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BOARD FOR LICENSING CONTRACTORS MEETING  
STATE OF TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

HOLIDAY INN  
101 SPRINGBROOK DRIVE  
ROOM TAYLOR B  
JOHNSON CITY, TENNESSEE 37604

TUESDAY, SEPTEMBER 27, 2011  
11:10 A.M.

BOARD MEMBERS:

KEITH WHITTINGTON, Chairman  
MARK BRODD, Vice Chairman  
REESE SMITH, III, Secretary  
WILLIAM MASON  
CINDI G. DeBUSK  
JERRY HAYES  
KATHY HOLLIMAN  
CAROLYN LAZENBY

APPEARANCES:

JENNY GRAY, ESQ., Counsel for Board  
NICOLE CANTER, Paralegal

REPORTED BY: DEE ANNA MICHAELS, CVR

ASHEVILLE REPORTING SERVICE

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1 P R O C E E D I N G

2 27 SEPTEMBER 2011 11:10 A.M.

3 (BOARD EXHIBIT NO. 1 MARKED)

4 BY MR. WHITTINGTON:

5 We'll call the September 27, 2011, Board for  
6 Licensing Contractors of the State of  
7 Tennessee to order. The first item on the  
8 agenda is the roll call. I would like to  
9 start the roll call with starting at my left  
10 with Bill, please.

11 BY MR. MASON:

12 Bill Mason, Greenbriar.

13 BY MR. SMITH:

14 Reese Smith, Franklin.

15 BY MR. WHITTINGTON:

16 Keith Whittington, Johnson City.

17 BY MR. BRODD:

18 Mark Brodd, Knoxville.

19 BY MS. DeBUSK:

20 Cindi DeBusk, Knoxville.

21 BY MR. HAYES:

22 Jerry Hayes, Paris.

23 BY MR. WHITTINGTON:

24 I'd like to say thanks to everyone for making  
25 the trip up to Johnson City. Too bad it was

1           raining this morning, but I believe it's going  
2           to be a pretty afternoon when you drive back.  
3           So thanks to everybody for being here.

4                     The next item on the agenda is to review  
5           and adopt, and approve the agenda. I'll  
6           entertain a motion.

7 BY MR. MASON:

8           So moved.

9 BY MR. BRODD:

10          Second.

11 BY MR. WHITTINGTON:

12          All in favor say aye?

13          (AYES)

14 BY MR. WHITTINGTON:

15          Opposed likewise?

16          (NO RESPONSE)

17 BY MR. WHITTINGTON:

18          Motion carries. Second item on the agenda is  
19          for approval of the hardships, and that will  
20          be behind Tab 1 in your books. Any questions  
21          on the hardships approved by the director?

22 BY MR. BRODD:

23          I'll move for approval.

24 BY MS. DeBUSK:

25          Second.

1 BY MR. WHITTINGTON:

2 Motion and second, any discussion?

3 (NO RESPONSE)

4 BY MR. WHITTINGTON:

5 All in favor say aye.

6 (AYES)

7 BY MR. WHITTINGTON:

8 Opposed likewise?

9 (NO RESPONSE)

10 BY MR. WHITTINGTON:

11 Motion carries. Next item is the June 2011

12 Teleconference Transcript.

13 BY MR. MASON:

14 Move it be approved.

15 BY MR. BRODD:

16 Second.

17 BY MR. WHITTINGTON:

18 Motion and a second to approve the transcript

19 from our June teleconference. Any discussion?

20 (NO RESPONSE)

21 BY MR. WHITTINGTON:

22 All opposed say aye -- all in favor say aye.

23 (AYES)

24 BY MR. WHITTINGTON:

25 Oppose likewise?

1 (NO RESPONSE)

2 BY MR. WHITTINGTON:

3 The motion carries. The next item is our  
4 July 2011 board meeting, that's behind Tab 3.  
5 That's a transcript.

6 BY MR. BRODD:

7 I'll move for approval.

8 BY MR. MASON:

9 Second.

10 BY MR. WHITTINGTON:

11 Motion and second. All in favor say aye.

12 (AYES)

13 BY MR. WHITTINGTON:

14 Opposed likewise?

15 (NO RESPONSE)

16 BY MR. WHITTINGTON:

17 Motion carries. Now we come down to our  
18 Interviewed/Waived Contractor and Home  
19 Improvement Applicants. Do we have any to  
20 bring up?

21 BY MR. HAYES:

22 I have one to bring up, Mr. Chairman.  
23 Copperhead Pipeline & Construction,  
24 Incorporated. Everything seems to be in  
25 order, but the qualifying agent has a felony

1 on his record. He paid his time, been on  
2 probation since '06, and I just thought it  
3 needed to come before the Board.

4 BY MR. WHITTINGTON:

5 What was the felony for?

6 BY MR. HAYES:

7 Found methamphetamine in his car. He entered  
8 a plea of guilty, was sentenced to a four-year  
9 suspended sentence, two years supervised  
10 probation, two years unsupervised. Completed  
11 his probation in December 19th of 2006, all  
12 court costs and fines were paid on the date of  
13 conviction.

14 Completed a 30-day inpatient drug and  
15 rehab program, and attended some weekly  
16 programs for the duration of the probation.  
17 Not trying to hang any excuses on anybody or  
18 blame anybody but himself. So I submit that  
19 for the Board approval.

20 BY MR. MASON:

21 Did you talk to him personally, Jerry?

22 BY MR. HAYES:

23 Yes, I did. If you have questions, he's here  
24 with us now.

25 BY MR. WHITTINGTON:

1 Do you move for approval?

2 BY MR. SMITH:

3 I'll second.

4 BY MR. WHITTINGTON:

5 I've got a motion and a second to approve.

6 License number?

7 BY MR. HAYES:

8 License Number 65022.

9 BY MR. WHITTINGTON:

10 License Number 65022. Any discussion? Seeing

11 none, all in favor say aye.

12 (AYES)

13 BY MR. WHITTINGTON:

14 Opposed likewise?

15 (NO RESPONSE)

16 BY MR. WHITTINGTON:

17 Motion carries.

18 BY MR. BRODD:

19 I've got another one I want to bring up. This

20 would be Larry McNutt Excavating &

21 Contracting. This was brought up at our July

22 meeting and it was denied, and the applicant

23 is appealing. Came and met with me in 2002.

24 He was arrested for delivery of cocaine, ended

25 up spending a year or so in jail. Did a

1           year's worth of volunteer work, got ten years  
2           probation. Has been clean ever since his  
3           first arrest, and has worked for other  
4           contractors, as well as doing small work on  
5           his own since then. And I would like to  
6           recommend we issue him a license. Here's a  
7           number of letters of recommendation from  
8           people that he -- his church, and also people  
9           that he's worked with, vouch for his  
10          character.

11       BY MR. SMITH:

12           I'll second.

13       BY MR. WHITTINGTON:

14           Motion second, is there any discussion? All  
15           in favor say aye.

16       (AYES)

17       BY MR. WHITTINGTON:

18           All opposed likewise?

19       (NO RESPONSE)

20       BY MR. WHITTINGTON:

21           Applicant's approved.

22       BY MR. SMITH:

23           I've got one that meets all our  
24           qualifications, but I just want it to be on  
25           the record it might be hidden in that long

1 list. We've done it in the past, but I just  
2 don't want it to sneak up on anybody. Memphis  
3 Light, Gas & Water has applied for an  
4 electrical license unlimited. It's audited  
5 and they've got all the working capital and  
6 net worth that they possibly needed.

7 Now ladies and gentlemen, in the past we  
8 have limited some of these to do their own  
9 work, meaning they couldn't go out and bid on  
10 the new convention center in Nashville or the  
11 new convention center in Memphis against other  
12 licensed electrical contractors. Whatever the  
13 Board says on that, I think I would like to  
14 limit them to their own work.

15 BY MR. HAYES:

16 I think so.

17 BY MS. GRAY:

18 Can I just ask the reason for the record of  
19 what -- I mean is this -- so we're talking  
20 about issuing a limited license?

