

**Minutes for
The Florida Board of Professional Engineers
June 14, 2023 beginning at 1:00 p.m. or soon thereafter and
June 15, 2023 beginning at 8:30 a.m., or soon thereafter
Tampa, FL**

Part I – Wednesday, June 14, 2023

A. Call to Order, Invocation and Pledge of Allegiance

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

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

Board Members Present:

Dylan Albergo, P.E., Chair
Pankaj (PJ) Shah, P.E., Vice Chair
Sam Mousa, P.E.
Jeb Mulock, P.E.
Yassi Myers, P.E.
John Pistorino, P.E., S.I.
Denise Ramsey, P.E.
Babu Varghese, P.E., S.I.
Christopher Dawson, Public Member
James Gonzalez, Public Member



Attorney General's Office:

Lawrence Harris, Sr. 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

Angelina Fairchild, P.E., FES
Art Nordlinger, P.E., FEMC Board Member
Mark Tumeo, P.E., PhD., FEMC Board Member

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 Ms. Ramsey, seconded by Mr. Gonzalez, to approve the agenda, the motion passed.

F. Approval of Consent Agenda

Upon motion by Ms. Myers, seconded by Mr. Pistornio, to approve the agenda, the motion passed.

#1. Minutes from March 28, 2023 FBPE Rules Committee Meeting

Approved under consent agenda.

#2. Minutes from April 12-13, 2023 FBPE Board Meeting

Approved under consent agenda.

#3. Minutes from May 10, 2023 FBPE Probable Cause Panel Meeting

Approved under consent agenda.

#4. Minutes from May 10, 2023 FBPE Board Meeting

Approved under consent agenda.

#5. 2022-2023 FEMC 3rd Report

Approved under consent agenda.

G. Committee Reports

#1. Probable Cause Panel **(Next Meeting: July 7, 2023, at 8:30 am via video conference – Panel A)**

(Panel A: Robert Matthews, P.E., Chair; John Pistorino, P.E., S.I.; Denise Ramsey, P.E.)
(Kevin Fleming – alternate for both panels)

(a) Committee Chair's Report.

#2. Applications Review **(Next Meeting: September 13, 2023, at 1 pm via video conference)**
(Babu Varghese, P.E., S.I., Chair; Dylan Albergo, P.E.; Sam Mousa, P.E., Jeb Mulock, P.E.;
Yassi Myers, P.E.; John Pistorino, P.E., S.I.; Denise Ramsey, P.E.; PJ Shah, P.E.;
Christopher Dawson, Public Member; James Gonzalez, Public Member)

(a) Committee Chair's Report.

(b) Application Review – Education and Experience will be done at one time and
ratified the following day (Thursday morning)

#3. Rules Committee **(Next Meeting: August 2, 2023, at 9am)**
(Denise Ramsey, P.E., Chair; James Gonzalez, Public Member; Yassi Myers, P.E.; John
Pistorino, P.E., S.I.)

(a) Committee Chair's Report.

#4. Special Inspector Rules Committee **(Next Meeting: TBD)**
(Dylan Albergo, P.E., Chair; John Pistorino, P.E., S.I.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

#5. Joint FBPE-FBC Committee **(Next Meeting: TBD)**
(John Pistorino, P.E., S.I., Chair; Denise Ramsey, P.E.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

H. NCEES

(Dylan Albergo, P.E., FBPE Liaison)

#1. 2023 NCEES Annual Meeting - Boston, MA – August 15-18 (schedule of events and
summary of motions to be presented at meeting)

Mr. Albergo talked about the meeting and the motions to be presented at the annual
meeting. Discussion followed.

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 61G15-21.007 - Re-examination; Additional Requirements After Third Failure; Examinations in Additional Disciplines

Mr. Harris discussed the proposed amendments to the rule. Discussion followed.

Upon motion by Mr. Shah, seconded by Ms. Myers, to publish a notice of change and approve the proposed language as amended below:

61G15-21.007 Re-Examination; Additional Requirements After Third Failure

(1) As required by section 471.013(1)(e), F.S., if an applicant fails three (3) times to pass either the Fundamentals of Engineering or the Principles and Practices of Engineering examinations, the applicant must take additional courses in order to reapply for examination. The applicant may either:

(a) Submit to the Board of Professional Engineers transcripts for the enrollment and completion of twelve (12) college credit hours, with grades no lower than a "C" or its equivalent, of college level courses in the applicant's area of deficiency. For applicants to take the Fundamentals of Engineering examination, such additional courses shall be undergraduate college courses in higher mathematics, basic sciences or engineering as described in paragraphs 61G15-20.007(1)(a) and (c), F.A.C. For applicants to take Part II of the engineer examination, such additional courses shall be upper level or higher courses in engineering, as defined in paragraph 61G15-20.007(1)(c), F.A.C., or

(b) No Change.

