



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD



GENERAL SESSION MINUTES

**EMBASSY SUITES HOTEL – USF
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Jeb Bush
Governor

Simone Marsteller
Secretary

FEBRUARY 10, 2006

APPROVED APRIL 14, 2006

Division of
Professions and Regulation

Construction Industry
Licensing Board

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The meeting was called to order by Joan Brown, Chair, at 8:30 a.m.

BOARD MEMBERS PRESENT

Joan M. Brown, Chair
Paul Del Vecchio, Vice-Chair
Peggy Bailey
Lee-En Chung
James Flaherty
Raymond Holloway
Barry Kalmanson
Michelle Kane
Mark Pietanza
Robert Stewart
Edward Weller
Don Wilford

BOARD MEMBERS ABSENT

Carl Engelmeier
Thomas Thornton
Jacqueline Watts (General Session only)

OTHERS PRESENT

Diane Guillemette, Board Counsel. AGO
Patrick Creehan, Chief Prosecuting Attorney
Dennis Yecke, Deputy Secretary of Professional Regulation
Tim Vaccaro, Executive Director
Stacey Merchant, Government Analyst II
Andy D. Janeczek, Government Analyst I
Adrienne Rodgers, FHCRF Attorney
Valeria Singleton, Regulatory Consultant/Supervisor

Mr. Stewart gave the invocation and Mr. Wilford led the Pledge of Allegiance.

REVIEW OF MINUTES

- **Final Action – January, 2006**

The Board voted unanimously to approve these minutes.

EXECUTIVE DIRECTOR'S REPORT

Mr. Vaccaro reported that as of February 2006, there were 5,783 new complaints received. Of these, 3,266 licensed complaints were found legally sufficient and 1,351 unlicensed complaints were found legally sufficient. There were 2,510 Investigations assigned, 1,884 investigations completed, 1,212 mediations assigned and 692 mediations completed. There were also 33 notices of non-compliance issued and 251 citations filed.

CHAIRMAN'S REPORT

Ms. Brown the members to vote to excuse the absences of Mr. Engelmeier, Mr. Thornton and Ms. Watts (General Session only).

Ms. Brown also asked Bruce Kershner to give the board an update on former member Michael Blankenship's health condition. Mr. Kershner reported that Mr. Blankenship is doing well and waiting on the telephone call from the Mayo Clinic.

PROSECUTING ATTORNEY'S REPORT

Mr. Creehan gave the following report:

As of January there were 500 cases in Legal (to be reviewed), there were 215 cases set for probable cause, 160 cases has Probable Cause found/Administrative Complaints filed and 56 cases were ready for default. There were 33 cases with Stipulations executed/Informal Hearing requested, 111 cases that had requested Formal Hearings, 12 cases were referred to DOAH, 70 cases were awaiting Final Orders and 9 cases were trying to reach Settlement Negotiations. There were also 3 cases that were re-opened and 3 cases set for Board Presentation. For the month of January 2006, 85 cases were closed.

The Board also voted unanimously to approve the list of Local Disciplinary Orders.

ATTORNEY GENERAL'S REPORT

A. Phillip Black – Informal Hearing

Mr. Black was present.

Ms. Guillemette presented this case stating that Mr. Black's application for Certification of Registered Contractor's license was denied at the September meeting of the Board.

The basis for the denial was failure to provide the following:

Submit proof of written examination

Letter of good standing

Provide credit reports

Proof of filing corporation or fictitious name
Completed initial Qualified Business Application
Certificate of Competency
Mr. Black timely filed a petition for review of Notice of Intent to Deny.

After discussion, the board voted unanimously to approve Mr. Black's application.

B. Walter Brailly – Informal Hearing

Mr. Brailly was present.

Ms. Guillemette presented this case stating that Mr. Brailly's application to qualify an additional business was denied at the September meeting of the Board.

The denial was based on failure of the applicant to provide proof that he would properly supervise the company as required by Section 489.1195, F.S.

Mr. Brailly filed a petition for review of the Notice of Intent to Deny.