21 BY MR. SMITH:

22 Well, not in the same terms and conditions as  
23 we call our LLEs, but we're limiting them to  
24 do only their own work and not to do any other  
25 work. This is a public entity. This isn't a

1 private company. Memphis Light, Gas & Water  
2 is the same as our NES, TVA for that matter.  
3 It's the same as Knoxville.

4 BY MS. GRAY:

5 So you don't want -- is it to keep -- I mean  
6 so you want them to only really do like public  
7 utility work instead of ---

8 BY MR. SMITH:

9 For themselves, for their own account.

10 BY MS. GRAY:

11 Is that why -- I mean is that why they filed  
12 for the license? I'm just curious why.  
13 That's unusual because they don't have to.

14 BY MR. SMITH:

15 Instead of just waiving the interview and  
16 putting it in this big stack, I want everybody  
17 to know about this.

18 BY MS. GRAY:

19 Do you know anything about it?

20 BY MS. LAZENBY:

21 Yes. By law they don't need a license to do  
22 the work, but in order to get inspections for  
23 permits in Shelby County, they had to have a  
24 license.

25 BY MS. GRAY:

1           So they are using their employees to pull  
2           permits. So there shouldn't be a reason that  
3           there would be any problem with it. But it is  
4           a flag to me. I worry about limiting  
5           licenses.

6   BY MR. MASON:

7           We've done this for others. We've done it for  
8           churches.

9   BY MS. DeBUSK:

10          Universities.

11   BY MR. SMITH:

12          Hospitals. Hospitals get a license often.  
13          Erlanger did not too long ago, and we limited  
14          it to them doing electrical work on their  
15          site.

16   BY MS. GRAY:

17          I just haven't seen a provision in our law,  
18          but there might be one. Carolyn sometimes can  
19          point me in the direction of limiting it to  
20          things like this. So I know it happens, but I  
21          just don't know under what provision.

22   BY MR. SMITH:

23          We just had a residential complaint against a  
24          guy who his license was limited to one county.  
25          We have quite a precedent for this, for public

1 and ---

2 BY MS. GRAY:

3 I think that's probably what -- I don't think  
4 it would be a problem because that's what  
5 they're applying for.

6 BY MR. SMITH:

7 I don't think they want to get into the  
8 electrical business outside bidding.

9 I would move for approval of  
10 Applicant 65112, Memphis Light, Gas & Water  
11 for an unlimited CE. It would be limited to  
12 their own work.

13 BY MS. DeBUSK:

14 Second.

15 BY MR. WHITTINGTON:

16 Motion and second. Further discussion? All  
17 in favor say aye.

18 (AYES)

19 BY MR. WHITTINGTON:

20 Opposed likewise?

21 (NO RESPONSE)

22 BY MR. WHITTINGTON:

23 Motion carries. I've got about three unless  
24 anyone else has got something to bring up.

25 Let Mark go ahead and do his.

1 BY MR. BRODD:

2 This next one is Airtek Construction, Inc.  
3 They do maintenance of precipitators in large  
4 industrial plants. They're from Alabama.  
5 They have admitted to doing some work in  
6 Tennessee. They did not realize they needed a  
7 license to perform this work. Talking with  
8 him, he agreed with me.

9 I suggested that we issue him a thousand  
10 dollar consent to work, and he was okay with  
11 that. Based on that, I would recommend we  
12 approve them for a license subject to them  
13 paying a thousand dollars.

14 BY MR. WHITTINGTON:

15 Motion, second.

16 BY MR. SMITH:

17 I'll second.

18 BY MR. WHITTINGTON:

19 Is there any discussion? All in favor say  
20 aye.

21 (AYES)

22 BY MR. WHITTINGTON:

23 Opposed likewise?

24 (NO RESPONSE)

25 BY MR. WHITTINGTON:

1 Motion carries.

2 BY MR. BRODD:

3 I've got one more. Kathy may need to help me  
4 with this one. It is Revere Services, home  
5 builder that declared bankruptcy in the last  
6 year or two. I had asked for them to renew  
7 their line of credit for a two-year period,  
8 which would be the duration of the license.  
9 And he's got two other partners, for the two  
10 other partners to sign and guarantee. But I'm  
11 not sure of the status of either one of those.

12 BY MS. HOLLIMAN:

13 They should.

14 BY MR. BRODD:

15 I didn't get a chance to look at this  
16 beforehand. I just noticed it sitting here.  
17 If that information has been provided, then  
18 I'd like to move for approval of his license.

19 BY MR. MASON:

20 Second.

21 BY MR. WHITTINGTON:

22 Motion and second to approve the license. Any  
23 discussion?

24 BY MS. DeBUSK:

25 I'd like to recuse myself from this vote.

1 BY MR. WHITTINGTON:

2 I don't know if we can vote on it. Yeah, we  
3 can, we've got just enough. All in favor say  
4 aye.

5 (AYES)

6 BY MR. WHITTINGTON:

7 Opposed likewise?

8 (NO RESPONSE)

9 BY MR. WHITTINGTON:

10 Motion carries.

11 BY MS. DeBUSK:

12 We have a new applicant for a CMC and a BC-  
13 A(b). Well, I denied him based on the name of  
14 the company's confusing, the letter of  
15 reference is from someone in California, and  
16 the financials just looked odd to me. The  
17 name -- can I tell them the name of the  
18 company?

19 BY MR. WHITTINGTON:

20 You should.

21 BY MS. DeBUSK:

22 The name of the company is Fusion Investments  
23 Corporation. And to me, if you're going to be  
24 a general contractor, to me that is confusing  
25 to the public. Don't we have something about

1           the welfare of the public? I don't know. You  
2           guys have to give your opinion on that. I  
3           think Fusion Investments Corporation sounds  
4           odd if you're a general contractor and CMC.  
5           He filed bankruptcy. He's from I think  
6           Colorado or -- Utah, Utah. And 2011 he filed  
7           bankruptcy. He's moved to Tennessee. His  
8           letter of experience, seven years he's owned a  
9           plumbing and construction company in Utah.  
10          And he had some issues there.

11 BY MS. GRAY:

12           What were his issues?

13 BY MS. DeBUSK:

14           Let's see.

15 BY MR. MASON:

16           He bankrupted in 2011 ---

17 BY MS. DeBUSK:

18           Let's see, when did he bankrupt. He bought  
19           into the Roto-Rooter -- I'm sorry, I just got  
20           this file. I think it bought into the Roto-  
21           Rooter franchise, and then the economy hit and  
22           didn't work out. And his attorney told him he  
23           had to file bankruptcy to get out of the  
24           agreement with them. So he's moved to the  
25           great state of Tennessee to start a new

1 company.

2 BY MR. SMITH:

3 Had the bankruptcy been discharged?

4 BY MS. DeBUSK:

5 Let me see. Yes -- wait. In the fall of  
6 2008, they purchased the Roto-Rooter  
7 franchise. 2010 discharge debtor bankruptcy  
8 Chapter 7 in District of Utah. Then his  
9 reference letter, you have two different color  
10 inks here. They've known the person 25 years,  
11 but they're out in California. It says from a  
12 past client or electrical inspector for your  
13 reference letter. Apparently, by the way the  
14 letter reads, it's just maybe a friend. "He's  
15 a hard worker."

16 BY MS. GRAY:

17 Are you worried about his experience level  
18 just from looking at the letter?

19 BY MS. DeBUSK:

20 Well, I just worried about what happened in  
21 Utah, and why didn't he get a letter of  
22 reference from someone in Utah where he's been  
23 working for the past few years. Or a plumbing  
24 inspector that's been inspecting his work. So  
25 I'm concerned about that. I'm concerned about

1 the financials, and I'm concerned about the  
2 name of this company.