(2) If the Applicant is delayed in taking either examination due to reserve or active duty service in the United States Armed Forces or National Guard, the Applicant shall have two (2) additional attempts to take either examination, for a total of five (5) attempts, before additional courses are required pursuant to subsection (1), above.

The motion passed.

Upon motion by Ms. Ramsey, seconded by Ms. Myers, 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 the final part of the rule, a violation of any part of the rule cannot be resolved through issuance of a notice of noncompliance does not apply to this rule, and to use the standard sunset language for this rule, the motion passed.

#3. Public Hearing on Rule 61G15-19.004 - Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

Mr. Harris discussed the proposed rule amendments. Mr. Rimes stated that on page 154 third box it should say prior to administrative complaint being filed not just prior to complaint being filed. Discussion followed.

Upon motion by Ms. Ramsey, seconded by Mr. Gonzalez, to open Rule 61G15-19.004 as amended for rulemaking, the motion passed unanimously.

Upon motion by Ms. Ramsey, seconded by Mr. Gonzalez, 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 the final part of the rule, a violation of any part of the rule cannot be resolved through issuance of a notice of noncompliance does not apply to this rule, and to use the standard sunset language for this rule, the motion passed.

#4. Public Hearing on Rule 61G15-20.002 – Experience

Mr. Harris discussed the proposed rule amendments. Discussion followed.

This item was referred to the August Rules meeting for further discussion.

#5. Review and Approval of Annual Regulatory Plan

Mr. Harris presented the annual regulatory plan for review.

Upon motion by Mr. Mousa, seconded by Ms. Ramsey, to delegate the chair to finalize the plan with staff and board counsel and authorize Mr. Albergo to sign the plan, the motion passed.

#6. Discussion on Engineering Documents that must be signed and sealed (from March 2023 PCP Meeting and May 2023 FBPE Rules Committee Meeting)

Mr. Harris talked about this issue. Discussion followed. The board asked that a workshop be held later about this issue.

J. Executive Director's Report

#1. Letter from ANS – Nuclear PE Exam

Ms. Raybon discussed the letter. The board took no action.

#2. 2023 FBPE/FEMC Meeting Calendar

Provided for informational purposes.

#3. 2024 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.

#3. Non-Compliance Report

Provided for informational purposes.

#4. Open case report

Provided for informational purposes.

Ms. Raybon discussed the CE audit and whether the board wants staff to conduct an audit since there will be mandatory CE reporting for the next renewal. Discussion followed.

L. Engineering Association and Society Reports

#1. FSEA

#2. FES

#3. IEEE

#4. ASCE

M. Chair's Report

N. Action Items from Previous Board Meetings

#1. Email from Paul Benvie – Re: CE credit for serving on Building and Zoning Oversight Committee

#2. Email from Lindsey Porter, P.E. – Re: Notice of Non-Compliance

#3. Email from Warren Schaefer, P.E. – Re: Misuse of Florida certifications in Texas

O. Correspondence to the Board

#1. Email from Tim Houghtaling – Re: Public Service Engineering License requirements (Exhibit O#1)

Mr. Harris discussed this item. The board took no action.

#2. Email from Mr. Bill Bracken, P.E. – Re: FBC’s Existing Building Inspection Workgroup

Mr. Harris discussed this item. The board took no action at this meeting and will wait to see what FBC does.

P. Public Forum

Q. Community Involvement

R. Review of Applications – Education and Experience will be done at one time and ratified at the Thursday morning board meeting on June 14, 2023 – in separate meeting book

Part II
Informal Hearing Agenda
(Thursday, June 15, 2023)

S. Ratification of Actions from Application Review, June 14, 2023

Upon motion by Mr. Mousa, seconded by Ms. Ramsey, to approve the ratification list as amended, the motion passed.

Description of Educational Committee Process by Dylan Albergo, P.E.

T. Informal Hearing on Application for Licensure as Professional Engineer

#1. Alexander Garcia Florido

Mr. Florido was present with counsel, Mr. Bayo. Mr. Florido was sworn in prior to addressing the board.

Mr. Harris explained the basis of the denial. The basis for denial of the application is a failure to document the statutorily required four years of experience of a character demonstrating the applicant’s competence to be in responsible charge of engineering. (471.015(2)(a)1., F.S.)

Mr. Bayo addressed the board. Mr. Florido addressed the board. Discussion followed. Upon motion by Mr. Pistorino, seconded by Mr. Shah, to reconsider and vacate the intent to deny and approve the application, the motion passed.

