



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

TAMPA HYATT REGENCY HOTEL
211 NORTH TAMPA STREET
TAMPA, FL 33602
(813) 225-1234

GENERAL SESSION MINUTES

FEBRUARY 13, 2004

APPROVED JULY 16, 2004

Florida's Future...
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Right Now.**

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Governor

Diane Carr
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Division of
Professions and Regulation

Construction Industry
Licensing Board

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BOARD MEMBERS PRESENT

Edward Weller, Chair
Michelle Kane, Vice-Chair
Michael Blankenship
Joan Brown
Lee-En Chung
John J. Cox, III
Paul Del Vecchio
Carl Engelmeier
Raymond Holloway
Barry Kalmanson
Elizabeth Karcher
Robert Lang
Mark Pietanza
John B. Smith
Jacqueline Watts

BOARD MEMBERS ABSENT

None

OTHERS PRESENT

Diane Guillemette, Board Counsel
Patrick Creehan, Chief Prosecuting Attorney
Adrienne Rodgers, CIRF Counsel
Tim Vaccaro, Executive Director
Stacey Merchant, Government Analyst II
Ruthanne Christie, Government Analyst I
Valerie Singleton,

The meeting was called to order by Edward Weller, Chair, at approximately 8:09 a.m.

Mr. Holloway gave the invocation. Ms. Watts led the Pledge of Allegiance.

REVIEW OF MINUTES

- **January 15, 2004**
- **July 11, 2003**
- **August 15, 2003**

The Board voted unanimously to approve these minutes.

EXECUTIVE DIRECTOR'S REPORT

Mr. Vaccaro stated that he was unable to provide the Board Members with the prepared travel folders at this time. He stated that he would have them mailed next week.

Mr. Vaccaro also provided the members with a copy of a recent mail out from the City of Tallahassee which included an article titled "Don't Be Taken by Home Repairmen". The article encouraged consumers to ask to see their license before hiring them and to look for license numbers on trucks and business cards. The article pointed consumers to verify licenses and research complaint histories at www.MyFlorida.com/dbpr.

CHAIRMAN'S REPORT

Mr. Weller asked Staff to plan to include time on the March Meeting Agenda for the Nominating Committee to meet to discuss candidates for Vice-Chair. Mr. Weller, Ms. Kane, Mr. Blankenship and Mr. Lang should be included.

PROSECUTING ATTORNEY'S REPORT

Mr. Creehan gave the following report:

There are 307 cases in Legal. Of the 307 cases, 32 are set for Probable Cause, 42 have had probable cause found/Administrative complaint filed and 82 are ready for default. In 58 cases stipulations have been executed/informal hearings requested, 111 have requested formal hearings and 13 cases have been referred to DOAH. There are 8 cases awaiting Final Orders, 7 cases in settlement negotiations and 2 are under Appeal.

For the month of February 2004, 91 cases were closed.

ATTORNEY GENERAL'S REPORT

Thomas B. Price – Informal Hearing

Mr. Price was present.

Ms. Guillemette presented this case stating that Mr. Price applied for initial licensure as a certified general contractor. On November 13, 2003, his application was denied based on the fact that he failed to submit proof of having his Civil Rights restored subsequent to a previous felony conviction in accordance with section 112.011(1)(b), F.S. On September 14, 2003, the Application Review Committee made its recommendation to the full Board and the Board voted to deny the application. On October 2, 2003, a Notice of Intent to Deny was filed with the Department's Agency Clerk's Office. On December 19, 2003, Petitioner timely filed a Request for Informal Proceeding pursuant to Section 120.569, F.S.

Ms. Guillemette also stated that in this proceeding the burden is on Mr. Price to prove that the Board improperly denied his application.

Mr. Price has now provided a copy of the Restoration of his Civil Rights.

The Board voted unanimously to approve this application.

William Lantrip vs. CILB – Recommended Order

Mr. Lantrip was not present.

Ms. Guillemette presented this case stating that Mr. Lantrip applied for licensure by Endorsement as a Plumbing Contractor in April 2003. A Notice of Intent to Deny was filed on June 25, 2003. The application was denied based on the fact that the licensure examination that he took in Georgia was not substantially equivalent to the licensure examination administered in Florida. Petitioner timely challenged the denial and requested a formal hearing pursuant to section 120.569, F.S. A formal hearing was conducted on October 17, 2003. On December 15, 2003, the Administrative Law Judge submitted a Recommended Order, finding that the Petitioner failed to establish that the Georgia Examination is substantially equivalent to the Florida Examination.