3 BY MS. GRAY:

4 What limit did he apply for?

5 BY MS. DeBUSK:

6 I'm sorry?

7 BY MS. GRAY:

8 What financial limit did he apply for?

9 BY MS. DeBUSK:

10 Two hundred thousand.

11 BY MR. MASON:

12 It seems to me that if you have these many  
13 questions, that it would be more than  
14 reasonable first of all, to ask him for some  
15 more letters of recommendation.

16 BY MR. SMITH:

17 Or tell him he must appear at the next  
18 meeting.

19 BY MS. DeBUSK:

20 Appear and a letter of recommendation from ---

21 BY MR. MASON:

22 And an explanation.

23 BY MR. SMITH:

24 Is it a late applicant?

25 BY MS. DeBUSK:

1           It was in our stack that was mailed to us, and  
2           I sent it back and then they asked me to bring  
3           it. He's got working capital of 20,679, his  
4           net worth is 31,000.

5 BY MR. SMITH:

6           Where is his home base in Tennessee?

7 BY MS. DeBUSK:

8           Nashville, Tennessee.

9 BY MR. SMITH:

10          That makes it easy for the November meeting.

11 BY MS. DeBUSK:

12          Yes. So we'll ask him to come to the November  
13          meeting, bring letter of reference from the  
14          plumbing inspector. And just for him to  
15          appear. Maybe he can explain why he named his  
16          company Fusion Investments Corporation.

17 BY MR. WHITTINGTON:

18          I've got a pretty good stack here in front of  
19          me, so bear with me. Some of these I got sent  
20          to me in the mail with our usual files, and  
21          I'm having to go back and remember what it was  
22          that I did.

23                 The first one that I'm going to present  
24          to you is a company called Impulse, it's  
25          License Number 59381. They currently have a

1           monetary limit of one million dollars on a CE,  
2           BC, B and C. And they're seeking an unlimited  
3           license. Upon review of their monetary  
4           worksheet -- this is something I'm getting  
5           quite more often, and it's something I'd like  
6           to get a little feel for how the Board feels  
7           about this.

8                     They've got \$55,000 in operating cash,  
9                     fifty-five two eighty-three. They have  
10                    \$750,870 in accounts receivable. That makes  
11                    up a total for -- they've got some incomplete  
12                    contracts, etcetera, about 30,000. So the  
13                    whole financial statement on the asset side is  
14                    -- well, on the cash asset side is about  
15                    830,000; 750,000 of it, which is accounts  
16                    receivable.

17                    When I get something like that, I go  
18                    ahead and go back and ask for an aging report  
19                    on accounts receivable, because most of us in  
20                    business realize that if you've got accounts  
21                    receivable that's 60, 90, 120 days, you've got  
22                    to start worrying about it. I don't see where  
23                    they responded to this in my questions about  
24                    it.

25                    Does the Board feel like that even though

1 the auditor may sign off on it, that we're  
2 justified in a very small cash amount, and a  
3 very large accounts receivables, it would  
4 probably be all right if it was 30 days old  
5 and they expect it, in writing their review or  
6 audit statement. They anticipate receiving  
7 those what we would call expeditiously.

8 But most of the time, these receivables  
9 are already by the time they get to us 90 days  
10 old or more. And it concerns me that we're  
11 basing a monetary limit on old receivables, or  
12 aged receivables is the proper word. It  
13 concerns me, and I'd like to know how the  
14 Board feels about that.

15 BY MR. SMITH:

16 What type of construction?

17 BY MR. WHITTINGTON:

18 BCCE -- I'm sorry, BC, B and C and then CE.  
19 So it's commercial industrial. For an  
20 industrial contractor to only have \$55,000 in  
21 cash, that concerns me to start with. I  
22 realize corporations keep themselves broke,  
23 and is that someone we need to look at.

24 BY MR. SMITH:

25 How do we treat somebody who has a minimal

1 amount of cash and a large letter of credit,  
2 line of credit? Do we give them full credit?

3 BY MR. WHITTINGTON:

4 That's one of the things -- this is called  
5 Impulse Electrical Systems, and that's one of  
6 the things they're relying on is a \$200,000  
7 line of credit from the bank. That's what's  
8 helping boost their statement up.

9 BY MR. SMITH:

10 But they do have 200,000 line of credit. Most  
11 of them aren't worth the paper they're written  
12 on.

13 BY MR. WHITTINGTON:

14 They've got to try to get the money from the  
15 bank and nine times out of ten they're not  
16 going to give it to them. I'd deny it based  
17 on their large cash, and also experience. In  
18 their experience, 434,000 was the largest job  
19 they had. They do a lot of work, it would  
20 appear, at the Nissan plant down in Smyrna,  
21 none which they've come anywhere near their  
22 one million dollar monetary limit. I'm going  
23 to make a motion to deny the ---

24 BY MR. SMITH:

25 Is this a request for an increase from what to

1           what?

2   BY MR. WHITTINGTON:

3           From one million to unlimited.

4   BY MR. SMITH:

5           And they had an audited financial statement?

6   BY MR. WHITTINGTON:

7           Yes.

8   BY MR. SMITH:

9           Three hundred thousand working capital, of  
10          which a bunch of it is receivables.

11   BY MS. LAZENBY:

12          And the largest job they worked is the  
13          400,000?

14   BY MR. WHITTINGTON:

15          Uh-huh

16   BY MR. MASON:

17          At Nissan. They've done more than one job at  
18          Nissan?

19   BY MR. WHITTINGTON:

20          They've done ---

21   BY MR. SMITH:

22          Should you put some number on it, whether it's  
23          2.5 or three million? Should we put some  
24          number on it?

25   BY MS. LAZENBY:

1           Why don't we just stay at one million and if  
2           they work close to that, then apply for an  
3           increase?

4   BY MR. SMITH:

5           Well, you can't do that without ---

6   BY MS. LAZENBY:

7           Maybe something's coming up.

8   BY MR. WHITTINGTON:

9           I understand that and I don't want to get into  
10          that situation, they can't bid it so here  
11          comes another out-of-state contractor that can  
12          bid it.

13   BY MR. SMITH:

14          I think you might look over it, might not go  
15          unlimited but maybe go two million, 1.8.

16   BY MR. MASON:

17          Maybe the staff could advise them the reason  
18          they didn't get unlimited is because those  
19          questions have been raised. If they want to  
20          try to do it in the future, they need to be  
21          able to answer to us.

22   BY MR. WHITTINGTON:

23          The next one I have is Encore Construction,  
24          they're out of Brentwood, Tennessee. My  
25          question is, is they're applying for a second

1 license.

2 BY MR. SMITH:

3 You handed me that and that's under the same  
4 name and the same financial statement?

5 BY MR. WHITTINGTON:

6 I don't think so.

7 BY MR. SMITH:

8 You've got a new financial statement and a new  
9 name?

10 BY MR. WHITTINGTON:

11 Got a second license and second number.

12 BY MR. SMITH:

13 They're applying for a second license.

14 BY MR. WHITTINGTON:

15 They're applying for a second license.

16 BY MS. LAZENBY:

17 Same classification?

18 BY MR. SMITH:

19 Same classification. They'll have to have two  
20 financial statements. Limits will have to be  
21 split between the two because they can't  
22 justify.

23 BY MR. WHITTINGTON:

24 We'll put that one on hold for just a minute  
25 and go on to the next one because I think it's

1 -- it's a BCA, small commercial -- again this  
2 is another financial discussion.

3 BY MS. GRAY:

4 Which company is it, Price Homes?

5 BY MR. WHITTINGTON:

6 Excuse me?

7 BY MS. GRAY:

8 Which company was it, Price Homes? I'm just  
9 looking at the -- you named them.

10 BY MR. WHITTINGTON:

11 Universal Builders. This one will really get  
12 you. Got \$163,544 in cash, one million nine  
13 hundred and twenty thousand dollars in  
14 accounts receivable. Making up a two million  
15 dollar assets line. They're seeking \$750,000  
16 license.

17 BY MR. MASON:

18 How much cash do they have?

19 BY MR. WHITTINGTON:

20 What brought all this up was they've got  
21 \$163,000 in cash. Bill, to answer your  
22 question, I questioned the accounts  
23 receivable, million nine hundred twenty  
24 thousand, which got them to 200,000.