Petition for Waiver and Variance of Rule 61G15-20.007

#1. Hesham Shahin

Mr. Harris explained the basis of the petition. Discussion followed.

Upon motion by Ms. Ramsey, seconded by Mr. Shah, to deny the petition as it does not meet the statutory requirements, the motion passed.

Part III Disciplinary Hearings (Thursday, June 15, 2023)

V. Settlement Stipulation

NOTE: Cases 2-6 (which are CE cases) may be taken up as one single item unless any board member wishes to pull any case for individual consideration, or a Respondent wishes to address the board. It is understood that any member participating in PCP would be recused from the vote on that item. The agenda indicates the PCP member for each item.

Mr. Rimes outlined the facts of the CE cases as noted on the list below. The charges relate to a violation of §471.033(1)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Mr. Rimes suggested that: Cases 2-6 be taken up as one item, with any individual cases a member had questions about being pulled for separate action. Mr. Rimes further suggested that the materials provided indicated which member(s) would be recused from the vote due to participation in a Probable Cause Panel.

Upon motion by Mr. Mousa, seconded by Ms. Myers, to accept Cases 2-6 settlement stipulations as presented with one vote, the appropriate board members serving on PCP being recused, and no cases being pulled out for individual consideration, and that acceptance of the settlement stipulations in these cases does *not* constitute discipline on the licensee's Florida PE license as noted on the agenda and in the meeting materials, the motion passed.

#1. Blanco, Rafael P.E. (Appearance required)

P.E. Number: 66292
FEMC Case Number: 2021038015
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

Upon motion by Mr. Dawson, seconded by Mr. Shah, to continue this case until the August 2023 board meeting, the motion passed.

#2. Iya, John P.E. (CE Case)

P.E. Number: 77294
FEMC Case Number: 2022043126
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

#3. Kroll, Taylor, P.E. (CE Case)

P.E. Number: 83280
FEMC Case Number: 2023003048
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

#4. Marshall, Evan, P.E. (CE Case)

P.E. Number: 87288
FEMC Case Number: 2022054786
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

#5. Nesvold, Scott P.E. (CE Case)

P.E. Number: 88175
FEMC Case Number: 2023001869
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn
Represented by: Edwin Bayó, Esquire

#6. Santa, Devin P.E. (CE Case)

P.E. Number: 82744
FEMC Case Number: 2023006662
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

W. Informal Hearing

#7. Ayaz, Sabri P.E. (CE Case)

P.E. Number: 42914

FEMC Case Number: 2022035566
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on March 15, 2023, on the issue of respondent. An Administrative Complaint was authorized and filed on March 27, 2023. A signed Election of Rights requesting an Informal hearing was returned to the FBPE office May 1, 2023.

PCP Recommendation was administrative complaint, administrative costs of \$60.45, complete the Auburn P&E course, and complete the board's study guide.

Upon motion by Mr. Shah, seconded by Mr. Gonzalez, that the respondent was properly served with the administrative complaint and filed an election of rights electing a Chapter 120.57(2) hearing not involving disputed issue of material facts, to convene such hearing, to accept the Statement of Undisputed Material Facts presented as the Board's findings of fact, to accept the entire investigative file of the case including the supplemental materials into evidence, to adopt the allegations in the administrative complaint as the Board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, to accept the PCP recommendation for penalty as stated in the meeting materials and all fine and costs must be paid as a condition of reinstatement, the motion passed.

#8. Gamboa, Mario P.E. (CE Case)

P.E. Number: 44675
FEMC Case Number: 2022039040
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn
Represented by: Edwin Bayó, Esquire

Mr. Gamboa was present with counsel, Mr. Bayo. Mr. Gamboa 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)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on March 15, 2023, on the issue of respondent. An Administrative Complaint was authorized and filed on March 27, 2023. A signed Election of Rights requesting an Informal hearing was returned to the FBPE office April 21, 2023.

PCP Recommendation was administrative complaint, administrative fine of \$1,000.00, administrative costs of \$91.65, 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, complete the Auburn P&E course, and complete the board's study guide.

Mr. Bayo addressed the board. Mr. Gamboa addressed the board. Discussion followed.

Upon motion by Ms. Myers, seconded by Mr. Shah, to accept the PCP recommendation but remove the fine and reprimand and stipulate that this does not constitute discipline, the motion passed.

#9. Gonzalez, Fabiana P.E. (CE Case)

P.E. Number: 75049
FEMC Case Number: 2022044633
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

Ms. Gonzalez 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)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on March 15, 2023, on the issue of respondent. An Administrative Complaint was authorized and filed on March 27, 2023. A signed Election of Rights requesting an Informal hearing was returned to the FBPE office April 17, 2023.

