

**Minutes for
The Florida Board of Professional Engineers
August 9, 2017 beginning at 1:00 p.m. or soon thereafter and
August 10, 2017 beginning at 8:30 a.m., or soon thereafter
Crowne Plaza Orlando Universal
Orlando, Florida**

Part I – Wednesday, August 9, 2017

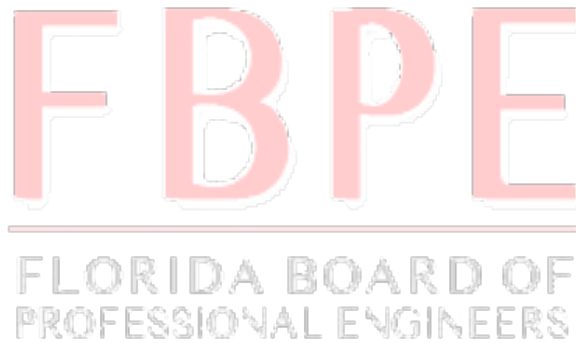
- A. Call to Order, Invocation, and Pledge of Allegiance to the Flag

Mr. Fiorillo called the meeting to order. Ms. Raybon called the roll.

- B. Roll Call, Determination of Quorum, and Address Absences.

Board Members Present:

Anthony Fiorillo, P.E., S.I., Chair
Kevin Fleming, P.E., Vice Chair
William Bracken, P.E., S.I.
Roland Dove, P.E.
Warren Hahn, P.E.
Michelle Roddenberry, Ph.D., P.E.
Pankaj (PJ) Shah, P.E.
Kenneth Todd, P.E.
Babu Varghese, P.E., S.I.
Vivian Boza, Public Member
Elizabeth Ferguson, Public Member



Attorney General's Office:

Lawrence Harris, Assistant Attorney General, Counsel to the Board

Staff Members Present:

Zana Raybon, Executive Director
John J. Rimes, III, Chief Prosecuting Attorney
Rebecca Sammons, Assistant Executive Director

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

Charlie Geer, P.E., FES
Andrew Lovenstein, P.E., FSEA
Art Nordlinger, P.E., IEEE

William Dunn
Barney Bishop, FEMC Board Member

Mr. Fiorillo addressed the absences from the July 28th Ratification Conference Call. Mr. Bracken stated that he was held up in a meeting and Ms. Boza stated that she did not have the call on her calendar.

Upon motion by Mr. Hahn, seconded by Dr. Roddenberry, the absences of Mr. Bracken and Ms. Boza are unexcused for the July 28th Ratification Conference Call. Mr. Bracken abstained from the vote.

D. FBPE Mission and Scope

#1. FBPE's Mission: To protect the health and safety of the public by properly regulating the practice of engineering within the State of Florida.

#2. FBPE's Scope: To meet its statutory obligation and exercise its legislative authority by reviewing and approving engineering applications; managing, updating and enforcing the rules that govern the practice of engineering and to guard against the unlicensed practice of engineering within the State of Florida.

E. Approval of the Agenda

Upon motion by Mr. Hahn, seconded by Mr. Fleming, to approve the agenda, the motion passed.

Mr. Todd stated that Ms. Fairchild is a PE and should be listed as Angelina.

F. Approval of Consent Agenda

(Items denoted with an asterisk are included in the Consent Agenda*)

Upon motion by Mr. Dove, seconded by Mr. Fleming, to approve the consent agenda, the motion passed.

#1. Minutes from the June 21-22, 2017 FBPE Board Meeting*

Approved under consent agenda.

#2. Minutes from July 28, 2017 FBPE Ratification Conference Call*

Approved under consent agenda.

#3. PCP Memo from July 18, 2017 Meeting*

Approved under consent agenda.

(f) Minutes from June 27, 2017 CE Rules Committee Meeting*

Approved under consent agenda.

#5. Minutes from July 10, 2017 CE Rules Committee Meeting

Approved under consent agenda.

#6. Minutes from July 17, 2017 Rules Committee Meeting

Approved under consent agenda.

#7. Application for Retired Status*

Approved under consent agenda.

G. Committee Reports

#1. Probable Cause Panel **(Next Meeting: September 12, 2017 at 8:30am)**

(Kevin Fleming, P.E., Chair; William Bracken, P.E., S.I.; Bob Matthews, P.E.)
(Alternate Current Board Member: Kenneth Todd, P.E.; Alternate Past Board
Member: Richard Wohlfarth, P.E.)

(a) Discussion on Certificate of Authorization and the breadth of the
requirement of FS 471.023(1)

Mr. Fleming mentioned that the panel brought this issue to the Board to
answer the following questions:

- To what degree do our rules require a licensee to sign and seal a
document produced by a company with a CA?
- What documents are engineering documents?

