Minutes for

The Florida Board of Professional Engineers November 6, 2024, beginning at 1 p.m., or soon thereafter Via video conference

Part I – Wednesday, November 6, 2024

A. Call to Order

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

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

Board Members Present:

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

Board Members Absent:

Christopher Dawson, Public Member Jeb Mulock, P.E.



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

Upon motion by Mr. Mousa, seconded by Ms. Ramsey, to excuse the absences of Mr. Dawson and Mr. Mulock, the motion passed unanimously.

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

Art Nordlinger, P.E., IEEE, FEMC Observer Angelina Fairchild, P.E., FES Jaime Ghitelman, P.E., FES Rebecca Valentine, FEMC Paralegal

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

Informal Hearing Agenda (Wednesday, November 6, 2024)

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

- F. Informal Hearing on Denial of Application for Licensure as Professional Engineer
 - #1. Michael Merz

FLORIDA BOARD OF

Mr. Merz was present and sworn in prior to addressing the board. Mr. Harris explained the basis of the denial. The basis for denial is disciplinary history in another state. Pursuant to paragraphs 455.227(2)(a) and 471.33(3)(a), F.S., the Board may deny an application for Florida licensure if it finds the applicant committed any of the acts enumerated in subsections (1). Paragraphs 455.227(1)(f) and 471.033(1)(c), F.S. create an offense for having a license or registration to practice engineering acted against by another licensing jurisdiction.

Mr. Merz addressed the board. Discussion followed.

Upon motion by Mr. Pistorino, seconded by Mr. Varghese, to vacate the Notice of Intent to Deny and approve the application, the motion passed. Mr. Mousa opposed.

- G. Board Appearance for Application for Licensure as Professional Engineer
 - #1. Najee Hunter

Mr. Hunter was present and sworn in prior to addressing the board. Mr. Harris explained the basis for the board appearance. The basis for board appearance is past criminal history. The board requested a board appearance to discuss his past criminal history.

Mr. Hunter addressed the board. Discussion followed.

Upon motion by Mr. Albergo, seconded by Ms. Ramsey, to approve the application, the motion passed.

H. Petition for Waiver and Variance on Application for Licensure as Professional Engineer

#1. Stephen Bakin

Mr. Bakin was present and sworn in prior to addressing the board. Mr. Harris discussed the petition and the reason for the petition. Mr. Harris also discussed the new review procedures for denied applications based on SB1600. Discussion followed.

Upon motion by Mr. Albergo, seconded by Ms. Ramsey, to vacate the Notice of Intent to Deny and approve the application, the motion passed unanimously.

I. Review of Application / Determination of Material Facts in Dispute / Convene Informal Hearing – Special Inspector Application

#1. Ronald Benson

Mr. Benson was present and sworn in prior to addressing the board. Mr. Harris explained the basis for the denial. The basis for the denial is as follows: the inspections were on existing buildings, not new construction, and involved concrete restoration and the descriptions provided involved specific portions of existing buildings.

Mr. Benson addressed the board. Discussion followed.

Upon motion by Ms. Ramsey, seconded by Mr. Pistorino, to allow Mr. Benson 60 days to provide additional information, the motion passed unanimously.

Part III Disciplinary Hearings

(Wednesday, November 6, 2024)

J. Settlement Stipulation

#1. Zuendt, Alexander

P.E. Number: 81552

FEMC Case Number: 2023023856 Probable Cause Panel Date: July 10, 2024

Probable Cause Panel: Matthews, Pistorino & Myers

Represented by: Katrina S. Brown, Esq.

Mr. Zuendt was present along with his counsel, Ms. Brown. Mr. Zuendt was sworn in prior to addressing the board. Mr. Rimes outlined the facts of the case. The charges relate to violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$1,000.00, administrative costs of \$15,928.95, 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 years' probation, project/plan reviews at 6 and 18 month intervals, Auburn P&E Course, and successful completion of the Board's Study Guide.

The Settlement Stipulation is administrative fine of \$1,000.00, administrative costs of \$2,800.00, 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, two years' probation, project/plan reviews at 6 and 18 month intervals, Auburn P&E Course, and successful completion of the Board's Study Guide.

Mr. Zuendt addressed the board. Discussion followed.

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

K. Informal Hearing

#2. Gustainus, Ronald

P.E. Number: 30824

FEMC Case Number: 2023040039 Probable Cause Panel Date: May 08, 2024

Probable Cause Panel: Matthews & Ramsey Represented by: John Buckley, Esq.