PCP Recommendation was administrative complaint, administrative fine of \$1,000.00, administrative costs of \$74.10, 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, complete the Auburn P&E course, and complete the board's study guide.

Ms. Gonzalez addressed the board. Discussion followed.

Upon motion by Ms. Myers, seconded by Mr. James Gonzalez, to issue a penalty of costs and the successful completion of the board's study guide and stipulate that this does not constitute discipline, the motion passed.

#10. Suhr, Gregory P.E. (CE Case)

P.E. Number: 83042
FEMC Case Number: 2023007700
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on March 15, 2023, on the issue of respondent. An Administrative Complaint was authorized and filed on March 27, 2023. A signed Election of Rights requesting an Informal hearing was returned to the FBPE office April 21, 2023.

PCP Recommendation was administrative complaint, administrative costs of \$66.30, complete the Auburn P&E course, and complete the board's study guide.

Upon motion by Mr. Shah, seconded by Ms. Myers, that the respondent was properly served with the administrative complaint and filed an election of rights electing a Chapter 120.57(2) hearing not involving disputed issue of material facts, to convene such hearing, to accept the Statement of Undisputed Material Facts presented as the Board's findings of fact, to accept the entire investigative file of the case including the supplemental materials into evidence, to adopt the allegations in the administrative complaint as the Board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, to accept the PCP recommendation for penalty as stated in the meeting materials and all fine and costs must be paid as a condition of reinstatement, the motion passed.

X. Default

#11. Wheeler, Steven

P.E. Number: Unlicensed
FEMC Case Number: 2020057141
Probable Cause Panel Date: November 2, 2022
Probable Cause Panel: Matthews, Ramsey, & Pepper

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.031(i) (a), F.S.: A person may not practice engineering unless the person is licensed or exempt from licensure.

Probable Cause was found on November 2, 2022, and an Administrative Complaint was authorized. The Administrative Complaint was filed with the Department of Business and Professional Regulation (“DBPR”) on November 14, 2022.

Respondent failed to respond to any of Petitioner’s attempts at Service of Process of the Administrative Complaint. Therefore, on April 19, 2022, Petitioner filed and served upon Respondent, via U.S. First Class Mail, its *Motion to Determine that Respondent has Forfeited Respondent’s Right to an Administrative Hearing Under Sections 120.569 and 120.57(1), Florida Statutes, and to Convene Proceedings Under Sections 120.569 and 120.57(2), Florida Statutes.*

PCP Recommendation was an administrative complaint, administrative fine of \$5,000.00, and administrative costs of \$479.40.

Upon motion by Mr. Shah, seconded by Mr. Dawson, to accept the entire investigative file of the case including the supplemental materials into evidence, that the board adopt the findings of facts contained within the administrative complaint as the board’s findings of facts and to adopt the conclusions of law contained in the administrative complaint as the board’s conclusions of law, the motion passed.

Upon motion by Mr. Shah, seconded by Mr. Mulock, to accept the recommendation of PCP for penalty, the motion passed.

Y. Voluntary Relinquishment

#12. Lena, Ubaldo, P.E. (CE Case)

P.E. Number: 40167
FEMC Case Number: 202056090
Probable Cause Panel Date: March 15, 2023
Probable Cause Panel: Matthews, Ramsey, & Hahn

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on March 15, 2023, on the issue of respondent. An Administrative Complaint was authorized and filed on March 27, 2023. A settlement Stipulation has been signed and returned on or about April 25, 2023.

PCP Recommendation was administrative fine of \$1,000.00, administrative costs of \$48.75, reprimand, suspension of license until all requirements have been met, 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, complete the Auburn P&E course, and complete the board's study guide.

Mr. Rimes stated that Mr. Lena would like to voluntarily relinquish his license.

Upon motion by Mr. Dawson, seconded by Mr. Shah, to accept the request of voluntary relinquishment, the motion passed.

Z. Old Business

Ms. Raybon asked the board to clarify their thoughts on the CE audit for the renewal cycle that just ended. The board stated that it would defer to DBPR and if they stated that an audit was not needed then staff did not need to conduct a general audit but just an audit on the licensees that failed the last audit. This item would be brought back to the August board meeting for Ms. Raybon to report what DBPR said.

AA. New Business

BB. Adjourn

Next Board Meeting: August 2-3, 2023

**Embassy Suites by Hilton Tampa Airport Westshore
555 N. Westshore Blvd, Tampa, FL 33609**