Ms. Guillemette stated that no written exceptions to the order have been filed and the Board is considering whether a final order as recommended by the Administrative Law Judge is appropriate.

The Board voted unanimously to accept the recommended order.

Raymond Saint Jean - Informal Hearing – Re: Local Order rescinding Order which resulted in revocation of State Registration.

Mr. Saint Jean was present.

Ms. Guillemette presented this case stating that Mr. Saint Jean's certificate of competency for registered residential license was revoked and he was ordered to pay \$5,000 in restitution by the Broward County licensing Board. The Construction Industry Licensing Board adopted the order from Broward County. The order also included language stating that if restitution was paid in full to the Complainant, Respondent's Certificate of Competency would not be reinstated until he appeared before the Board. At a meeting on January 27, 2004, the Respondent presented evidence to the Board of an attempt to deliver a certified check in the amount of \$5,000 to the Complainant who refused to accept delivery of the offer. The Board rescinded the order from November 2001 and reinstated Respondent's Certificate of Competency.

The Board voted unanimously to reinstate Mr. Saint Jean's License.

RECOVERY FUND ATTORNEY'S REPORT

Claim Number 98-C0026 - Informal Hearing - Claimant: Karen Scragg - Contractor: Kenneth R. Boaz CRC035360

Ms. Scragg was present.

Ms. Rodgers presented this case stating that the CIRF received a Request for Informal Hearing on September 25, 2003. The petition was timely filed. Claimant provided a copy of judgment with the request. Ms. Rodgers recommends reversing order dated August 15, 2003, and approving the claim in the amount of \$9,344.28 based on the fact that the application was filed on February 28, 1998. Application was timely submitted. The contract was dated March 20, 1995, in the amount of \$52,792.00. There were change orders that increased the contract to \$53,370. There is evidence in the file that payment to the contractor in the amount of \$43,257.27 was made. Claimant obtained a negotiated stipulation of damages which resulted in a Final Judgment from the County Court for Pinellas County against Kenneth R. Boaz, issued on April 25, 2003, in the amount of \$15,000 of which \$9,344.28 is compensable from the Recovery Fund. There is also evidence in the file supporting that the contractor violated section 489.129(1)(g) and (j), F.S.

The Board voted unanimously to reject this claim based on the calculations that Mr. Kalmanson provided showing that Ms. Scragg had not paid out any additional money.

COMMITTEE REPORTS

APPLICATION REVIEW COMMITTEE

Ms. Watts gave the following report:

Applications approved

Burke, Timothy – change of status from one business entity to another- probation until Civil Rights are restored.

Garcia, Jorge – certification of registered building contractor – (grandfather).

Scoulos, Manuel – change of status from one business entity to another – with 2 years of probation.

West, Rebecca – initial certified underground utility & excavation – with probation until proof of Civil Judgment is provided.

Applications continued

Ortiz, Luis – initial certified general contractor – for 60 days to get experience verification.

Applications denied

Cantu, Bobby – initial certified building contractor – no civil rights.

Hernandez, Jose – initial certified roofing contractor – no civil rights.

Jones, David – certification of registered general contractor – did not take written exam.

Kilpatrick, Kenneth – initial certified general contractor – no civil rights.

Rosenberger, Charles – initial certified roofing – no civil rights.

Whalley, Thomas – initial certified general contractor – no civil rights.

The Board voted unanimously to accept the recommendations of this Committee.

PROBATIONS COMMITTEE

Mr. Del Vecchio gave the following report:

Douglas Aird, (CGC047330), Case # 98-01803 – Unsatisfactory.

Gene Bebble, (CB C056841), Case # 98-18543 – Satisfactory, Final Appearance.

Brian Bettencourt, (CB C01251063), Condition of Licensure – Unsatisfactory.
Andrew Dittenber, (RX11066767), Condition of Licensure – Satisfactory.
Phillip Guettler, (CGC031672), Condition of Licensure – Satisfactory.
Pedro Lopez, (CG C004778), Case # 2000-08525, 2000-08529 – Unsatisfactory.
Anthony Nicholas, (CRC022278), Condition of Licensure – Satisfactory.
Donald Miller, (RF 11067105), Condition of Licensure – Satisfactory.
Kenneth Roesch, (CBC 057040), Case # 97-17487 - Satisfactory, Final Appearance.
Seth Skalarey, (CG C024684, CG CA24684, CCC042784), Case # 98-10354 & 98-20774 –
Continued to May 2004.
Jerry McCracken, (CRC057239), Case # 98-16145 – Tolled.