Mr. Rimes briefed the Board on the background on this issue.

Mr. Bracken inquired as to whether all documents produced by an
engineering company with a CA need to be signed and sealed.

Discussion followed.

Mr. Fiorillo established a committee on certifications of authorization to look at these issues. The committee members will be: Mr. Todd (Chair), Mr. Shah, Mr. Bracken, Ms. Ferguson, Mr. Lovenstein, and Mr. Geer.

#2. Applications Review – Experience Committee **(Next Meeting: September 12, 2017 at 1pm via conference call)**

(Warren Hahn, P.E., Chair; William Bracken, P.E.; Roland Dove, P.E.; Anthony Fiorillo, P.E.; Kevin Fleming, P.E.; PJ Shah, P.E.; Kenneth Todd, P.E.; Babu Varghese, P.E.)

(a) Committee Chair's Report.

#3. Applications Review – Education Committee **(Next Meeting: September 12, 2017 at 3pm via conference call)**

(Michelle Roddenberry, Ph.D., P.E., Chair; Anthony Fiorillo, P.E.; Kenneth Todd, P.E.) (Alternate Members: Vivian Boza, Public Member; Elizabeth Ferguson, Public Member)

(a) Committee Chair's Report.

#4. Rules Committee **(Next Meeting: November 8, 2017 at 8:30am)**

(William Bracken, P.E., S.I., Chair; Roland Dove, P.E.; Kevin Fleming, P.E.; Warren Hahn, P.E.; Elizabeth Ferguson, Public Member)

(a) Committee Chair's Report.

#5. Joint Engineer/Architect Task Force Committee

(William Bracken, P.E., S.I., Chair; Warren Hahn, P.E.)

(a) Committee Chair's Report.

Mr. Bracken stated that the committee needs a third member because of Mr. Pepper's departure. Mr. Fiorillo appointment Mr. Fleming to the committee.

#6. Structural Rules Committee

(Kevin Fleming, P.E., Chair; Anthony Fiorillo, P.E., S.I.; Pankaj (PJ) Shah, P.E.; Babu Varghese, P.E., S.I.)

(Public Advisors to the committee: Doug Barkley, P.E., FES Representative; Ron Milmed, FSEA Representative; John Pepper, P.E., S.I.)

(a) Committee Chair's Report.

Mr. Fleming stated that the committee meet earlier in the day and reviewed the SI application with possible revisions to the application They also

reviewed the historical background of 553.79(5) and the standard of care for authorized representatives on threshold buildings. The committee has asked Mr. Harris to investigate changes to the wording in the SI application in terms of not being able to accept overlapping experience and possible language in 35.003 for more specific qualifications of applicants. The committee also asked staff to work on an Excel worksheet for the Board members to use when reviewing the SI applications. Mr. Fleming stated that the committee is working on arranging a joint workshop/meeting with BOAF to talk about the authorized representative rule and how it can be affected more positively in the field by both the building inspectors and the Board.

#7. Electrical Rules Committee **(Next Meeting: TBD)**

(Kevin Fleming, P.E., Chair; Warren Hahn, P.E.)

(Public Advisors to the committee: Charlie Geer, FES, FSEA Representative; Art Nordlinger, P.E., IEEE Representative; Alfonso Fernandez-Fraga, P.E.; Ralph Painter, P.E.)

(a) Committee Chair's Report.

#8. CE Rules Committee

(Kenneth Todd, P.E., Chair; William Bracken, P.E., S.I.; Babu Varghese, P.E., S.I.)

(Public Advisors to the committee: William Dunn; Art Nordlinger, P.E.; Fred Bloetscher; Patrick Ferland; Jamie Gold; Gerry Ward; Al Garza; Rick Barber; Brett Cunningham)

(a) Committee Chair's Report

Mr. Todd stated that the committee has met three times since the last meeting and the committee has come to conclusion.

(b) Information on CE Reporting & Feedback Software

Mr. Dunn discussed his proposal on the CE Reporting and Feedback software. Discussion followed.

This item was tabled until the October meeting when we should have the results from the CE audit for this renewal.

H. NCEES

(Anthony Fiorillo, P.E., FBPE Liaison)

#1. 2017 NCEES Annual Meeting Information – Miami, FL

Mr. Bracken reviewed some of the motions that will be discussed at the annual meeting. Discussion followed. Mr. Fiorillo asked if the Board members would like to discuss the motions further and the members had no comments.

I. Advisory Attorney's Report

#1. Rules Report

Mr. Harris presented the Rules Report for the Board's review and consideration.