After discussion, the Board voted unanimously to send Mr. Brailly's application to the March 2006 Additional Business Committee.

C. Dale Derby – Informal Hearing

Mr. Derby was present with Attorney Sheryl L. Dobek.

Ms. Guillemette presented this case stating that Mr. Derby's application for change of status was denied at the October meeting of the Board.

The denial was based on an open complaint and unpaid \$100 citation. Since that time the citation has been paid and the complaint has been resolved.

The Notice of Intent to Deny was received on either the 3rd or 5th of December.

Ms. Guillemette asked the Board to consider whether Mr. Derby's Petition was timely.

After discussion, the Board voted unanimously to find Mr. Derby's Petition untimely.

D. Fabricio E. Emmanuelli – Informal Hearing

Mr. Emmanuelli was present.

Ms. Guillemette presented this case stating that Mr. Emmanuelli's application for initial Certified General Contractor was denied at the July meeting of the Board.

The denial was based on the applicant's failure to provide proof of the Restoration of his Civil Rights.

After discussion, the Board voted unanimously to set aside the Notice of Intent to Deny and refer this application to the March 2006 Application Review Committee.

E. Charles Hodges – Informal Hearing

Mr. Hodges was present.

Ms. Guillemette presented this case stating that Mr. Hodges application for Certification of Registered License was denied at the September meeting of the Board.

The denial was based on the applicant's failure to submit the following:
Current certificated of competency
Credit reports, bank verification letter and financial statements

Mr. Hodges timely filed a petition for review of Notice of Intent to Deny.

Mr. Hodges provided the missing items.

After discussion, the Board voted unanimously to approve Mr. Hodges application.

F. Sherif Kodsy – Informal Hearing

Neither Mr. Kodsy nor his Attorney was present.

Ms. Guillemette presented this case stating that Mr. Kodsy had requested a continuance. Ms. Guillemette also stated that Mr. Kodsy's application for initial Registered Building Contractor was denied at the September meeting of the Board.

The denial was based on the applicant's failure to provide proof of Restoration of Civil Rights.

After discussion, the board voted to set aside the Notice of Intent to Deny and send Mr. Kodsy's application to the March 2006 Application Review Committee.

G. Shawna Mitchell – Informal Hearing

Ms. Mitchell was present.

Ms. Guillemette presented this case stating that Ms. Mitchell's application to qualify an additional business was denied at the September meeting of the Board.

The denial was based on the applicant's failure to appear.

After discussion, the Board voted unanimously to send this application back to the March 2006 Additional Business Committee.

H. Southeastern Building Trades Association – Informal Hearing

Nancy Winters was present.

Ms. Guillemette presented this case stating that the application for approval of SBTA's Continuing Education Courses was denied at the September meeting of the Board.

The denial was based on failure to provide proof that the courses were interactive.

SBTA timely filed a petition for review of Notice of Intent to Deny. The petition included attachments detailing the course, tracking methods, and interactivity ability.

After discussion, the Board voted unanimously to uphold the denial of the applications.

I. University of Florida – Informal Hearing

Dr. Ralph Ellis and John C. Norton were present.

Ms. Guillemette presented this case stating that the University of Florida's application for approval of Continuing Education was denied at the September meeting of the Board.

The denial was based on the failure of the applicant's to provide an outline with enough specificity for the Board to consider the course.

A timely request was filed.

After discussion, the Board voted unanimously to approved the application.

J. Juanita Hayes – Request for Reinstatement of Null and Void License

Ms. Hayes was present.

Ms. Guillemette presented this case stating that this is a request to reinstate her General Contractor's license as provided in 455.271(6)(b), F.S.

Ms. Hayes stated that her license was in good standing for twenty years without any complaints. Ms. Hayes also stated that she was injured at work which resulted in five operations. She also had complications from surgery that led to her going into a coma and almost dying.

Ms. Hayes expenses were covered by workers' comp. The adjuster was to pay the renewal and told Ms. Hayes it was taken care of.

After discussion, the Board voted unanimously to approve this petition.

K. Jack Morgan – Request for Reinstatement of Stay of Suspension

Mr. Morgan was present.