25 Well, when I questioned their accounts

1           receivable, they sent back a new balance sheet  
2           that went to -- the first was an accrual  
3           method of accounting. When they sent an  
4           answer back they sent a cash only method of  
5           accounting back. So you can't keep two  
6           separate methods of accounting in a company.  
7           It sent up a big red flag to me. And to be  
8           honest, I haven't had a chance to study all of  
9           this.

10       BY MR. MASON:

11           Well, the very fact that we've got two methods  
12           of accounting would raise a question. It  
13           seems to me you could at least postpone this  
14           until they've made an explanation.

15       BY MR. WHITTINGTON:

16           I think with the Board's permission that's  
17           what I'd like to do, to give a little more  
18           time to look at that.

19                   Now I've got a couple here that I'm going  
20           to make recommendations for, these are home  
21           improvement licenses. The first one I metro  
22           Roofing made an application for a home  
23           improvement license. It was revealed during  
24           investigation that the principals of the  
25           company actually did admit to over 200 jobs

1           that they had completed in a home improvement-  
2           licensed county, Shelby County, over \$3,000,  
3           under 25,000. They've admitted to that.

4           I spoke with the owner this morning  
5           during an interview and told her that the  
6           recommendation I would be making, she seemed  
7           agreeable to that. I also encouraged her to  
8           wait six months before reapplication by my  
9           recommendation to the Board. This is home  
10          improvement license Number 7031; that we fine  
11          Metro Roofing \$5,000 for unlicensed activity,  
12          and deny issuance of the home improvement  
13          license at this time. That's a motion.

14 BY MS. DeBUSK:

15           Second.

16 BY MR. WHITTINGTON:

17           I have a motion and second, is there any  
18           discussion? All in favor say aye.

19           (AYES)

20 BY MR. WHITTINGTON:

21           Opposed likewise?

22           (NO RESPONSE)

23 BY MR. WHITTINGTON:

24           The next one I have is one that the Board -- I  
25           think we looked at it in March. It's SDS of

1 North Georgia. The company had been in some  
2 ways, as I've come to find out in the  
3 interview this morning, improperly and maybe  
4 unfairly located with American Shield, the  
5 company we had so much trouble out of last  
6 summer. They were former salespeople.

7 I have a great deal of concern with the  
8 fact that they were former salespeople, and  
9 would they bring their practices from American  
10 Shield over to SDS. They do have a  
11 practically spotless record with the BBB in  
12 Atlanta, the owner is out of Florida. He was  
13 in to meet to discuss with me this morning,  
14 they seemed very genuine and very sincere in  
15 their efforts to run a good company.

16 We did fine them for unlicensed activity  
17 back in March, I believe 5,000, of which they  
18 have paid the fine. And it would be my  
19 recommendation to the Board that for License  
20 Number 6707, that we approve and issue the  
21 license. And that is a motion.

22 BY MR. SMITH:

23 Second.

24 BY MR. WHITTINGTON:

25 I have motion and second, is there any

1 discussion? All in favor say aye.

2 (AYES)

3 BY MR. WHITTINGTON:

4 Opposed likewise?

5 (NO RESPONSE)

6 BY MR. WHITTINGTON:

7 Motion carries.

8 BY MR. MASON:

9 On that one, there was the expectation I think  
10 that once they had paid the fine, that they  
11 were going to get approval and get immediate  
12 -- go ahead and be approved right away to get  
13 their license. And I just want to be sure  
14 that no one has given that assurance without  
15 -- you know, the Board needs to make that  
16 decision, or at least the normal procedure on  
17 that.

18 No one should be told in advance what the  
19 Board may or may not do. Just to be sure we  
20 understand that. If they had that  
21 understanding, I assume it was a  
22 misunderstanding.

23 BY MR. WHITTINGTON:

24 I agree with you, Bill, because I can see how  
25 that could happen. Even maybe sitting there

1            talking with us, we may make a statement  
2            sometimes that when they get that fine paid  
3            everything will be okay. But we need to be  
4            careful. I'm probably as guilty -- maybe the  
5            guilty party of that because it may have been  
6            that I informed them that once they've done  
7            that, it would be taken care of.

8    BY MR. MASON:

9            Well, I read the transcript, and I think they  
10           actually appeared before the Board. I don't  
11           think that assurance was actually made, but  
12           they had that understanding. I just want to  
13           be sure that no one is -- it should be  
14           conditional when we talk to someone.

15    BY MR. WHITTINGTON:

16           The third one I've got is Done Rite Roofing &  
17           Restoration out of Olive Branch, Mississippi.  
18           They guys came in for an interview. They've  
19           been doing roofing in the Memphis, Shelby  
20           County area, which requires a home improvement  
21           license. They did not deny it. I spoke with  
22           them. I'm going to make a recommendation that  
23           we fine them \$3,000 for unlicensed activity,  
24           and I invited them to wait for a period of  
25           approximately six months before they reapply.

1           And depending upon how timely they paid the  
2           fine, as to how favorably the Board would look  
3           upon issuing the license. And that is a  
4           motion to deny, and a fine of \$3,000.

5 BY MR. BRODD:

6           Second.

7 BY MR. WHITTINGTON:

8           Motion and second, any discussion? All in  
9           favor say aye.

10          (AYES)

11 BY MR. WHITTINGTON:

12          Opposed likewise?

13          (NO RESPONSE)

14 BY MR. WHITTINGTON:

15          Motion carries. The last one is a home  
16          improvement license Number 7020. Bill and I  
17          interviewed this candidate just a little while  
18          ago, and I want to make a motion that we  
19          approve the license based upon our interview.

20 BY MR. MASON:

21          Second.

22 BY MR. WHITTINGTON:

23          Motion and second, any discussion? All in  
24          favor say aye.

25          (AYES)

1 BY MR. WHITTINGTON:

2 Opposed likewise?

3 (NO RESPONSE)

4 BY MR. WHITTINGTON:

5 The motion carries. Are there any other  
6 interviewed, waived or home improvement  
7 applicants? Questions or anything like that?

8 BY MS. LAZENBY:

9 I think we need the second one on record as  
10 being denied also. Would that be the case on  
11 Metro Roofing ---

12 BY MS. GRAY:

13 I must have stepped out.

14 BY MS. LAZENBY:

15 I thought he mentioned ---

16 BY MR. WHITTINGTON:

17 The second one?

18 BY MS. GRAY:

19 A Southern Roofing.

20 BY MS. LAZENBY:

21 A Southern Roofing and Metro Roofing, two  
22 different files, both on record?

23 BY MS. GRAY:

24 Right. Same owner applied for two separate  
25 places, so I guess we just need to make clear

1           that both are denied, and she had I believe a  
2           \$5,000 penalty is what you recommended.

3 BY MR. WHITTINGTON:

4           I'm sorry, I did forget that. That was part  
5           of the Metro Roofing. Under our home  
6           improvement licensing law, they're required to  
7           have a separate license for each county ---

8 BY MS. LAZENBY:

9           Each business location.

10 BY MR. WHITTINGTON:

11           They only had applied for another license, and  
12           I'll hopefully find that here.

13 BY MS. LAZENBY:

14           One's Metro Roofing and the other one is ---

15 BY MR. WHITTINGTON:

16           Southern Roofing?

17 BY MS. LAZENBY:

18           Yes.

19 BY MR. WHITTINGTON:

20           It's A Southern Roofing. And my  
21           recommendation to the Board would be then,  
22           since we've already handled Metro we need to  
23           deny A Southern Roofing, the license as well.  
24           That's a motion.