#2. Public Hearing on Rule 61G15-19.0051

Mr. Harris presented the proposed rule language.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to open Rule 61G15-19.0051 for development and propose rule language as shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of the final part of the rule.

Upon motion by Mr. Fleming, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs or have a net increase of regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Hahn, seconded by Mr. Fleming, that violation of any part of the rule cannot be resolved with issuance of notice of noncompliance, the motion passed.

#3. Public Hearing on Rule 61G15-20.018 – Application for Low Income and Military Veterans Fee Waiver (New Applications)

Mr. Harris presented the proposed rule language. Discussion followed on the rule language and the application.

Mr. Harris stated that the rule language and application should be changed to members or former members of the Armed Forces and not Military Veterans.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to open Rule 61G15-20.018 for development and propose rule language and the forms shown in the meeting materials as amended, the motion passed.

Mr. Harris asked if the proposed rule language will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that the proposed rule amendments will have no adverse impact on small business and will have a net increase of regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that violation of any part of the rule cannot be resolved with issuance of notice of noncompliance, the motion passed.

#4. Public Hearing on Rule 61G15-21.007 –Re-examination; Additional requirements after third failure; Examinations in additional disciplines.

Mr. Harris presented the proposed rule language. Discussion followed on the rule language and the application.

Upon motion by Mr. Dove, seconded by Mr. Hahn, to open Rule 61G15-21.007 for development and propose rule language and the forms shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language or the forms will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that the proposed rule amendments will have no adverse impact on small business and will not have a net increase of regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that violation of any part of the rule cannot be resolved with issuance of notice of noncompliance, the motion passed.

#5. Public Hearing on Rule 61G15-22.006 – Demonstrating Compliance

Mr. Harris presented the proposed rule language.

Mr. Todd discussed the proposed rule language and the reasoning behind it. Discussion followed.

Upon motion by Mr. Hahn, seconded by Mr. Shah, to open Rule 61G15-22.006 for development and propose rule language as shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language or the forms will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that the proposed rule amendments will have no adverse impact on small business and will not have a net increase of regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Hahn, seconded by Mr. Bracken, that the proposed rule amendments could be resolved with an issuance of notice of noncompliance and that Mr. Harris will draft language to the minor violations rule about failure to produce documentation to the board, the motion passed.

#6. Public Hearing on Rule 61G15-22.011 & 22.012 – Board Approval of Continuing Education Provider

Mr. Harris presented the proposed rule language on Rule 61G15-22.011.

Upon motion by Mr. Hahn, seconded by Ms. Boza, to open Rule 61G15-22.011 for development and propose rule language as shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language or the forms will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs or have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, that violation of any part of the rule cannot be resolved with issuance of notice of noncompliance, the motion passed.

Mr. Harris presented the proposed rule language for Rule 61G15-22.012.

Upon motion by Mr. Hahn, seconded by Mr. Fleming, to open Rule 61G15-22.012 for development and propose rule language shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language or the forms will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of final part of the rule.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule, the motion passed.

Mr. Harris asked if a violation of any part of the rule can be resolved with issuance of a notice of noncompliance.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that violation of any part of the rule cannot be resolved with issuance of notice of noncompliance, the motion passed

#7. Delegation to Executive Director to Certify Compliance with 120.695(2) (c) 3 F.S.

Mr. Harris stated that the board is required to submit a certification report for each rule when it is filed and this is signed by the executive director.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, to authorize Ms. Raybon to sign the certifications on behalf of the board, the motion passed.

J. Executive Director's Report

#1. Certification for DBPR Contract

Ms. Raybon stated that we are required by contract to submit a certification every year.

Upon motion by Dr. Roddenberry, seconded by Mr. Todd, to approve the certification as amended, the motion passed.

#2. 2018 FBPE/FEMC Meeting Calendar

Provided for informational purposes.

#3. 2017 FBPE/FEMC Meeting Calendar

Provided for informational purposes.

K. Chief Prosecutor's Report

#1. 300 day report

Provided for informational purposes.

#2. Profile of legal cases by year

(a) Cases open for 1 year plus

Provided for informational purposes.

(b) Total open cases by year

Provided for informational purposes.

L. Engineering Association and Society Reports

#1. FSEA

#2. FES

Mr. Geer mentioned that FES was looking at revising the statute with the following items: Authority of the Board to write rules (anti-trust exposure); and decoupling of the PE exam.

#3. IEEE

M. Chair's Report

#1. Discussion on meeting with Building Officials about South Florida SI issues

Mr. Fiorillo mentioned that he would like to have a meeting with BOAF about the South Florida SI issues and asked staff to work on setting up a meeting with them.