Ms. Guillemette presented this case stating that Mr. Morgan's contractor's license was suspended as a result of a third unsatisfactory probation appearance at the April 2005 Probation committee hearing.

Mr. Morgan's September 2005 letter explains why that information was not available to him in April and requests that the Board reinstate the stay of suspension and allow him to continue on probation.

Mr. Morgan's request came before the Board in October. Mr. Morgan was not present and his request for reinstatement of stay was denied.

At the January 2006 meeting, Mr. Morgan presented a letter of October 7, 2005, and a letter dated October 28, 2005, explaining his absence from the October meeting and requested that the Board reconsider his request for reinstatement of stay. Mr. Morgan was not present at this meeting and his request for reinstatement of stay was denied.

Mr. Morgan now presents a letter dated January 17, 2006, advising that he did not receive notice of the meeting held in January 2006. The Board Office has provided confirmation from the United States Postal Service that delivery was attempted and that the notice remains unclaimed.

After discussion, the Board voted unanimously to uphold their previous decision and not reinstate the stay of suspension.

L. Randall W. Regas – Request for Reinstatement of Null and Void License

Mr. Regas was present.

Ms. Guillemette presented this case stating that Mr. Regas is requesting to reinstate his Null and Void Certified Building Contractor's license as provided in 455.271(6)(b), F.S.

Mr. Regas' petition explained several unfortunate circumstances, however, after discussion, the Board voted unanimously to deny this petition.

M. David Van Wormer – Request for Reinstatement of Null and Void License

Mr. Van Wormer was present.

Ms. Guillemette presented this case stating that Mr. Van Wormer is requesting to reinstate his Null and Void Mechanical Contractor's license as provided in 455.271(6)(b), F.S.

Mr. Van Wormer's petition explained several unfortunate circumstances, however, after discussion, the Board voted unanimously to deny Mr. Van Wormer's request.

N. Daniel Winkler – Request for Reinstatement of Null and Void License

Mr. Winkler was present with Attorney Stewart Capps.

Ms. Guillemette presented this case stating that Mr. Winkler is requesting to reinstate his Null and Void General Contractor's license as provided in 455.271(6)(b), F.S.

Mr. Winkler's petition explained some unfortunate circumstances, however, after discussion, the Board voted unanimously to deny Mr. Winkler's request.

O. Mark Pietanza – Petition for Declaratory Statement

Mr. Pentanza was present.

Ms. Guillemette presented this case stating that Mr. Pietanza has requested a Declaratory Statement, which was filed with the Department on December 2, 2005. It was notice in the Florida Administrative Weekly on December 30, 2005. The petition requests clarification to the following question:

1. Does Chapter 489, F.S., require that a state-licensed sheet metal contractor subcontract the installation of a steel roof curb when the sheet metal contractor installs a hood exhaust system?

After discussion, the Board voted unanimously to find that the Declaratory Statement was sufficient to meet Statutory and Rule requirements and to answer this question in the negative.

COMMITTEE REPORTS

APPLICATION REVIEW COMMITTEE

Mr. Kalmanson gave the following report:

Applications approved

Raulerson, David

Applications denied

Acree, Tracy – Grandfathering – No local exam.

Baransky, William – Unsatisfied tax liens.

Branum, Herbert – Initial -Unsatisfied tax liens.

Flynn, Thomas – Endorsement – Denied.

Hass, Gary – Endorsement – Denied.

Pelaez, Arnaldo – Grandfathering – did not take approved exam at local level.

Perry, John – Endorsement – Denied.

Pilkenton, Randall – Grandfathering – assessed fine of more than \$500 in last 5 years.

Quarrier, Christopher- Grandfather – Denied.

Randazzo, Lorenzo – Endorsement – Denied.

Schumacher, Kurt – change of status – Denied.

Threadgill, Ronald – Initial – Unsatisfied liens.

Applications withdrew

Beaudin, Robert – Endorsement – withdrew applications.

Cutraro, Antonino – Withdrew applications.