The Board voted unanimously to accept the recommendations of this Committee.

ADDITIONAL ENTITY COMMITTEE

Ms. Karcher gave the following report:

Applications approved

Abbot, Michael L.
Armstrong, Scott W.
Arroyo, Ruben F.
Barrass, Christopher J.
Bourgeois, Gary P.
Burke, Anthony J.
Fernandez, Oscar J.
Hession, Patrick J.
Lieberman, Larry
McDonald, Gerald T.
Middleton, Lawrence
Peretz, Robert S.
Teperman, Harry

Applications denied

None

Applications continued

None

The Board voted unanimously to accept the recommendations of this Committee.

EXECUTIVE COMMITTEE

Ms. Weller gave the following report:

Ms. Watts wanted to disclose her participation in the Legislative Process as a contractor and not as a Board Member.

Ms. Watts updated the Board on the Legislative Process on the following subjects: Construction Industry Recovery Fund, Jim Walter Exemption for Swimming Pool Contractors, LP Gas for Mechanical and Plumbing Contractors, LP and Natural Gas Disconnect and Reconnect on Change outs and Grandfathering.

The Board voted unanimously to accept the recommendations of this Committee.

RULES REVIEW COMMITTEE

Mr. Blankenship gave the following report:

Ms. Guillemette presented the following rules report:

The following rule has been developed:

61G4-18.001 – Continuing Education Requirements for Certificateholders and Registrants – Committee voted to go ahead at let this language die since the Full Board voted against it at the January meeting.

The following Rules have been noticed:

61G4-15.001 – Qualification for Certification – This Rule is continuing through the adoption process.

61G4 – 15.005 – Requirements for Certification and Registration – (Revisions to net worth amounts – This Rule is continuing through the adoption process.

61G4- 15.015 – Certification for Specialty Structure Contractors - This was referred back to this Committee at the Rules Hearing during General Session in January.

The following Rules have been adopted:

61G4-17.001 – Normal Penalty Ranges – was adopted on 1/13/04 and will become effective on 2/2/04.

The Committee took the following action:

61G4- 15.015 – Certification for Specialty Structure Contractors - This was referred back to this Committee at the Rules Hearing during General Session in January. Mr. Belcher presented the Committee with language in which the Aluminum Association of Florida and the South East Glass and Glazing Association agreed upon. The new language clarifies questions which were raised regarding the installation or replacement of window and door assemblies. The Committee voted to accept this language and to move ahead with the adoption process of this Rule.

61G4-15.0021 – Certification and Registration of Business Organizations – Ms. Guillemette went over the concerns raised by JAPC. Ms. Guillemette will send a letter to JAPC stating the board has interpreted 489.119(6) to mean any difference in the name of the company. To correct item # (3) The Board shall ~~comply with its responsibility to determine~~ consider the financial responsibility credit worthiness and business reputation of applicants ~~be examining~~ the information submitted for the qualifying ~~contractor~~ agent or financially responsible officer, the business entity presently qualified (if any), any additional business entity to be qualified, and business owners, ~~will be examined~~. To correct (3)(a) “contractor” to “agent”. Also, the question was raised whether the board has the statutory authority to add the new language regarding qualifiers that do not have at least 25% ownership must have a Financially Responsible Officer.

The Committee voted to have this item put back on the Rules Committee Agenda. The Committee will consider adding this language to the Financially Responsible Rule.

The Committee also voted to review Rule 61G4-18.001 to add the requirement of 1 hour of Advanced Modules as Statutorily required for registered contractors in September 2004.

The Board voted unanimously to accept the recommendations of this Committee.