Mr. Fiorillo talked about the staff training on applications and setting this up for the December meeting.

N. Action Items from Previous Board Meetings

O. Correspondence to the Board

#1. Email from Mr. Michael Hyland, P.E. – Re: Regulatory Jurisdiction of Planning Services in Florida

Mr. Rimes stated that this was put on the agenda for the Board's review and possible action. Discussion followed. Mr. Harris will draft a response.

#2. Email from Mr. Brandon O'Flynn, P.E. – Re: Digital Signature

Mr. Rimes discussed this email. Discussion followed. Mr. Rimes will respond.

#3. Email from Mr. Jonathan Cooper, P.E.– Re: Procedures for the Adoption of Another's Work

Mr. Rimes discussed this email. Discussion followed. This item was referred to the Rules committee.

#4. Letter from Mr. Adam Bainbridge– Re: Rule 61G15-23.001 – Signature, Date and Seal shall be affixed

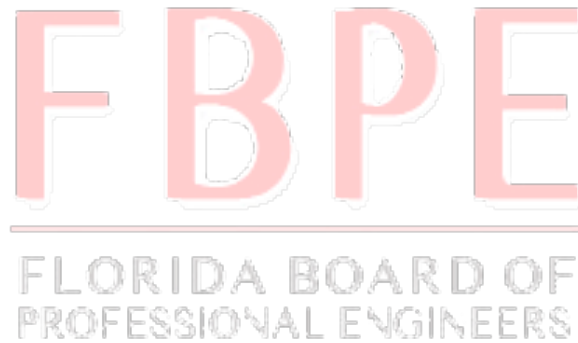
Mr. Rimes discussed this email. Discussion followed. Mr. Rimes will respond.

#5. Email from Mr. Art Sengupta– Re: Putting Advertising for a conference in the newsletter

Ms. Raybon stated that she brought this before the Board for their review and decision. Discussion followed and the Board decided that it did not want to allow advertising of conferences in the newsletter because it would look like the Board was endorsing the conference. Staff would respond.

#6. Email from Ms. Brittany Santore– Re: Adding Conference to FBPE Calendar

Ms. Raybon stated that she brought this before the Board for their review and decision. Discussion followed and the Board decided that it did not want to allow advertising conferences in the calendar because it would look like the Board was endorsing the conference. Staff would respond.



Part II
Informal Hearing Agenda
(Thursday, August 10, 2017)

Review of FBPE Mission and Scope:

FBPE's Mission: To protect the health and safety of the public by properly regulating the practice of engineering within the State of Florida.

FBPE's Scope: To meet its statutory obligation and exercise its legislative authority by reviewing and approving engineering applications; managing, updating and enforcing the rules that govern the practice of engineering and to guard against the unlicensed practice of engineering within the State of Florida.

Description of Educational Committee Process by Michelle Roddenberry, Ph.D., P.E.

P. Ratification of Actions from Application Review, August 9, 2017

The following corrections were made to the ratification list:

- #56 on the Experience List-Duquella, Marc-was conditionally approved-he needs to provide verification of experience from verifier in responsible charge of 48 months with one week
- #8 on the Experience list- Nordman, Jacob – notes need to be amended to say the following: forms not completed; forms signed by engineer but no proof of degree provided
- #16 on Experience list – Rodrigues, Charles – notes need to be amended to say the following: not enough time documented because MS degree does not count toward 12 months since BS was not ABET
- #15 on Education list – Mohammed, Saad – lacks 3.25 hours of general education

Upon motion by Mr. Bracken, seconded by Mr. Hahn, to approve the ratification list as amended, the motion passed.

Q. Informal Hearing on Denial of Application for Principles and Practice Examination

#1. Jonathon Defaria

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

Mr. Harris explained the basis of the denial of Mr. Defaria's application. Mr. Defaria holds a BS in Civil Engineering from UCF and passed the FE in FL in 2009. The denial of the application is based on experience.

Upon motion by Dr. Roddenberry, seconded by Ms. Boza, that Mr. Defaria was properly served with the notice of intent to deny and he requested a 120.57(2), F.S. hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Ms. Boza, to accept into evidence the complete application file contained in the meeting materials, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Ms. Boza, that the Board adopt the factual allegations in the notice of intent to deny as the Board's findings of fact for the denial, the motion passed.

Mr. Defaria addressed the Board. Discussion followed.

Upon motion by Mr. Todd, seconded by Mr. Fleming, that the Board adopt the conclusions of law from the notice of intent to deny as the Board's conclusions of law, the motion passed.

Motion was made by Mr. Bracken, seconded by Mr. Hahn, that the denial of the application Mr. Defaria be upheld. The motion was withdrawn prior to vote.