Maltese, Dominic- Endorsement –withdrew applications

Applications continued

Hollingsworth, Bruce – waived 90 days – continued to March 2006.

Windle, Bobby – waived 90 days – continued to March 2006.

Yates, Robert – waived 90 days – continued to March 2006.

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

PROBATIONS COMMITTEE

Mr. Del Vecchio gave the following report:

Bryan Bettencourt, (CB C1251063)

Result: Satisfactory

Santiago Bolivar, (CM C056748, CG C1508401)

Result: Satisfactory

John C. Carruth, (CCC010271, RCC015254)

Result: Satisfactory

James Shelly Carter III, (CG C031396)

Result: Satisfactory

Mario Delfiaco, (CBC26157)

Result: Tolled

Bodhan Hawryluk, (CBC035048)

Result: Satisfactory

Scott Johnson, (CG C1505754)

Result: Stay of Suspension Lifted for Failure to Appear

Lon Roy Juopperi, (CB C12511856)

Result: Stay of Suspension Lifted for Failure to Appear

Harvey D. Mc Clain, Jr., (CRC050317)

Result: Satisfactory

Omari Murray, (CG C1506961)

Result: Satisfactory

Lee Chong Pastorius, (CGC1506246)

Result: Stay of Suspension Lifted for Failure to Appear

Donnie Pickford, (CG C1506496)

Result: Satisfactory

Cynthia Robbins, (CB C1251574)

Result: Satisfactory

Harold Samec, (CG C1504628)

Result: Satisfactory

Adrian Velez, (CG C058460)

Result: Tolled

Mark Wolfe, (RF 11067159, CF C1426740)

Result: Satisfactory

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

ADDITIONAL ENTITY COMMITTEE

Mr. Pietanza gave the following report:

Applications approved

Allen, David

Allison, Thomas

Bobich, Alex – with Probation until proof of Satisfaction of lien is provided.

Bush, John

Dawson, Gregory

Donnelly, Patrick

Doria, Robert

Elamad, John

Fink, Jeffrey, Sr.

Hatfield, Fred III

Humphrey, Raymond

Isabelle, Mark
Kimble, Thomas
Lasser, Lee
Lovingood, Ben
Marsh, Richard
Richards, Stanley
Svetlik, Robert
Ulrich, Gary

Applications denied

Cauffield, Christopher – failure to appear.
Johnson, Todd – failure to appear.
Smallwood, John – Brokering his license.

Applications continued

Hill, James – waived 90 day requirement - to resolve disciplinary cases.
Hoffman, Craig – waived 90 day requirement – per his request.
Swinson, John – waived 90 day requirement – per his request.
Worsham, Raleigh – waived 90 day requirement - per his request.

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

EXECUTIVE COMMITTEE

There were no items for discussion.

RULES REVIEW COMMITTEE

Mr. Weller gave the following report:

The following Rules have been developed:

61G4-17.001 Normal Penalty Ranges

The following Rules have been Noticed:

61G4-12.006 Approved Form: Incorporation – Ms. Guillemette has received a JAPC letter and is preparing a response.

The following Rules have been adopted:

61G4-15.021 Certification and Registration of Business Organizations. Effective 1-23-06.

61G4-15.032 Certification of Swimming Pool Specialty Contractors. Effective 1-04-06.

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

EXAMS/CE/PUBLIC AWARENESS COMMITTEE

Mr. Holloway gave the following report:

The following Providers and Courses were approved:

CONSTRUCTION SERVICES ENTERPRISES, INC (0000909)

1st Course: Florida Building Code Update

FRSA EDUCATIONAL & RESEARCH FOUNDATION (0000910)

- 1st Course: Improving Employee Safety Through Fall Protection, Managing Worker's Compensation and Communicating with Your Adjuster
- 2nd Course: Fall Protection Requirements
- 3rd Course: Ladder Safety
- 4th Course: Being Accident-Free Through WC and Ladder Safety
- 5th Course: Managing the Cost of Workers' Compensation
- 6th Course: Fire Safety
- 7th Course: Communicating with My Workers' Compensation Adjuster