25 BY MR. MASON:

1 Second.

2 BY MR. WHITTINGTON:

3 Motion and second, any discussion? All in  
4 favor say aye.

5 (AYES)

6 BY MR. WHITTINGTON:

7 Opposed likewise?

8 (NO RESPONSE)

9 BY MR. WHITTINGTON:

10 Motion carries. Next item are Revisions.

11 BY MR. BRODD:

12 Scheduled and waived, I don't think we  
13 approved all of those.

14 BY MR. WHITTINGTON:

15 The interview, waived and home improvement ---

16 BY MR. BRODD:

17 We just talked about ---

18 BY MR. WHITTINGTON:

19 The question was, behind Tab 4, the rest of  
20 the scheduled interview and waived and home  
21 improvement applications, those that are  
22 approved, entertain a motion to approve those.

23 BY MR. HAYES:

24 So moved.

25 BY MR. BRODD:

1 Second.

2 BY MR. WHITTINGTON:

3 Is there any discussion? All in favor say  
4 aye.

5 (AYES)

6 BY MR. WHITTINGTON:

7 Opposed likewise?

8 (NO RESPONSE)

9 BY MR. WHITTINGTON:

10 The motion carries. Now to revisions.

11 BY MR. SMITH:

12 Let me ask one question on this one. Somebody  
13 help me that's smarter than I am, which could  
14 be everybody in the room. Encore Construction  
15 incorporated his license today in the State of  
16 Tennessee.

17 They have filed a new application for  
18 Encore Construction, LLC, and they have the  
19 financial wherewithal to back it up. There's  
20 two separate financial statements, one for the  
21 LLC and one for the INC. Is that okay,  
22 anybody?

23 BY MS. DeBUSK:

24 Why would they want INC and LLC?

25 BY MR. WHITTINGTON:

1 I think I know why, and now that Reese has  
2 brought this up, this is what came back to me.  
3 I think a lot of people go ahead and get a  
4 second license right before they run into  
5 financial difficulty, and therefore they can  
6 just drop one license and jump right over in  
7 and continue right on the same and still have  
8 a license. That's my personal opinion. Do  
9 you see it that way?

10 BY MR. SMITH:

11 However, we don't have any evidence unless you  
12 determine that. We have an applicant who's  
13 passed the test and has a financial statement.  
14 We could limit him to -- wants a million five,  
15 might limit him to 500 ---

16 BY MS. GRAY:

17 Or ask just for more information. If you want  
18 to just call him in for an interview.

19 BY MR. SMITH:

20 This one was already flagged by Keith.

21 BY MS. LAZENBY:

22 Do they have a letter of explanation?

23 BY MR. SMITH:

24 They do for income tax, federal income, one  
25 sentence, one sentence that says, "This is in

1 response to the attached letter." I guess we  
2 already questioned them, and they said, "The  
3 reason Encore LLC is applying for additional  
4 license as this allows for more flexibility in  
5 regards to federal income tax planning  
6 purposes."

7 BY MR. MASON:

8 Wouldn't some other change be more appropriate  
9 than separate license?

10 BY MR. SMITH:

11 He wants two licenses, one for his INC and one  
12 for his LLC.

13 BY MR. MASON:

14 Seems like they're competing against each  
15 other on bids.

16 BY MR. SMITH:

17 People used to do that for union and nonunion,  
18 but that's not as ---

19 BY MS. LAZENBY:

20 We have several contractors that have more  
21 than one license, but they had them for years.

22 BY MR. SMITH:

23 And there's separate financial statements, you  
24 have to. They both can't work on the same  
25 working capital. He's put \$150,000 in this

1           LLC to crank it up.

2   BY MS. LAZENBY:

3           Did you ask them -- when they have a mode  
4           change they have to sign affidavits saying  
5           that all the liabilities of the other entity  
6           have been covered. Did you ask for special --

7   BY MR. SMITH:

8           Initially.

9   BY MS. LAZENBY:

10          For more protection in case ---

11   BY MR. SMITH:

12          I sort of know the family. They've got their  
13          personal guarantee in here on this note.  
14          They've got a negative working capital on the  
15          personal guarantee. I know a lot of people  
16          do, but they've got 50 percent of net worth is  
17          well over what they need. So because of that,  
18          they didn't put -- they just counted on  
19          \$150,000 cash. I'm not sure this needs entire  
20          Board approval at this point.

21                 Maybe we ought to have further  
22          discussion, maybe we ought to call them in in  
23          November. That's what I'm going to do on this  
24          one, just keep looking and then ask them to  
25          appear in November. They're from the Franklin

1           and Brentwood area, and if all they need is  
2           for income tax purposes it will help them just  
3           as much in November as September.

4 BY MR. WHITTINGTON:

5           Under your revisions tab, that will be your  
6           add classes, combinations, mode, name changes,  
7           hardships. Any questions on any of those? If  
8           none, I'll entertain a motion to approve.

9 BY MR. BRODD:

10           So move.

11 BY MR. MASON:

12           Second.

13 BY MR. WHITTINGTON:

14           Motion and second. All in favor say aye.

15           (AYES)

16 BY MR. WHITTINGTON:

17           Opposed likewise?

18           (NO RESPONSE)

19 BY MR. WHITTINGTON:

20           Behind Tab 6 -- motion carries, I'm sorry.

21           Behind Tab 6 are the LLEs.

22 BY MS. DeBUSK:

23           I would like to make the following in the form  
24           of a motion. License Number 18519, hold  
25           pending a successful exam score. 51650 hold

1 pending successful exam score; and 55755 hold,  
2 need a detailed explanation of the felony  
3 charge, and need an exam score. All others  
4 behind Tab 6 are approved. That's in the form  
5 of a motion.

6 BY MR. WHITTINGTON:

7 I have a motion, do I have a second?

8 BY MR. MASON:

9 Second.

10 BY MR. WHITTINGTON:

11 Motion and second, any discussion? All in  
12 favor say aye.

13 (AYES)

14 BY MR. WHITTINGTON:

15 Opposed likewise?

16 (NO RESPONSE)

17 BY MR. WHITTINGTON:

18 Behind Tab 7 are the LLP applicants. Don't  
19 have any. Then we'll move on to our legal  
20 report, Jenny.

21 BY MS. GRAY:

22 The residential subcommittee has reviewed the  
23 residential portion of the legal report, and  
24 has made the following changes:

25 Item Number 10 on the legal report, which

1 is on Page 4. I had it marked for discussion,  
2 and it's been recommended that we authorize a  
3 \$30,000 consent order along with a formal  
4 hearing.

5 Item Number 23 on Page 7, it was marked  
6 for \$1,000 civil penalty. It's been  
7 recommended that we issue a \$500 civil  
8 penalty, along with authorization for formal  
9 hearing.

10 Number 25 also on Page 8, it's marked for  
11 discussion, and it's been recommended to  
12 revoke the limited electrical license for that  
13 contractor.

14 On Item Number 32, Page 10, it was marked  
15 for discussion, a letter of warning has been  
16 recommended.

17 Item Number 40 on Page 12, it was marked  
18 for discussion. It's a letter of warning was  
19 recommended.

20 Item Number 44 on Page 15, it was marked  
21 for a \$5,000 consent order, and it was  
22 recommended \$2500 consent order be sent, along  
23 with authorization for formal hearing.

24 Item Number 57 on Page 21, it was marked  
25 for discussion and it's been recommended that

1 we send a letter of warning. And Item Number  
2 64, which is on Page 24, it was marked for  
3 discussion and a letter of warning has been  
4 recommended.

5 The commercial subcommittee has reviewed  
6 the commercial portion of the legal report and  
7 made the following changes:

8 Number 1 was marked for discussion and a  
9 letter of warning has been recommended.

10 Number 3 on Page 26, it's been recommended  
11 that we hold any renewal on this license, and  
12 also issue a \$2,000 consent order.

13 Item Number 4, a letter of warning was  
14 recommended, and the commercial subcommittee  
15 changed that to a \$1,000 consent order along  
16 with authorization for formal hearing.

17 Item Number 7, it was recommended for  
18 closure, and the commercial subcommittee  
19 recommended a letter of warning. And for Item  
20 Number 9 on Page 28, it was marked for  
21 discussion.