Mr. Gustainus was present with counsel, Mr. Buckely. Mr. Gustainus was sworn in prior to addressing the board. Mr. Rimes outlined the facts of the case. The charges relate to violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

Probable Cause was found on May 08, 2024, on the issue of Respondent. An Administrative Complaint was authorized and filed on May 20, 2024. A signed Election of Rights requesting an Informal hearing was returned to the FBPE office June 31, 2024.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$ 1,000.00 (\$1,000.00 per count), administrative costs of \$4,500.30, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, project/plan reviews at six months for three certifications, and successful completion of the Board's Study Guide.

Upon motion by Mr. Albergo, seconded by Ms. Myers, that the respondent was properly served with the administrative compliant 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 compliant as the Board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, the motion passed.

Mr. Buckley addressed the board. Mr. Gustainus addressed the board. Discussion followed.

Upon motion by Mr. Gonzalez, seconded by Mr. Shah, to accept the PCP recommendation of administrative fine of \$ 1,000.00, administrative costs of \$4,500.30, successful completion of the Board Approved Basic Engineering Professionalism and Ethics course, project/plan reviews at six months for three certifications, successful completion of the Board's Study Guide and to allow Mr. Gustainus to pay the costs in bimonthly payments of \$500, the motion passed unanimously.

L. Default

#3. AMD Group, Inc./Steve Delbrune

P.E. Number: Unlicensed

FEMC Case Number: 2023042323 & 203042353

Probable Cause Panel Date: March 13, 2024

Probable Cause Panel: Matthews, Pistorino, & Ramsey

Mr. Rimes outlined the facts of the cases. The charges relate to a violation of Section 471.031, FS: Practicing engineering without a license.

Probable Cause was found on March 13, 2024, and an Administrative Complaint was authorized. The Administrative Complaint was filed with the Department of Business and Professional Regulation ("DBPR") on March 26, 2024.

Mr. Rimes presented a Motion to Determine Waiver and Convene Informal Hearing. After discussion, the board granted Mr. Rimes' motion and convened the informal hearing.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$85,000.00 (\$5,000.00 per count), and administrative costs of \$680.55.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to accept factual allegations in the administrative complaint 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 compliant as the board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, the motion passed.

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

#4. Warnick, Pastora

P.E. Number: 83198 (delinquent)

FEMC Case Number: 2022019109 Probable Cause Panel Date: May 10, 2023

Probable Cause Panel: Matthews, Fleming, & Pistorino

Mr. Rimes outlined the facts of the cases. The charges relate to a violation of Section 471.033(1)(k), F.S.: Violating any order of the board or department previously entered in a disciplinary hearing.

Probable Cause was found on May 10, 2023, and an Administrative Complaint was

authorized. The Administrative Complaint was filed with the Department of Business and Professional Regulation ("DBPR") on May 23, 2023.

Mr. Rimes presented a Motion to Determine Waiver and Convene Informal Hearing. After discussion, the board granted Mr. Rimes' motion and convened the informal hearing.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$1,000.00, administrative costs of \$68.25, reprimand, suspension of license until in compliance, and then appearance before the Board.

Upon motion by Mr. Albergo, seconded by Ms. Ramsey, to accept factual allegations in the administrative complaint 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 compliant as the board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, the motion passed.

Upon motion by Ms. Ramsey, seconded by Ms. Myers, to accept the PCP recommendation for penalty, the motion passed.

Part I – continued Business Session Wednesday, November 6, 2024

PROFESSIONAL ENGINEERS

- M. Advisory Attorney's Report
 - #1. Rules Report
 - Mr. Harris presented the rules report for the board's review and consideration.
 - #2. Discussion on SB 1600 / the new 455.213(15)(d)
 - Mr. Harris discussed the bill and how it will impact application review. Discussion followed.
 - #3. Public Hearing on **Rule 61G15-20.0010 Application for Licensure as Professional Engineer** (review subsection (3) regarding the 15/20 rule. Does the experience need to be verified? Does the engineer need active practice for the 3 of last 5? Should the board keep the 3 of 5 years, or delete that requirement for active practice. Referred back to Rules from Aug. 2024 FBPE Board Meeting)

Mr. Harris discussed the rule as it pertains to the 15/20 rule and 3 of the last 5 years must be active practice. Discussion followed. The board decided that it would keep the rule as it and add clarification about the 3 of the last 5 years must be active practice. Mr. Harris will bring proposed language to the December board meeting.