EXAMS/CE/PUBLIC AWARENESS COMMITTEE

Ms. Chung gave the following report:

The following Courses and Providers were approved:

Lawrence E. Bennett (0001321)

1st Course: Design of Aluminum Specialty Structures (0002299 EXPIRED 11/16/03)

Osmose, Inc. (0001747)

1st Course: Borate Treated Wood for Construction (0005831 EXPIRED 5/10/03)

2nd Course: Fire Retardant Treated Wood (0006483 EXPIRED 10/12/03)

Florida Concrete & Products Association (0000973)

1st Course: Energy Efficiency with Block (0005608 EXPIRED 4/13/03)

2nd Course: Tilt-Up Wall Construction (NEW)

3rd Course: Portland Cement Stucco (NEW)

Construction Specifications Institute-Pensacola Chapter (0001162)

1st Course: Jobsite Safety - Costs & Benefits (0005944 EXPIRED 6/14/03)

2nd Course: Designing for Absolute Moisture Control - Indoor Air Quality (Name Change) (0005945 EXPIRED 6/14/03)

3rd Course: Understanding & Applying the LEED Green Building Rating System (NEW)

4th Course: Introduction to the LEED Green Building Rating System (NEW)

5th Course: Managing an Effective Workers' Compensation Risk Control Program (NEW)

6th Course: Construction Accounting Systems (NEW)

7th Course: How to Interpret a Geotechnical Report (NEW)

8th Course: Planners, Schedulers, Progressors and Damned Schedulers (NEW)

9th Course: Financial Benefits of Strategic Facilities Asset Management (NEW)

Tri-County Specialty Contractors Association (0001351)

1st Course: Business Finance - Methods to Departmentalize Financial Statements (0002863 EXPIRED 5/12/02)

2nd Course: Business Finance - Dual Overhead (0002864 EXPIRED 5/12/02)

3rd Course: Protecting your most important asset: Business Owner & Key Employee (NEW)

Lorman Business Center, Inc. (0000837)

- 1st Course: The Fundamentals of Construction Contracts: Understanding the Issues – 7 hours.
- 2nd Course: Water Rights, Allocation and Resource Management – 6 hours.

Chitester Management Systems, Inc. (0000900)

- 1st Course: Succeeding As a Contractor in Florida - Day 1 Seminar
- 2nd Course: Succeeding As a Contractor in Florida - Day 2 Seminar

Florida Association of Plumbing, Heating & Cooling Contractors (FAPHCC) (0000932)

- 1st Course: FL Statutes 489, The Construction Contractors Law
- 2nd Course: How Much Does It Really Cost to Put a Person On the Job?
- 3rd Course: Risk Management, Workplace Safety
- 4th Course: Risk Management, Workers Comp

Construction Estimating Institute (0000981)

- 1st Course: Cost Control Scheduling
- 2nd Course: Financial Accuracy and Control

Gold Coast School of Construction, Inc. (0000983)

- 1st Course: OSHA (Internet Version)

Broward County Public Schools - Industry Services Training Center (0001004)

- 1st Course: Managing Disagreement Constructively - Workers' Compensation

The Florida Contractors School Of Continuing Education (0001038)

- 1st Course: Understanding Business Structures in Construction
- 2nd Course: Activating Online Services Accounts & Understanding Workers Comp & Safety Programs

University of Florida-Florida Energy Extension Service (0001129)

- 1st Course: The Occupational Safety & Health Act: An Overview for Building Professionals (Interactive Distance Learning - INTERNET)

Advanced Benefits Inc. (0001642)

- 1st Course: Understanding Business Succession & Estate Planning
- 2nd Course: Understanding Business Retirement Planning

Mark A Horowitz

- 1st Course: Lien Law Seminar A Professional's Guide Using & Understanding the Florida Construction Lien Law

Florida Irrigation Society, Inc.

- 1st Course: Understanding Financial Statements
- 2nd Course: Irrigation Site Manager
- 3rd Course: Low Volume Irrigation
- 4th Course: Irrigation Auditor
- 5th Course: Developing an Effective Personnel & Your Bottom Line.-Personnel Policy for Green Industry Companies

United Pool & Spa Association

- 1st Course: Soils and Soil Conditions

- 2nd Course: Fundamentals of Residential Swimming Pool Design
- 3rd Course: A New Approach to Small Business Management
- 4th Course: Review of Public Swimming Pool Rules, 2004 Technical Changes & Clarifications
- 5th Course: Leadership Skills for Specialty Contractors
- 6th Course: Swimming Pool Plumbing
- 7th Course: Business Ethics
- 8th Course: Using Collection Tanks on Residential Swimming Pools
- 9th Course: Building with Concrete

A to Zero Consulting, Inc.

- 1st Course: Job-Site Safety & Human Resource Management - Part 1
- 2nd Course: Job-Site Safety & Human Resource Management - Part 2
- 3rd Course: OSHA 10 Hour Safety Training & Mini-Human Resource Management

Captive-Aire Systems, Inc.