22 And for Case Number 2011018531, it was  
23 marked for a letter of warning or recommended  
24 letter of warning. And for Case 2011018541,  
25 the subcommittee recommended a \$500 consent

1 order.

2 And we have an addendum in your books,  
3 but the chairman has already gone over that  
4 one, and it was recommended that they pay  
5 \$5,000 civil penalty for unlicensed  
6 contracting, and their license was also denied  
7 by the Board. And that's all I have for the  
8 legal report.

9 BY MR. WHITTINGTON:

10 Rules and regulations draft.

11 BY MS. GRAY:

12 Yes, that's in your book. Did you want to do  
13 the vote for the legal report before I move  
14 on?

15 BY MR. WHITTINGTON:

16 I didn't know this needed to be part of the  
17 vote, too.

18 BY MS. GRAY:

19 No, I mean they're separate, total separate  
20 issues.

21 BY MR. WHITTINGTON:

22 Do I have a motion then we approve the legal  
23 report?

24 BY MR. SMITH:

25 The commercial and residential?

1 BY MR. WHITTINGTON:

2 Yes.

3 BY MR. SMITH:

4 So moved.

5 BY MR. HAYES:

6 Second.

7 BY MR. WHITTINGTON:

8 Motion and second, any discussion?

9 BY MR. BRODD:

10 I had a question on Item 3 of the commercial.

11 I think you said \$2,000 consent order, Jenny,

12 and to approve the 2500.

13 BY MS. GRAY:

14 That's right, I need to correct that, I

15 apologize. For Item Number 3 on the

16 commercial portion, the subcommittee

17 recommended a \$2500 consent order as opposed

18 to 2,000, which was wrong. Sorry about that,

19 2500.

20 BY MR. WHITTINGTON:

21 Any other discussion? All in favor of

22 approval -- did have a second. All in favor

23 say aye.

24 (AYES)

25 BY MR. WHITTINGTON:

1           Opposed likewise?

2           (NO RESPONSE)

3           BY MR. WHITTINGTON:

4           So moved.

5           BY MS. GRAY:

6           You want me to discuss the rules now?

7           BY MR. WHITTINGTON:

8           Yes.

9           BY MS. GRAY:

10           I got with Carolyn since the last meeting and  
11           just went over the rules that she felt like,  
12           and I felt like too, that the Board needed. I  
13           think these have been drafted and reviewed by  
14           previous attorneys, and I'm not sure who and  
15           when but a lot of these were already in  
16           existence in a draft form anyway.

17           So I just went ahead and put them in, you  
18           know, a rough draft but still, you know, I'm  
19           preparing as much as I can to go ahead and get  
20           these ready to file. But this is the first  
21           time I've brought them to the Board so I just  
22           wanted any suggestions from you, any comments.

23           The first one is just an amendment to our  
24           standing rule regarding payments that  
25           applicants have to make when they file their

1 application. And the fee changes would be  
2 adding these three fees. Basically you could  
3 file for any name change, any adding classes  
4 or increase the monetary limitations. Right  
5 now it's free; correct, so it's been suggested  
6 that we charge \$100 for those applications.

7 I understand that -- I think fee  
8 increases are highly scrutinized right now by  
9 the legislature. I don't know if this would  
10 be -- if they would consider it appropriate or  
11 not, it's just something you all have more  
12 experience with than I do. So I don't know.  
13 A hundred dollars I think is what Carolyn  
14 thought was reasonable in comparison to the  
15 other charges.

16 BY MR. WHITTINGTON:

17 I thought we voted ---

18 BY MS. LAZENBY:

19 Yes, the Board ---

20 BY MR. WHITTINGTON:

21 --- quite a long time ago.

22 BY MS. GRAY:

23 Right, these are rules that have been -- you  
24 know times -- I don't know when it was  
25 approved by the Board.

1           Another rule that I looked at is adding  
2           some information about when the Board required  
3           guarantee agreements. It's something that  
4           I've been confused about, so I really wanted  
5           to get down on paper about when the Board  
6           allows you to give those to, you know,  
7           supplement your financial information.

8           So a lot of the rules are the same, if  
9           you just read there, regarding how we set  
10          monetary limitations. That I just added  
11          Part 3, which really goes into the times when  
12          you all will allow guarantee agreements to  
13          stand for something. I also put like a  
14          catchall in there that just says you all  
15          reserve the right to accept or decline  
16          depending on individual circumstances.

17          I also added something about accounts  
18          receivable. Since we were discussing that  
19          today, I thought it would be a good time to  
20          bring it up. I've noticed just in the past  
21          that it seems like three months or 90 days was  
22          kind of a standard that some of the Board  
23          members were comfortable with.

24          It is a general principle of accounting,  
25          from what I've seen, and I'm not an expert on

1           accounting but I just asked our in-house  
2           staff, that the accounts receivable can be  
3           used up to a year if their capital, their  
4           working capital is no more than a year old.

5                     But it seems like from what I've seen  
6           with these applications, that the Board's more  
7           comfortable with 90 days or less, so I was  
8           going to put that in a rule so people would  
9           know beforehand not to bother to turn those in  
10          if they're over three months old. I don't  
11          know after discussion today if that's a good  
12          time period or not.

13                    I completely reworked the class  
14          Appendix A because we had several little  
15          things we wanted to add throughout it. One of  
16          them was -- I'm going to try to do a new rule  
17          on the limited residential license because I  
18          do think that's something that we issue a lot,  
19          but we don't have any specific rule on it and  
20          we should according to the statute. So I can  
21          go over that in just a second.

22                    I changed -- just make a little  
23          housekeeping changing the small commercial for  
24          500,000 to 750, which is what we issue right  
25          now. I made roofing category BC 21 to include

1 gutters and vinyl siding. I think that's what  
2 we said in the past. I add on Page 6 solar,  
3 HVAC to the HVAC, refrigeration and gas piping  
4 classification under mechanical. I think  
5 Carolyn just thought that was a logical place  
6 to put it.

7 I also put a note on top of Page 7 that  
8 even if you get our license for the low up to  
9 70 volts low voltage, that you still have to  
10 get that separate license for alarm systems.  
11 I think that's been questioned in the past.

12 Then also in the middle of that page,  
13 specialty licenses. We are supposed to have  
14 rules on these. I know that we've issued them  
15 for years without rules. And what I've tried  
16 to do is list the ones -- I've looked at -- we  
17 have hundreds of these and I've looked at  
18 Carolyn's list and tried to just really put  
19 down the really general category, as general  
20 as I could get. These do not limit us. It  
21 says there the specialty licenses are included  
22 but not limited to these. I'm just trying to  
23 give people a better idea of what they might  
24 need a license for in this state. Go ahead.

25 BY MR. SMITH:

1           This is the first time I've seen these.  Some  
2           of these tower construction, that's already in  
3           the tower and stack HC.

4  BY MS. GRAY:

5           Yeah, we've ---

6  BY MR. SMITH:

7           I mean telephone booths weren't getting  
8           installed.  Restoration of historical  
9           structures, isn't that BC somewhere?

10 BY MS. GRAY:

11          Yeah, I'm not saying ---

12 BY MR. SMITH:

13          Landfill construction, I think we already have  
14          some of this.

15 BY MS. LAZENBY:

16          I think what she did is she went through all  
17          the licenses that the Board's already issued  
18          over the years that have a specialty  
19          classification.

20 BY MR. SMITH:

21          I think I've probably done some S when I was  
22          in a big hurry and couldn't find it, and a lot  
23          of other things.  I think we need to take  
24          commercial lighting.