Mr. Defaria asked to withdraw his application.

R. Informal Hearing on Denial of Application for Licensure by Endorsement

#1. John Braccio

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

Mr. Harris discussed the basis of the denial of Mr. Braccio's application. Mr. Braccio holds BS in Biology from the University of Connecticut and an MS in Civil Engineering from the University of Connecticut. The denial of the application is based on education. Mr. Braccio lacks three (3) hours of general education, as well as courses in differential calculus and integral calculus. Mr. Braccio returned his Election of Rights with a request for an Informal Hearing.

Upon motion by Mr. Hahn, seconded by Dr. Roddenberry, that Mr. Braccio was properly served with the notice of intent to deny and he requested a 120.57(2), F.S. hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Mr. Fleming, seconded by Mr. Hahn, to accept into evidence the complete application file contained in the meeting materials, the motion passed.

Upon motion by Mr. Fleming, seconded by Mr. Hahn, that the Board adopt the factual allegations in the notice of intent to deny as the Board's findings of fact for the denial, the motion passed.

Mr. Braccio addressed the Board about his educational deficiencies. Discussion followed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, that the denial of application Mr. Braccio's application be reversed and the application be approved based on review of the application file, the testimony by Mr. Braccio and the Board's finding Mr. Braccio meets the educational requirements of the rule, the motion passed.

#2. Michael Berman

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

Mr. Harris discussed the basis of the denial of Mr. Berman's application. Mr. Berman holds a BS in Electrical Engineering from Moscow State University of Railroad Engineering. The denial of the application is based on lack of NCEES exams and his first license was issued in 1997 so he does not qualify for the 25/30 rule. Mr. Berman returned his Election of Rights with a request for an Informal Hearing.

Upon motion by Mr. Todd, seconded by Mr. Hahn, that Mr. Berman was properly served with the notice of intent to deny and he requested a 120.57(2), F.S. hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to accept into evidence the complete application file contained in the meeting materials, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, that the Board adopt the factual allegations in the notice of intent to deny as the Board's findings of fact for the denial, the motion passed.

Mr. Berman addressed the Board. Discussion followed.

Mr. Berman withdrew his application.

S. Board Appearance on Application for Licensure by Endorsement

#1. Khalil Shakhtour

Mr. Harris stated that Mr. Shakhtour was before the Board pursuant to a request from the Application Committee at the June 21, 2017 Application Review of the Florida Board

Professional Engineers that Mr. Shakhtour appear to explain his experience and how he has an engineering business (ownership) without a PE license.

Discussion followed on this application and the applicant's failure to appear as requested or respond to the notice of the Board meeting.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, to deny the application of Mr. Shakhtour based on the facts of the application, the motion passed.

Staff was directed to investigate whether unlicensed activity is conducted by this individual or firm.

T. Hearing on Petition for Waiver and Variance of Rule 61G15-20.007

#1. C. Renee Robertson

Mr. Harris stated that Ms. Robertson is requesting a waiver of the requirements of Rule 61G15-20.007 because she is lacking three (3) ESD hours.

The Board stated that the applicant may want to discuss with NCEES about evaluating the courses she mentioned in her petition to see if they might satisfy her deficiencies.

Upon motion by Mr. Bracken, seconded by Mr. Todd, that the petition be denied because the applicant does not achieve the purpose of the underlying statute by other means, the motion passed.

Upon motion by Mr. Bracken, seconded by Mr. Todd, that there is no undue hardship for the applicant, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Bracken, to deny the application, but to stay entry of the denial and allow her until December 2017 to provide additional information to NCEES about the coursework that the applicant detailed in her letter dated May 25, 2017 so NCEES could evaluate the courses or withdraw the application, the motion passed.

#2. Kunjan Shukla

Mr. Harris stated that Mr. Shukla is requesting to waive Rule 61G15-20.007 because he is lacking nine (9) general education hours, as well as either a biology or chemistry course. Mr. Harris stated that this petition is a little different because the applicant is asking for two different options in the one petition, if you deny the petition to waive the required hours then he is asking to be allowed to CLEP the courses that he is deficient.

Upon motion by Mr. Bracken, seconded by Mr. Todd, that the petition be denied because the applicant has not achieved the purpose of the underlying statute by other means and there is no undue hardship, the motion passed.

Dr. Roddenberry mentioned that the rules committee may want to look into a rule change about allowing CLEP courses for chemistry or biology.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to approve the request to allow CLEP for the general education and science courses, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to allow 180 days to submit proof of completion for the CLEP courses to clear his deficiencies or the notice of intent of deny will be upheld, the motion passed.

