

SOUTH CAROLINA CONTRACTORS' LICENSING BOARD

**Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 105
Columbia, South Carolina 29210**

Minutes

Thursday, October 18, 2012

10:00 a.m.

Kimberly Y. Lineberger, Board Chair, announced that the meeting was held in accordance with §30-4-80 of the South Carolina Freedom of Information Act by notice mailed to all requesting persons, organizations, and news media. In addition, notice was posted on the bulletin boards at the main entrance of the Kingstree Building.

WELCOME AND CALL TO ORDER:

Kimberly Y. Lineberger, Board Chair, called the regular meeting of the South Carolina Contractors' Licensing Board to order at 10:24 a.m. Other Board members present for the meeting included: Lewis M. Caswell, W. Franklin Walker, James Lady, Daniel B. Lehman, Bill Neely, Jamie C. Patterson, and Legrand Richardson, Jr.

Staff members participating in the meeting included: James Saxon, Advice Counsel, Christa Bell, Assistant General Counsel, Andrew Rogers, Assistant General Counsel, Raymond Smith, OIE Investigator, Lil Ann Gray, Program Coordinator, Shameko Putman-Williams, Administrative Assistant and Christine A. Cortright, Court Reporter.

Others present participating in the meeting included: Allison Felschow, Elaine Meincke, Raymond Fletcher, David Ingalls, Esq., Jeremiah McKinley, Carl Bryant, Anthony Broughton, Kevin Biando, Benjamin Pahr, and Nicole Sear.

Approval of Agenda:

Thursday, October 18, 2012

MOTION:

Mr. Lady made a motion to approve the October 18, 2012 agenda. Mr. Caswell seconded the motion, which carried unanimously.

Excused Members:

MOTION:

Mr. Neely made a motion that Mr. Charles White receive an excused absence. Mr. Lehman seconded the motion, which carried unanimously.

Approval of Minutes:

Thursday, July 19, 2012

MOTION:

Mr. Caswell made a motion to approve the July 19, 2012 meeting minutes. Mr. Richardson seconded the motion, which carried unanimously.

Chairman's Remarks:

Kim Lineberger

Mrs. Lineberger welcomed everyone. Having no further remarks, the Board then moved into the Agenda.

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Administrator's Remarks:

Lil Ann Gray, Program Coordinator

Ms. Gray reported that Mr. Wiggins would not be present for the meeting.

NASCLA Conference, Bend, Oregon - Ms. Gray reported to the Board that the NASCLA Conference was held September 30, 2012 through October 4, 2012 in Bend, Oregon. Mr. Lady, Mr. Walker, Christa Bell and Ms. Gray attended the conference. Ms. Gray advised the Board that the conference was a tremendous learning experience and opportunity to meet with other state administrators. Mr. Walker and Mr. Lady also reported to the Board their experiences from attending the conference.

Ms. Gray also informed the Board that Section 40-11-260 is being looked at by the General Assembly for possible amendment modification.

Office of Investigation and Enforcement Report:

Raymond Smith

OIE Status Report - Mr. Smith reported that for the period January 1, 2012 to October 15, 2012, OIE has received a total of 154 new complaints with 70 active investigations; 2 cases have been held over from 2011 and 68 cases from 2012. A total of 82 closed cases with 16 do-not-open cases and 12 cases pending IRC.

Office of General Counsel Report:

Christa Bell

OGC Report – Ms. Bell reported that OGC has 32 open cases, 10 cases pending action, 4 cases are pending consent agreements or memorandums of agreements, 9 cases are pending disciplinary hearings, 6 cases are pending final order hearings, 1 case is pending a final order, and 84 cases have been closed since January 2011. 2 cases are currently on appeal to the Administrative Law Court.

Old Business:

NONE

New Business:

Request for Interpretation of Licensing Requirements for Alarm System Businesses Act and Fire Protection Sprinkler System Act:

MOTION:

Mr. Caswell made a motion to go into executive session for legal advice. Mr. Lady seconded the motion, which carried unanimously. Executive session for legal advice was from 11:01 a.m. to 11:30 a.m. with no formal actions taken.

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Fire Sprinkler System Act:

MOTION:

Mr. Patterson made a motion that the Board not make an interpretation on the Fire Protection Sprinkler System Act at this time. Mr. Lady seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Licensed Alarm System Staffing/Employment Agencies:

MOTION:

Mr. Lehman made a motion that the question concerning a staffing company and/or employment leasing arrangement with a licensed company would not require the staffing or employment agency to be licensed as an Alarm System Business. However, those employees would have to comply with the registered employee requirements found in the Burglar Alarm Act for all the employee requirements, have them registered under the licensed company's license. Mr. Caswell seconded the motion, which carried a majority of the Board members with Mr. Patterson voting against the motion.