FLORIDA HOME BUILDERS ASSOCIATION (0000916)

- 1st Course: Construction Contracts & Law **(Must be treated as new course number of credit hours changed)**

CONSTRUCTION ESTIMATING INSTITUTE (0000981)

- 1st Course: Project Supervision II **(Internet Course)**
- 2nd Course: Determining How and When to Bill Out a Job **(Internet Course)**
- 3rd Course: Safety on the Jobsite **(Internet Course)**
- 4th Course: Workers' Compensation Responsibilities **(Internet Course)**
- 5th Course: Project Supervision I **(Internet Course)**

BUILDING OFFICIALS ASSOCIATION OF FLORIDA (0001001)

- 1st Course: Florida Roofing – Low Slope
- 2nd Course: Florida Roofing – High Sloped
- 3rd Course: Job Site Safety
- 4th Course: Florida Workers Compensation
- 5th Course: Fair Housing and ADA Requirements
- 6th Course: Florida Existing Building Code
- 7th Course: Florida Laws and Rules
- 8th Course: Business Practices

UNITED POOL & SPA ASSOCIATION (0002996)

- 1st Course: Pain Free and Stain Free Pool Plaster Application & Startup
- 3rd Course: Competitive Advantage through Strategic Planning

FLORIDA REFRIGERATION AND AIR CONDITIONING CONTRACTORS ASSOCIATION (0003199)

- 1ST Course: 13 Seer - Sorting Fact From Fiction
- 3rd Course: Florida Lien Law
- 4th Course: Load Calculations – Commercial Refrigeration
- 5th Course: HVAC Equipment Technical Update
- 6th Course: R-410A: The Future is Now
- 7th Course: Load Calculations – Residential and Light Commercial HVAC
- 8th Course: Zero Accidents – An Attainable Goal
- 9th Course: Managing Your Parts and Materials Inventory
- 10th Course: Buildings That Work (for 1 hour of credit only)
- 11th Course: Energy Code Forms – Residential Compliance

FLORIDA AIR CONDITIONING APPRENTICESHIP ASSOCIATION LLC. (0003374)

- 1st Course: HVAC and Mold
- 2nd Course: OSHA 10 Hour Course (No business credit)

FLORIDA IRRIGATION SOCIETY, INC. (0002995)

1st Course: Contract Administration for Construction Subcontractors

2nd Course: Introduction to Construction Estimating – An Overview

ADAAG CONSULTING SERVICES, LLC

1st Course: ADA Title II Federal Regulation. How to stay out of Court?

DON SCOTT & ASSOCIATES, INC.

1st Course: OSHA General Contractor CEU Course

THE UNIVERSITY OF WEST FLORIDA

1st Course: “FBC Chapter 11 – FL Accessibility Code”

WINDOOR INCORPORATED

1st Course: Installation Quality Assurance

COASTAL MECHANICAL SERVICES, LLC

1st Course: Medical Gas Brazing Certification Class

BUILDERSED, INC. (0003039)(Expired 05/31/2005)

CONSTRUCTIONS SCHOOL INC (0001000)

1st Course: Material and Hurricane Building

FLORIDA POOL AND SPA ASSOCIATION (0000917)

1st Course: CILB Swimming Pool Specialty Contractor Licensing Practical Examiners Course
(No CE credit)

REDVECTOR.COM, INC. (0001771)

1st Course: Construction Arbitration: A Brief Overview - Beginner **(Internet Course)**

2nd Course: Construction Paperwork **(Internet Course)**

3rd Course: Insurance for Construction Defects **(Internet Course)**

4th Course: Construction Mediation: A Brief Overview - Beginner **(Internet Course)**

UNITED POOL & SPA ASSOCIATION (0002996)

1st Course: Orientation Course for Practical Examiners (No CE Credit)

The following courses were denied:

BOSS CONSTRUCTION SCHOOL (0000923)

1st Course: Profit with Value Engineering Video Course

REEDY CREEK IMPROVEMENT DISTRICT (0001079)