- 1st Course: Kitchen Ventilation Seminar

Swimming Pool Water Treatment Professionals

- 1st Course: SPWTP Pool Safety & Chemistry Seminar

The Committee also approved the pass/fail lists for the December 2003 examinations.

The Board voted unanimously to accept the recommendations of this Committee.

RECOVERY FUND/FINANCE COMMITTEE

Ms. Kane gave the following report:

List of Denials

| Claim No. | Claimant | Contractor | Reason |
|------------------|------------------------------------|------------------------|-----------------------------|
| 98-C0025 | Paul Rohart | Jay Manuel | Previous award on 97-C0155 |
| 98-C0120 | Anthony and Ann Grey | | Unlicensed Contractor |
| 99-C0226 | Gerald Turner | Kenneth E. Godwin, Jr. | No judgment or final order. |
| 00-C0057 | Lillian Beauchamp | Michael Bak | No judgment or final order. |
| 00-C0251 | Steve and Arete Plac | Keri Lynn Cimaglia | No judgment or final order. |
| 00-C0268 | Andrew Burbick and Cynthia Carlson | Robert Giallombardo | Statute of Limitations. |
| 01-C0003 | Michelle and Brian Denis | Lorenzo Garmendia | Local Order |
| 01-C0037 | Rosenie Clerveaux | | Unlicensed Contractor. |
| 1-C0066 | Jody A. Gilbert Smoak | Thomas Kelly | Statute of Limitations. |
| 01-C0067 | Edmond R. Morris | Thomas Hunt | Has not satisfied |

| | | | |
|----------|---------------------------|-------------------|--|
| 02-C0050 | Peter and Judith Knudsen | Noel B. Atherley | requirements. CONTINUED |
| 02-C0056 | Michael Olesksyk | Robert E. Lowery | CONTINUED |
| 02-C0187 | Janice Byars | Robert E. Sfassie | CONTINUED |
| 02-C0188 | John J. Sheedy | Robert E. Sfassie | CONTINUED |
| 02-C0189 | Ginger Current | Robert E. Sfassie | CONTINUED |
| 02-C0190 | Anthony Delcavo | Robert E. Sfassie | CONTINUED |
| 03-C0009 | Dan and Anne Garner | | Unlicensed Contractor |
| 03-C0095 | Exequiel and Louise Bravo | Riley Tucker | MEDIATION |
| 03-C0126 | Morris D. Cook | William D. Tedrow | Statute of Limitations. |
| 03-C0172 | Joel and Sheri Gordon | Kevin Figueroa | No evidence of violation of 489.129 (1)(g),(j),(k), F.S. |
| 03-C0175 | Dina E. Camacho | Riley M. Tucker | MEDIATION |

The Committee took the following action:

Gambrell v. Hyde; Claim No. 00-C0215 - AWARDED \$17,812
 Johnson v. Baker; Claim No. 01-C0074 - AWARDED \$25,000
 Avila v. Smith; Claim No. 01-C0111 - AWARDED \$25,000
 Salter v. Hills; Claim No. 01-C0127 - AWARDED \$25,000
 Otero v. Breek; Claim No. 02-C0053 - AWARDED \$6,243.89
 Beach v. Reeves; Claim No. 02-C0149 - AWARDED \$2,560.29
 Post v. Thompson; Claim No. 02-C0184 - AWARDED \$25,000
 Fugaro v. Costigan; Claim No. 02-C0214 - AWARDED \$9,500
 Schlegel v. McDurfee; Claim No. 03-C0011 - AWARDED \$1,960
 Unruh v. Catalano; Claim No. 03-C0137 - Dismissed without Prejudice.
 Phillips v. Thompson; Claim No. 03-C0156 - AWARDED \$21,373.25
 Claims against Charles L. Sauls (supplemental awards) - Dismissed without Prejudice.
 Strickland v. Schultz; Claim No. 02-C0206 - AWARDED \$25,000

OLD BUSINESS

Mr. Pietanza stated that the Board had previously discussed the licensure requirements for cleaning commercial dryer vents. Mr. Pietanza also wanted to state for the record, that cleaning commercial hoods would require a sheet metal, class "A" or class "B" air conditioning or mechanical contractor's license. The Board Members agreed with this opinion.

With no further business to discuss, the meeting was adjourned at 9:30 a.m.