25 BY MS. GRAY:

1 All I know is they've been issued that way in  
2 the past, so I thought it might be better. I  
3 mean people cannot look at our general  
4 classifications in 112 in the statute and tell  
5 from a common sense view, oh, I need a license  
6 for this work ---

7 BY MR. SMITH:

8 I understand, I think we need to move on with  
9 welding.

10 BY MS. DeBUSK:

11 When you looked, I mean, did you -- like one  
12 person had been issued a specialty commercial  
13 so ---

14 BY MS. LAZENBY:

15 I don't know if I can tell -- it doesn't show  
16 that ---

17 BY MS. GRAY:

18 She's just got a spreadsheet of all the ---

19 BY MR. SMITH:

20 We might go back and correct the S and put  
21 them under BC.

22 BY MR. WHITTINGTON:

23 Yes, because there are a lot of things and if  
24 you want to get with me, we can talk about  
25 these because a lot of them have no business

1           being under specialty because it keeps someone  
2           from having to take a test, and they really  
3           need to be a licensed general contractor on  
4           some of these electrical, whatever. There's  
5           too many ifs right here.

6   BY MR. SMITH:

7           Carry on, but I think that needs a lot more  
8           study.

9   BY MS. LAZENBY:

10          We probably need to go over that specialty  
11          list ---

12   BY MS. GRAY:

13          Carolyn and I can get together.

14   BY MS. LAZENBY:

15          --- instead of giving them a ---

16   BY MS. GRAY:

17          And going forward, that's something we can  
18          really concentrate on. On Page 8, the rule  
19          goes into a lot about gas, special gas piping  
20          and medical gas piping, insulation. And at  
21          the very bottom it said we charge like a five  
22          dollar fee for some type of application.  
23          Carolyn said that's never been utilized and we  
24          took it out because it's just not something  
25          we've used before. They just would pay their

1 rate of application fee. I'm not sure why the  
2 five dollars was in there, it may have just  
3 been a holdover from some other time.

4 The license requirement for property  
5 owners. I've come across several cases with  
6 property owners who are under the impression  
7 that they can build their own commercial  
8 business without a license because they own  
9 the property. And it's a very -- it can get  
10 confusing. I thought what I'd put here, put  
11 as clearly as I can tell people the difference  
12 between building something for use by the  
13 general public and building something for your  
14 own individual use. So that's what I was  
15 trying to do there. It goes with what I  
16 believe the Board has decided in the past.

17 Then grounds for disciplinary action.  
18 Again this is not a -- this is just a  
19 guideline for contractors. It does not limit  
20 us. It says the acts include but are not  
21 limited to. But I was just trying to put down  
22 some grounds that I see over and over again in  
23 these complaints. I think it might make it  
24 easier for Michael to prosecute on these if  
25 we've got them in the rules. And you can read

1           them there, they're pretty general.

2   BY MR. SMITH:

3           Number 2 bothers me. I'm covering my own  
4           tracks, but you get a condo association --  
5           you'll get 33 ---

6   BY MS. GRAY:

7           And that's a good point, I wanted -- I mean if  
8           you want me to take that out completely I can,  
9           or unless you might want to add something. I  
10          guess I just think, from what I see, when is  
11          it wrong for a contractor to build homes and  
12          then just drop the warranty. I mean do we  
13          want to lay that to civil litigation? I've  
14          seen, not all the time ---

15   BY MR. SMITH:

16          That would still be under our law, improper  
17          dealings or ---

18   BY MS. GRAY:

19          I'm not saying it's not under law, but Michael  
20          has to get an expert for every little thing  
21          now. And if I have it in the rules  
22          specifically, he might not have to do that.  
23          It might just be easier to give these guys,  
24          the ones that are -- I'm not saying I'm going  
25          to go forward on, or bring every case that you

1           got a couple of warranty problems.  But I'm  
2           just saying ---

3  BY MR. SMITH:

4           So where are we on this?  This is our first  
5           pass at it?

6  BY MS. GRAY:

7           Yeah, and I'm just ---

8  BY MR. SMITH:

9           You're not filing them with the Secretary of  
10          State ---

11  BY MS. GRAY:

12          No.

13  BY MR. MASON:

14          If you just added -- Number 2 there, would  
15          that resolve your issue ---

16  BY MR. SMITH:

17          You can just -- they might be right.

18  BY MS. GRAY:

19          You have full discretion as the Board to say  
20          this is not what we need.

21  BY MR. SMITH:

22          I hear you.

23  BY MS. GRAY:

24          I just think with the contractors ---

25  BY MR. MASON:

1           Maybe if you left out three, I don't know.

2           Flag that one, we need to have more  
3           discussion.

4   BY MS. GRAY:

5           Do you want me to go over more of those, or  
6           are you all just looking at it ---

7   BY MR. MASON:

8           --- bring up the issues.

9   BY MS. GRAY:

10          One item I have a question about right now  
11          looking back, failure to pay civil judgment  
12          rendered by court if related to the  
13          contracting industry. Again, you might find a  
14          case where you don't agree with that. You may  
15          think no, that's not misconduct in this case,  
16          but I do see sometimes where it is, and they  
17          shut down the company and they move on and  
18          file a new license application and they're  
19          done. And they never paid that old judgment.  
20          So I think sometimes it needs to be out there  
21          that that could be considered misconduct by  
22          the board.

23                 Also, failure to respond to customer  
24          inquiries regarding completion of work,  
25          dissatisfaction with quality of work. Again,

1 I see cases where I would not recommend that  
2 the board move forward with this one because I  
3 think it's, you know, misunderstanding, monies  
4 owed or whatever. But in some cases I really  
5 do see guys just have done with your house, I  
6 don't want to hear your complaints, I'm moving  
7 on and that's it, and never really  
8 cooperating.

9 I was really putting that rule in there  
10 for those more egregious cases. Also, to try  
11 to do a catchall for these guys that are  
12 pulling permits for unlicensed workers. I  
13 just put simply pulling a permit, any of these  
14 kind of permits in which an unlicensed  
15 contractor is acting as a general contractor  
16 on the job.

17 Going down, we of course issue hardship  
18 licenses every meeting, and the director has  
19 that power to do that, and you all approve it  
20 later. I just thought it needed to be in the  
21 rule. It does need to be in the rule  
22 according to statute, so I just pretty much  
23 set out exactly what we do with the hardship  
24 licensing in this rule.

25 Then the last one is what I talked about

1 earlier, putting a rule in there describing  
2 what the limited residential license is, and  
3 exactly what I understand, you know, our  
4 requirements are for it. Carolyn and I did  
5 discuss upping that to a hundred thousand. I  
6 didn't know what you all thought about that.

7 BY MR. WHITTINGTON:

8 I didn't think much of it.

9 BY MS. GRAY:

10 You think it needs to remain the same?

11 BY MR. SMITH:

12 This does require is it two years from the  
13 issuance and that's it, you're out of  
14 business?

15 BY MS. GRAY:

16 That's what I understand ---

17 BY MR. SMITH:

18 That's the first time I've really seen it.

19 BY MS. GRAY:

20 So do people agree with the chairman that it  
21 needs to remain at 70,000?

22 BY MR. WHITTINGTON:

23 The purpose and the intent behind the little R  
24 license was for people to do small jobs and  
25 learn the construction trade, get their feet

1           wet with the hopes they would go ahead and  
2           take the full BCA exam, and move on into a  
3           licensed contractor and drop their little R  
4           status.

5   BY MS. GRAY:

6           I think just for economic reasons we thought a  
7           hundred thousand -- I mean I don't know, can  
8           you build a house for 70,000? Is it meant to  
9           build a house, small house? I don't know.  
10          That's kind of a historical thing.

11   BY MS. LAZENBY:

12          That was what their original intent was for  
13          those who could not read and write in rural  
14          counties, to build a \$70,000 house without  
15          having to take a test and attend a course. So  
16          that's the original intent, and that's been  
17          like 15, 20 years ago.

18   BY MS. GRAY:

19          I think it's a good license. As long as we've  
20          got it in a rule, we can keep it at what we  
21          got in there. That was just a suggestion, but  
22          if you all want me to keep it at 70,000 in the  
23          rule, I can.

24   BY MR. SMITH:

25          What keeps a fellow from reapplying? Or

1           should we address it, if he could hang out a  
2           year and then reapply for a limited license.