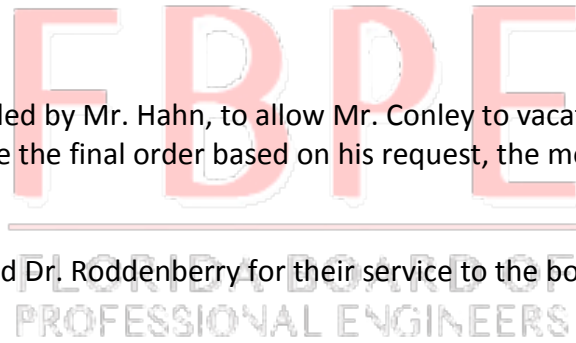
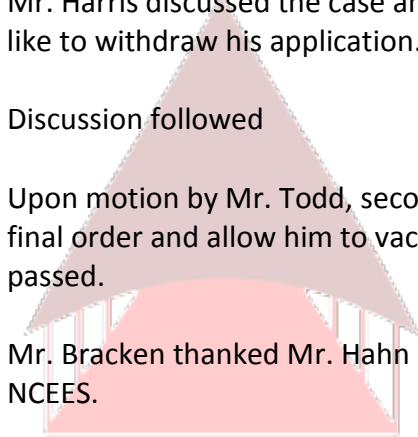
#3. Jeffery Conley

Mr. Harris discussed the case and stated that Mr. Conley has now decided that he would like to withdraw his application.

Discussion followed

Upon motion by Mr. Todd, seconded by Mr. Hahn, to allow Mr. Conley to vacate the final order and allow him to vacate the final order based on his request, the motion passed.

Mr. Bracken thanked Mr. Hahn and Dr. Roddenberry for their service to the board and NCEES.



Part III

Disciplinary Hearings

(Thursday, August 10, 2017)

U. SETTLEMENT STIPULATION

#1. Carlton Forbes, P.E.

P.E. Number: 20699

FEMC Case Number: 2016003962

Probable Cause Panel Date: May 09, 2017

Probable Cause Panel: Fleming, Bracken, & Matthews

Represented by: Salvador A. Jurado, Jr., Esquire, P.E.C

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

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation was Administrative Complaint, administrative fine of \$2,000.00 (\$1,000.00 per count), administrative costs of \$8,827.10, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future; two year probation, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and 6 and 18 month review (MEP).

The Settlement Stipulation is an Administrative Complaint, administrative fine of \$500.00, administrative costs of \$6,202.10, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, two year probation, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and 6 and 18 month review (MEP).

Mr. Forbes addressed the Board.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to accept the settlement stipulation, the motion passed.

#2. Harold Bergsten, P.E.

P.E. Number: 43670

FEMC Case Number: 2016007254 & 2016055923

Probable Cause Panel Date: May 09, 2017

Probable Cause Panel: Fleming, Bracken, & Matthews

Mr. Rimes outlined the facts of the case. The charges relate to a violation Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation was an Administrative Complaint, administrative fine of \$4,000.00 (\$1,000.00 per count), administrative costs of \$6,172.47, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, two year probation, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and 6 and 18 month review on MEP, and Life

safety projects. Restricted from STR engineering until he takes and passes the NCEES Structural Exam.

The Settlement Stipulation is an Administrative Complaint and Voluntarily Relinquishment.

Upon motion by Mr. Shah, seconded by Mr. Todd, to accept the settlement stipulation, the motion passed.

#3. Fermin Martinez, P.E.

P.E. Number: 19363
FEMC Case Number: 2015045726 & 2016026528
Probable Cause Panel Date: March 14, 2017
Probable Cause Panel: Fleming, Bracken, & Matthews
Represented by: Cristina Hernandez Villar, Esq.

Mr. Martinez was present along with counsel, Ms. Villar. Mr. Martinez was sworn in prior to addressing the board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation was an Administrative Complaint, administrative fine of \$2,000.00 (1,000.00 per count), administrative costs of \$4,712.25, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, two year probation, project review at 6 and 18 months, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, and Successful completion of the Board's Study Guide.

The Settlement Stipulation is the same as the PCP recommendation.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to accept the settlement stipulation, the motion passed.

#4. AA Masters Mechanical Air Moving and Engineering System Corp.

C.A. Number: 31669
FEMC Case Number: 2016050175
Probable Cause Panel Date: March 14, 2017
Probable Cause Panel: Fleming, Bracken, & Matthews
Represented by: Himself/Claudio Jofre, P.E. and Designated Officer

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(a): Violating any ... other provision of this chapter or rule of the board or department. F. S., §471.023(1), FS: All final drawings, specifications, plans, reports, or documents involving practices licensed under this chapter which are prepared or approved for the use of the business organization or for public record within the state shall be dated and shall bear the signature and seal of the licensee who prepared or approved them.

