr. Vatikiotis said that one thing he's done to prevent this from happening again is to be very selective about his clients. Secondly, to be very clear on any document or any set of plans that he places his seal on. He has learned valuable lessons.

Upon motion by Mr. Charland and seconded by Dr. Hyder, the Board accepted the stipulation.

#6 Joel Rosenblatt, P.E. & Rosenblatt-Naderi Associates, P.A.
PE 29173; CA 4579
FEMC Case Number 2007061943
Probable Cause Panel: None
(See Q#6 Red Book)

A Final Order was filed in Case No. 2004006159 (Respondent was prosecuted for negligent design of a residence) on January 20, 2004. In this Order, the Board ordered that Mr. Rosenblatt be placed on probation for two years. As a condition of probation, Respondent was required to submit a list of projects completed by him at six (6) and eighteen (18) months for a Board Consultant to review.

As part of the project review process, FEMC Consultant Joe Berryman, P.E. prepared an expert report finding negligence in the design of all four design projects submitted by the Respondent. This report formed the basis for a four count Administrative Complaint in Case No. 2006028245 filed on August 3, 2006, charging Respondent with four counts of negligence. FEMC and the Respondent subsequently resolved this complaint with a settlement stipulation.

A Final Order incorporating the terms of the stipulation reached to resolve the aforementioned case was filed on July 20, 2007, requiring Respondent, among other terms, to pay a fine of \$8,000.00 within 30 days of the Final Order being filed. Respondent refused to pay this fine and on January 4, 2008, a one count administrative complaint was filed charging Respondent for violating a previous Board order.

Respondent now wishes to address all matters pending against him by voluntarily relinquishing his license.

Recommendation: Adoption of the Stipulation in a Board Final Order. The terms call for the Respondent to voluntarily relinquish his license and never apply for licensure again.

Related Comments: PCP Recommendation: Reprimand; \$20,000.00 administrative fine (\$5,000.00 per count for (4) counts); costs of \$750.00; and Suspension of licensure for (4) year(s). Following suspension, Subject will be placed on (2) year(s) probation with plan review at 6 and 18 months; and appearance before the Board to explain: what his plans will be while under suspension, and his responsibility in adopting another engineer's work.

He has agreed to relinquish his license and not to apply for licensure again. NCEES to be notified.

Mr. Rosenblatt was not present at the Board meeting.

Upon motion by Mr. Charland and seconded by Mr. Tomasino, the Board agreed to accept the voluntary relinquishment of Mr. Rosenblatt's PE license.

R. Adjourn.