1st Course: Laws and Rules

FLORIDA REFRIGERATION AND AIR CONDITIONING CONTRACTORS ASSOCIATION (0003199)

2nd Course: Home Inspection – The Contractor and the Home Inspector

NICHOLAS M. LIOTTI

1st Course: Affinity Heat pumps

NUAIR MANUFACTURING

1st Course: Installation Masters – Residential & Light Commercial Window and Door Installation Training and Certification Program

DEPARTMENT OF COMMUNITY AFFAIRS (0001042)

1st Course: Manufactured Buildings Program Workshop

The following course was withdrawn:

UNITED POOL & SPA ASSOCIATION (0002996)

2nd Course: Developing an Action Plan

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

RECOVERY FUND/FINANCE COMMITTEE

Ms. Kane gave the following report:

Claimant v. Contractor; Claim No.

Jean-Pierre v. Acosta; Claim No. 02-C0212 - DENIED WITH PREJUDICE

Schulze v. Gill; Claim No. 02-C0215 - DENIED WITH PREJUDICE

Patel v. Munroe; Claim No. 03-C0219 - APPROVED - \$8,836.18

Castleman v. Alspach; Claim No. 2003-091658 - DENIED WITH PREJUDICE

Mangino v. McCarron; Claim No. 2003-096281 - APPROVED - \$25,000.00

Moranton v. Reynaert; Claim No. 2004-002167 - APPROVED - \$25,000.00

Smith v. Smith; Claim No. 2004-026889 - DENIED WITH PREJUDICE

Gionfriddo v. Irvin; Claim No. 2004-042072 - APPROVED - \$9,412.06

Johnson v. McDurfee; Claim No. 2004-047483 - APPROVED - \$7,455.00

Brown v. Mancini; Claim No. 2005-000141 - DENIED WITH PREJUDICE

Wasserstrom v. Zuckerman and Barr (FRO); Claim No. 2005-006868 - CONTINUED – MARCH 2006

Barvenik v. Kowalcheck; Claim No. 2005-022592 - APPROVED - \$5,000.00

Farrell/Shagoury v. Fields; Claim No. 2005-030056 - APPROVED - \$25,000.00

Mercurio v. Kaufmann/Bradley; Claim No. 2005-046872 - APPROVED - \$22,017.00

Fisher/Stewart v. Grim; Claim No. 2005-050807 - DENIED WITH PREJUDICE

Fickes v. Harward; Claim No. 2005-053206 - APPROVED - \$22,960.00

Richman v. Allen; Claim No. 2005-053213 - APPROVED - \$25,000.00

Lee/Tsaur v. Hickey; Claim No. 2005-055670 - APPROVED - \$8,468.79

Garcia v. Robinson; Claim No. 2005-059666 - APPROVED - \$25,000.00

Gleason v. Williams; Claim No. 2005-060991 - APPROVED - \$7,145.00

Scariti v. Williams; Claim No. 2005-061002 - APPROVED - \$6,400.00

Meyers v. Walker; Claim No. 2005-064704 - APPROVED - \$25,000.00

Hinkle v. Jackson; Claim No. 2005-006882 - (Motion to Vacate Final Order)-APPROVED

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

OLD BUSINESS

There was no old business.

NEW BUSINESS

The Board voted unanimously to have Ms. Guillemette draft two Resolutions. The first Resolution would ask for Legislative Authority for the denial of individuals without Civil Rights. The second Resolution would ask for Legislative Authority for Net Worth requirements.

The Board also voted to have Goode "Buddy" Yeoman's license issued. Mr. Yeoman's application was denied for lack of Restoration of Civil Rights. The DCA ruled that Mr. Yeoman's license should be issued.

The Board also voted to vacate the Final Order for Heather Dawn Michael and issue a Notice of Intent to Deny.

The Board voted to set aside the Notice of Intent to Deny for Daniel Scherer and send the application back to the March 2006 Application Review Committee.

The Board also voted to have Ms. Guillemette request to DOAH to allow them to properly site the correct Statutes in the denial of Michael Alfonso's denial.

With no other business, the meeting was adjourned at 11:34 a.m.