The PCP Recommendation was an Administrative Complaint, administrative fine of \$1,000.00, administrative costs of \$66.30, reprimand, appearance before the Board by Claudio Jofre, P.E. and a designated officer to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course by a designated officer, successful completion of the Board's Study Guide by a Designated Officer, and destruction of the seal utilized on the drawings on the plans submitted to City of Hallandale Beach Building Department.

The Settlement Stipulation is the same as the PCP recommendation.

Motion made by Mr. Todd, to accept the settlement stipulation. The motion died for lack of a second.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to accept the settlement stipulation without a board appearance, the motion passed.

#5. John Mahoney, P.E.

P.E. Number: 20177

FEMC Case Number: 2015045622

Probable Cause Panel Date: March 14, 2017

Probable Cause Panel: Fleming, Bracken, & Matthews

Represented by: Brandon Meadows, Esquire

Mr. Rimes stated that Mr. Mahoney, Mr. Sneddon and Mr. Ina would appear together with their attorneys.

Mr. Mahoney was present with counsel, Mr. Cobb. Mr. Mahoney was sworn in prior to addressing the Board.

Mr. Sneddon and Mr. Ina appeared along with their counsel, Mr. Rivers. Mr. Sneddon and Mr. Ina were sworn in prior to addressing the Board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation was Administrative Complaint, administrative fine of \$1,000.00, administrative costs of \$4,219.15, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guides and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 months.

The Settlement Stipulation is an Administrative Complaint, administrative costs of \$4,219.15, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 months.

Mr. Rivers addressed the Board.

Mr. Cobb addressed the Board.

Discussion followed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to accept the settlement stipulations for Mr. Mahoney, Mr. Sneddon, and Mr. Ina, the motion passed. Mr. Shah opposed.

#6. Gary L. Sneddon, P.E.

P.E. Number:	36439
FEMC Case Number:	2015045621
Probable Cause Panel Date:	May 09, 2017
Probable Cause Panel:	Fleming, Bracken, & Matthews
Represented by:	E. Dylan Rivers, Esq. Ausley & McMullen

The charges relate to a violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation was Administrative Complaint, administrative fine of \$6,000.00 (\$1,000.00 per count), administrative costs of \$5838.10, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, two year probation successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 months and 18 months.

The Settlement Stipulation is an Administrative Complaint, administrative costs of \$4,300.00, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 months.

Please see the Mahoney case for action.

#7. Paul Ina, P.E.

P.E. Number: 48878

FEMC Case Number: 2015045620

Probable Cause Panel Date: May 09, 2017

Probable Cause Panel: Fleming, Bracken, & Matthews

Represented by: E. Dylan Rivers, Esq.
Ausley & McMullen

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The charges relate to a violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The PCP Recommendation is an Administrative Complaint, administrative fine of \$2,000.00 (\$1,000.00 per count), administrative costs of \$5,395.05, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, two year probation, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 and 18 months.

The Settlement Stipulation is an Administrative Complaint, administrative costs of \$4,300.00, appearance before the Board to discuss how this situation occurred, what improvements

and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, successful completion of the Board's Study Guide, and restricted from performing no-rise certifications. If he wishes to perform no-rise certifications, he will need to notify the Board and be placed on one year probation with a project review of the no-rise certifications at 6 months and 18 months.

Please see the Mahoney case for action.

V. HEARING ON RECOMMENDED ORDER

#8. Malcolm Watkins P.E.

P.E. Number: 64064

FEMC Case Number: 2016000255

Probable Cause Panel Date: September 13, 2016

Probable Cause Panel: Fleming, Bracken, & Matthews

The charges relate to a violation of § 455.227(1)(c), FS: Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the....ability to practice, a licensee's profession; §455.227(1)(t), FS: Failing to report in writing a conviction or plea of nolo contendere, a crime in any jurisdiction.

Mr. Harris reviewed the recommended order and the procedures the Board must follow to enter a Final Order following the 120.57(1) hearing at DOAH.

Mr. Harris stated that Mr. Watkins has filed two motions to relinquish jurisdiction back to DOAH.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to deny both motions to relinquish jurisdiction, the motion passed.

Respondent's Exceptions:

Exception No. 1: Paragraph 4 lists the criminal counts

Upon motion by Mr. Hahn, seconded by Mr. Todd, to reject respondent's exception one, based on the record containing competent substantial evidence, the motion passed.

Exception No. 2: Paragraph 5, in part: The recommended order stated "Responded was sentenced as a sex offender on count (2).