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Resubmission of Regulation 29-13 - Emergency Licensure:

MOTION:

Mr. Caswell made a motion to approve resubmission of Regulation 29-13. Mr. Neely seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Recommendation of Investigation Review Committee:

September 27, 2012, IRC Recommendations:

Mr. Caswell made a motion to approve the amended recommendations of the Investigative Review Committee. Mr. Lady seconded the motion, which carried unanimously.

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The Board was asked to provide names of individuals that staff could contact to serve on the IRC. Board members were asked to email their recommendations to Board staff.

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Citation Recommendation - Final Order Hearings:

Suncrete of Carolina d/b/a Crystal Pools, Dean Felschow and Elaine B. Meincke, (Case No.: 2011-102)

Allison Felschow and Ms. Meincke were present; Mr. Felschow was not present. Mr. Neely was the hearing officer on the case and recused himself from the hearing. Ms. Felschow was sworn in. Mr. Andrew Rogers represented the State and requested the Board uphold the Hearing Officer's Recommendation. Ms. Felschow requested that the Board dismiss the citation.

MOTION:

Mr. Walker made a motion to go into executive session for legal advice. Mr. Caswell seconded the motion, which carried unanimously. Executive session for legal advice was from 12:12 p.m. to 12:26 p.m. with no formal actions taken.

MOTION:

Mr. Lady made a motion to accept the citation. Mr. Caswell seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Hearing Officer Recommendation - Final Order Hearings:

Construction Water & Air, Inc. and Robert Noe, (Case No: 2010-66)

Mr. Noe was not present. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Christa Bell represented the State and requested that the Board uphold the Hearing Officer's Recommendations.

MOTION:

Mr. Lehman made a motion to uphold the Hearing Officer's Recommendations. Mr. Patterson seconded the motion, which carried unanimously.

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Raymond E. Fletcher, (Case No.:2011-76)

Mr. Fletcher was present and sworn in. Mr. David Ingalls, Esq. appeared as attorney for Mr. Fletcher. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Christa Bell represented the State.

Mr. Ingalls requested that the Board grant his motion for a rehearing on the matter. Ms. Bell requested that the Board deny Mr. Ingalls' motion and uphold the Hearing Officer's recommendations.

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MOTION:

Mr. Patterson made a motion to deny the motion for rehearing. Mr. Caswell seconded the motion, which carried unanimously.

MOTION:

Mr. Caswell made a motion to uphold the Hearing Officer's Recommendations. Mr. Patterson seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Carolina System Built Homes, Inc., and Gary S. Atkinson, (Case No: 2011-74)

Mr. Atkinson was not present. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Christa Bell represented the State and requested that the Board uphold the Hearing Officer's Recommendations.

MOTION:

Mr. Caswell made a motion to go into executive session for legal advice. Mr. Neely seconded the motion, which carried unanimously. Executive session for legal advice was from 12:50 p.m. to 1:04 p.m. with no formal actions taken.

MOTION:

Mr. Caswell made a motion to uphold the Hearing Officer's Recommendations but that it be modified to add a \$1,000 fine to be paid within 90 days from the date of receipt of final order. Mr. Lady seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

First Team Construction, First Team Construction, Inc., and David Johnson, (Case No: 2009-254)

Mr. Johnson was not present. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Christa Bell represented the State and requested that the Board uphold the Hearing Officer's Recommendations.

MOTION:

Mr. Caswell made a motion to go into executive session for legal advice. Mr. Patterson seconded the motion, which carried unanimously. Executive session for legal advice was from 1:09 p.m. to 1:18 p.m. with no formal actions taken.

MOTION:

Mr. Neely made a motion that this matter be continued. Mr. Patterson seconded the motion, which carried unanimously.

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Jacobs HVAC LLC and Jeffery C. Jacobs (Case No: 2011-77)

Mr. Jacobs was not present. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Christa Bell represented the State. Ms. Gray advised the Board that Mr. Jacobs was incarcerated in the Bennettsville Federal Correctional Institution and could no longer serve as the primary qualifying party for the licensee, Jacobs HVAC, LLC (CLM.109774 MC). Ms. Gray requested that the Board issue a Cease and Desist Order to Mr. Jacobs and the licensee.

MOTION:

Mr. Caswell made a motion to approve the Cease and Desist order to the licensee. Mr. Patterson seconded the motion, which carried unanimously.

MOTION:

Mr. Patterson made a motion to approve the Cease and Desist Order to Mr. Jacobs. Mr. Neely seconded the motion, which carried unanimously.