#4. Public Hearing on Rule 61G15-22.009 – Exemptions from Continuing Education Requirements – (Referred from Aug. 2024 FBPE Board Meeting)

This item was held until the next Rules meeting since we are currently in renewal.

#5. Public Hearing on Rule 61G15-23.004 – Procedures for Digitally Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents (from Aug. 2024 FBPE Board Meeting FBPE Bd Mbr Varghese wanted to discuss this item)

Mr. Harris discussed the memo from Board member Varghese. Mr. Varghese discussed this item. Discussion followed.

Mr. Harris will bring the proposed rule language to the December board meeting.

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

 Providers (referred from April 2024 FBPE Bd Mtg and need to update application and was supposed to be on Aug. 2024 bd mtg agenda)
 - a. Can a business registry be a CE provider?
 - b. Should rules be amended to require a CE provider to provide separate certificates for each course or spell it out on more clearly if providing only certificate?

Mr. Harris discussed the rule and the issue with the application. Discussion followed.

Mr. Harris will bring the proposed rule language to the December board meeting.

#7. Discussion on whether or not the board can add a rule that addresses Failure to Respond and issues a fine? (FEMC Investigator Wendy Anderson from NCEES Law Enforcement seminar presented a copy of rule from Maryland related to this. Regulation 09.23.03.11 addresses Failure to Respond. Board Counsel to draft language for next Rules mtg.)

Mr. Harris talked about this item. No action was taken.

#8. Review of Proposed Rules - Chapter 38 – Responsibility Rules of Professional Engineers concerning the Evaluation of Damaged Structures (from cancellation of Sept. 2024 Evaluation of Damaged Structures Committee Mtg)

Mr. Harris discussed these proposed rules. Mr. Pistorino discussed the rules and the process to date. Discussion followed. The board would like the committee to meet again to review the rules and bring back the final version for review.

#9. Public Hearing on Rule 61G15-18.012 – Other Board Business for Which Compensation is Allowed

Mr. Harris stated that there is a new directive for the sunset review language for rules. Mr. Harris asked that the board delegate to the executive director and counsel to review the rules and provide a list to the chair for his review and approval to adhere to the new sunset review language. Discussion followed.

Upon motion by Mr. Shah, seconded by Ms. Myers, to delegate authority to the executive director and board counsel to submit a list of rules to the board chair for approval to amend with the new sunset review language, the motion passed unanimously.

- #10. Public Hearing on Rule 61G15- 22.011 Board Approval of Continuing Education
 Providers
- #11. Public Hearing on Rule 61G15-30.001 Purpose
- #12. Public Hearing on Rule 61G15- 31.006 Design of Structural Systems Utilizing Web
- N. Executive Director's Report
- FLORIDA BOARD OF PROFESSIONAL ENGINEERS
- #1. Update on Renewal

Ms. Raybon stated that renewal opened on Tuesday, and we are getting lots of phone calls and emails about it.

Ms. Sammons stated that Mr. Matthews was asking if the board could waive his CE requirements for the upcoming renewal as they have done in the past.

Upon motion by Ms. Ramsey, seconded by Mr. Shah, to waive the 18 hours of CE for Mr. Matthews as he is PCP chair, the motion passed.

- O. Chair's Report
 - **#1.** Appoint Nominations Committee

Mr. Albergo appointed the following members to the Nominations committee:

- Mr. Varghese, as chair;
- Mr. Shah; and
- Ms. Mousa.

The meeting will be on November 25th at 1pm.

- P. Review of Applications Education and Experience will be done at one time and ratified at the same time in separate meeting book
 - Two applications for full board discussion (#14)

Ms. Sammons read the list of the applicants and the reasons for review for each application. The Board proceeded through the list with discussion as appropriate to the decision.

Upon motion by Mr. Mousa seconded by Mr. Shah, that the list of applicants (1 thru 13) read by Ms. Sammons is approved as the decisions of the board, the motion passed.

Upon motion by Ms. Ramsey, seconded by Mr. Mousa, to vacate the notice of intent to deny to (applicants #14 and #15) and approve their applications as the decisions of the board, the motion passed.

- Q. New Business
- R. Adjourn

Next Board Meeting: December 12, 2024 at 8:30am

Holiday Inn Tallahassee East Capitol - Universities

2003 Apalachee Parkway, Tallahassee, FL 32301

PROFESSIONAL ENGINEERS