Upon motion by Mr. Hahn, seconded by Mr. Shah, to reject respondent's exception two, based on the record containing competent substantial evidence, the motion passed.

Exception No. 3: Paragraph 6 of the recommended order

Upon motion by Mr. Hahn, seconded by Mr. Shah, to reject respondent's exception three, based on the record containing competent substantial evidence, the motion passed.

Exception No. 4: Exception to the 238 days in paragraph 12

Upon motion by Mr. Hahn, seconded by Mr. Shah, to reject respondent's exception four, based on the record containing competent substantial evidence, the motion passed.

Exception No. 5: Exception to paragraph 13

Upon motion by Mr. Hahn, seconded by Mr. Todd, to reject respondent's exception five, based on the record containing competent substantial evidence, the motion passed.

Exception No. 6: Exception to paragraph 27

Upon motion by Mr. Todd, seconded by Mr. Shah, to reject respondent's exception six, based on the law interpreted being outside the Board's substantive jurisdiction, the motion passed.

Exceptions Nos. 7-9: Exceptions 34, 35, 36

Upon motion by Mr. Hahn, seconded by Mr. Todd, to adopt respondent's exceptions 7 – 9 and to correct the typographical errors in the final order, the motion passed.

Exception#10: Paragraph 47

Upon motion by Mr. Hahn, seconded by Mr. Shah, to reject respondent's exception to paragraph 47 because the Board does not find any error the ALJ's determination as a matter of law, the motion passed.

Exception#11: Paragraphs 47, 48, 49

Upon motion by Mr. Hahn, seconded by Mr. Shah, to reject respondent's exception to paragraphs 47 - 49 because the Board does not find any error the ALJ's determination as a matter of law, the motion passed.

Petitioners Exceptions:

Respondent filed a Motion in Opposition to Petitioner's Notice of Supplemental Authority. Mr. Rimes argued why the Board should acknowledge his supplemental judicial authority and deny Respondent's Motion.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to acknowledge the supplemental judicial authority for this case, the motion passed.

Exception #1 to Conclusions of Law: Paragraphs 33 - 35, 36 (in part), 37 - 43

Upon motion by Mr. Hahn, seconded by Mr. Todd, to grant Petitioner's exception to the conclusions of law in the cited paragraphs of the recommended order as presented by

the petitioner regarding the requirement to be of good moral character in order to be a professional engineer, the motion passed. The Board adopted in total Petitioner's written exception as the Board's rationale for granting the exception and substituted the exception as written for the cited paragraphs in the Recommended Order.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to adopt findings of fact in the recommended order as modified as the Board's findings of fact, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to adopt the conclusions of law as modified as the Board's conclusions of law, the motion passed.

Exception to the violation and penalty:

Petitioner's Exception to Violation and Recommended Penalty. Based upon the modified the conclusions of law, upon motion by Mr. Hahn, seconded by Mr. Todd, to grant Petitioner's exception to the violation of Florida law contained in the Recommended Order and find that there was a violation of Florida Statutes 471.033(1)(d) and 455.227(1)(t), F.S., as alleged in the Administrative Complaint, the motion passed.

Motion by Mr. Hahn, seconded by Mr. Todd, to accept the penalty of the ALJ. After discussion, the motion and second was withdrawn.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to accept the petitioner's exception on penalty, because the Board modified the conclusions of law and found Respondent in violation of additional statutory sections, the motion passed. Respondent's license is suspended until he is released from incarceration and appears before the Board to have the suspension lifted; the Board reserves jurisdiction to impose reasonable conditions on reinstatement or impose additional penalties.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to grant Petitioner's Motion to Tax Costs, the motion passed.

X. Old Business

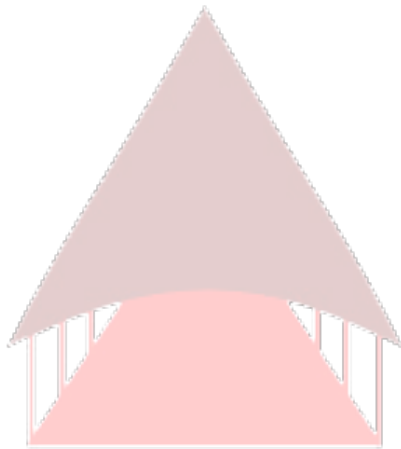
Mr. Harris discussed Rule 61G15-19.0051, considered by the Board yesterday, and that the Board determined another rule violation could be resolved as a minor violation and so should be added to this rule language:

Upon motion by Mr. Todd, seconded by Mr. Hahn, to accept the additional proposed language to Rule 61G15-19.0051, the motion passed.

Y. New Business

Z. Public Forum

AA. Adjourn



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