Ms. Bell requested the Board issue a Cease and Desist – Do Not Renew Order to address the pending hearing officer recommendations for case no. 2011-77.

MOTION:

Mr. Caswell made a motion to approve the Cease and Desist – Do Not Renew Order. Mr. Patterson seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Application Hearings:

McKinley Electrical and Jeremiah McKinley

McKinley Electrical and Jeremiah McKinley – CLM.104117 (grandfather). License lapsed 10/31/2011; Reinstatement application received September 14, 2012. Request to waive technical examination requirement Mr. McKinley appeared before the Board and was sworn in. Mr. McKinley answered questions from the Board.

MOTION:

Mr. Lady made a motion to go into executive session for legal advice. Mr. Caswell seconded the motion, which carried unanimously. Executive session for legal advice was from 2:07 p.m. to 2:10 p.m. with no formal actions taken.

MOTION:

Mr. Patterson made a motion to deny the application. Mr. Richardson seconded the motion, which carried unanimously.

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CJ's Services Unlimited, LLC and Jerry F. Freeze, Jr.

C J's Services Unlimited, LLC and Jerry F. Freeze, Jr. Staff unable to issue license due to applicant having had a license or certificate otherwise disciplined Mr. Freeze did not appear before the Board.

MOTION:

Mr. Caswell made a motion to deny the application. Mr. Neely seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

C. L. Bryant Heating and Air and Carl L. Bryant

C. L. Bryant Heating and Air and Carl L. Bryant. Staff unable to issue license due to criminal conviction. Mr. Bryant appeared before the Board and was sworn in. Mr. Bryant answered questions from the Board.

MOTION:

Mr. Caswell made a motion to deny the application. Mr. Lehman seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Colby William Brooks (ISI Alarms NC, Inc)

Colby William Brooks (ISI Alarms NC, Inc., BAC.13368) - Staff unable to approve Mr. Brooks as a registered employee due to matters appearing on Criminal Background Check. Mr. Brooks did not appear before the Board.

MOTION:

Mr. Caswell made a motion to deny the application. Mr. Lehman seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Jamie M. Brown (Guardian Eagle Security, LLC)

Jamie M. Brown (Guardian Eagle Security, LLC, BAC.13289) - Staff unable to approve Ms. Brown as a registered employee due to matters appearing on Criminal Background Check. Ms. Brown did not appear before the Board.

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MOTION:

Mr. Lady made a motion to deny the application. Mr. Patterson seconded the motion, which carried unanimously.

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Fifth Element Fire Protection, LLC

Fifth Element Fire Protection, LLC – FSC.1583 M. Staff unable to renew license because of affirmative answer regarding disciplinary action by NC State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors. Anthony Broughton did appear before the Board and was sworn in. Mr. Broughton answered questions from the Board.

MOTION:

Mr. Patterson made a motion to approve the application. Mr. Caswell seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

All-Star Fire, LLC

All-Star Fire, LLC – FSC.1707 M. Staff unable to renew license because of affirmative answer regarding disciplinary action by Georgia State Fire Marshal. Kevin Biando and Benjamin Pahr did appear before the Board and were sworn in. Mr. Biando answered questions from the Board.

MOTION:

Mr. Patterson made a motion to go into executive session for legal advice. Mr. Lady seconded the motion, which carried unanimously. Executive session for legal advice was from 2:52 p.m. to 2:57 p.m. with no formal actions taken.

MOTION:

Mr. Lady made a motion to approve the renewal application with a probationary status of a year in the granting of the application. Mr. Patterson seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Maximum Security Alarm, Inc.

Maximum Security Alarm, Inc. – BAC.13459. Staff unable to renew license because licensee did not disclose an outstanding judgment, lien or claim filed since its last application for renewal. Nicole Sear appeared before the Board and was sworn in. Ms. Sear answered questions from the Board.

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MOTION:

Mr. Caswell made a motion to grant the application under the stipulation that the licensee continues to make the payments to pay the debt off and that the Board is informed monthly that those payments have been made. If the Board receives notification that the repayment arrangement has not been complied with, the license shall be administratively suspended until such time as either verification is made on a one time basis and if there is a subsequent default, then an appearance before this Board is required. Mr. Lehman seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Public Comments:

NONE

Date of Next Meeting:

Thursday, January 17, 2013; 10:00 A.M., Meeting Room 105, Kingstree Building

Adjournment:

Mr. Caswell made a motion to adjourn the meeting. Mr. Patterson seconded the motion, which carried unanimously.

The October 18, 2012 meeting of the South Carolina Contractors' Licensing Board was adjourned at 2:57 p.m.