3   BY MS. GRAY:

4           Well, it says no renewal rights. Here's the  
5           thing. If we're doing it for the reason that  
6           Carolyn just said, I don't know if the reason  
7           ends after -- I mean I don't know what you  
8           want to do about that. I could put something  
9           in there that says you can't reapply, but are  
10          we waiting for them to learn how to read?

11   BY MR. SMITH:

12          If a guy wants to get around it ---

13   BY MS. GRAY:

14          Yeah, I mean I ---

15   BY MR. SMITH:

16          It expires and he tries -- I guess he could do  
17          it under a different ---

18   BY MS. GRAY:

19          I guess I could put an application can be  
20          filed again, but it's within the discretion of  
21          the Board on whether to -- I just think we've  
22          seen some cases where the Board had some  
23          sympathy with people who could not pass the  
24          trade exam, so that's why it's here. But  
25          that's a good point. I'll put something in

1 about reapplication.

2 BY MR. SMITH:

3 They could change the name like they do on  
4 bankruptcies.

5 BY MS. GRAY:

6 Did anybody else have anything? I know I kind  
7 of went through these quickly, but there's  
8 nothing that I was -- I went with our history  
9 on how I think the Board has ruled in the  
10 past, so everything is just pretty much  
11 putting what we do on a regular basis in the  
12 rules. Just to put people on notice.

13 BY MR. MASON:

14 I would say on Page 3, the start of the new  
15 rule, number one, that I would prefer if you  
16 change "will" to "may."

17 BY MS. GRAY:

18 The monetary limitation?

19 BY MR. MASON:

20 Yes.

21 BY MS. GRAY:

22 Just number one?

23 BY MR. MASON:

24 Yeah, "may" be determined.

25 BY MS. GRAY:

1 Well, that's what the rules says right now.

2 BY MR. MASON:

3 Well, I know that and I've read the rule since  
4 the last meeting, and I still think it should  
5 be "may." I had some experience with "will"  
6 and "may" in the law, and the Board needs as  
7 much flexibility as we can use. We say "will"  
8 and I think we open ourselves -- I'm surprised  
9 it hasn't happened before now.

10 BY MS. GRAY:

11 Okay, I'll note that.

12 BY MR. WHITTINGTON:

13 Can you e-mail these to the Board members and  
14 let them ---

15 BY MS. GRAY:

16 We did.

17 BY MR. WHITTINGTON:

18 You did?

19 BY MS. GRAY:

20 Uh-huh. But I can do that again.

21 BY MR. WHITTINGTON:

22 Was that in Carolyn's e-mail? I haven't had a  
23 chance to look at the whole thing, I just  
24 opened up the agenda and went on.

25 BY MS. GRAY:

1 But I can go ahead -- if I can get -- I mean  
2 this is moving quick, so I can't push you all  
3 because I mean it's a big deal. But if I  
4 could get full approval with the November  
5 meeting, then I could have the hearing in  
6 January. If I can't, then that moves it ---

7 BY MR. WHITTINGTON:

8 I think that the one thing that would help you  
9 more than anything is to get it out to have  
10 plenty of time to review besides a week.

11 BY MS. GRAY:

12 Yeah.

13 BY MR. WHITTINGTON:

14 You know, make it two or three weeks.

15 BY MS. GRAY:

16 This was not supposed to be the full approval  
17 so I understand ---

18 BY MR. WHITTINGTON:

19 And we can, you know, help out when we have  
20 more time to read it.

21 BY MR. SMITH:

22 Just remember we heard this the other day, the  
23 trend now is for less regulation instead of  
24 more. So if we tighten some stuff up it might  
25 be right, but it might not pass.

1 BY MR. MASON:

2 All I have to say the reason I attended the  
3 rule making, approval of the legislature, I  
4 expected all kinds of issues and problems that  
5 didn't occur. But you never know with the  
6 legislature ---

7 BY MS. GRAY:

8 Yeah, I ---

9 BY MR. MASON:

10 Unpredictable.

11 BY MS. GRAY:

12 I think you're right. You just have to let me  
13 know -- I just don't think any of these are  
14 really that inflammatory, I mean except for  
15 one that has the fees. These are things we do  
16 on a regular basis, so I hope we don't have  
17 any problems with it. But yeah, I'll mail  
18 this out just as soon as I get back to the  
19 office and then everybody will have plenty of  
20 time to look at it. Well, let me make my  
21 changes and Carolyn and I will go over the  
22 specialties a lot closer and we'll try to get  
23 that tightened up.

24 Mr. Chairman, can I address the Board  
25 about the ALJ? I just have that in there on

1 the agenda.

2 BY MR. WHITTINGTON:

3 Okay.

4 BY MS. GRAY:

5 Unless you think there needs to be a vote on  
6 these. I don't think -- there's not really  
7 any decisions being made on those.

8 The ALJ -- I just wanted to discuss the  
9 formal hearing status. Michael has about 50  
10 right now lined up, so we've whittled it down  
11 quite a bit since I came here, and he was able  
12 to really fully concentrate on those. Twelve  
13 out of 48, these numbers are loose,  
14 approximate, are unlicensed or over limit  
15 cases, so I didn't know if the Board might be  
16 open to letting an ALJ hear the unlicensed  
17 cases, maybe just home improvement unlicensed  
18 cases or any variation, because it's just a  
19 matter of logistics.

20 You know, you all meet six times a year,  
21 and with 48 cases -- those are ones that  
22 Michael and I just -- that's it, there's  
23 really not much more to do. But you might  
24 consider an ALJ being the hearing as opposed  
25 to the Board. That's really just all I have

1 to say about it.

2 We also have cases where a license has  
3 expired, let's say, at the end of this month.  
4 We don't know if they're going to renew. We  
5 have to sort of keep it open for a year to  
6 see, because we don't want to give up if  
7 they're going to renew. There's still  
8 something there. And that's another set of  
9 cases that you might want to consider. So I  
10 was just going to open that up to you all if  
11 you want to discuss it.

12 BY MR. WHITTINGTON:

13 What does the Board feel?

14 BY MR. MASON:

15 I wouldn't like to delegate out  
16 responsibilities we were put here to carry  
17 out. I'm mindful also that everyone else on  
18 this panel and the Board is a business owner,  
19 and their time is valuable. So we have to  
20 come to a balance on that. But I'm not so  
21 sure I particularly like the idea to delegate  
22 that out to a marked degree. My personal  
23 opinion.

24 I'm willing for us to -- I assume that  
25 our bylaws would allow us to schedule other

1 meetings, other than six a year. Maybe we  
2 need to have a few days of dedicated meetings  
3 to clear this agenda, which I'm willing to do.  
4 But on the other hand, like I said, I'm very  
5 mindful that time is money for successful  
6 contractors like most on this Board. So I  
7 don't necessarily have -- that's just my  
8 thoughts on that.

9 BY MR. SMITH:

10 I'm less reluctant, not all reluctant but less  
11 reluctant on the unlicensed activity. In fact  
12 up until recently we didn't even know we had  
13 any jurisdiction over unlicensed activity.  
14 Probably 99 percent of those aren't going to  
15 show, so we're going to have to send them up  
16 here, get here and go home. But on the dozen  
17 or so that you're talking about that are  
18 unlicensed and ---

19 BY MS. GRAY:

20 Over limits.

21 BY MR. MASON:

22 --- over limit, but the public has not filed a  
23 complaint necessarily. But they could have.  
24 I'm probably less reluctant on those dozen  
25 than I am on the other.

1 BY MS. LAZENBY:

2 It's something you could try.

3 BY MR. MASON:

4 They're not going to show. Most of those  
5 unlicensed guys are going to get some legal  
6 advice and they're not going to show.

7 BY MS. DeBUSK:

8 Allow a law judge ---

9 BY MS. GRAY:

10 Administrative law judge. So it would be the  
11 person that you all -- you know, one of those  
12 people that you all see at the hearings.

13 BY MS. DeBUSK:

14 So we would -- we're hoping the law judge will  
15 have some knowledge of construction to make a  
16 good decision ---

17 BY MS. GRAY:

18 No, unlicensed contractor.

19 BY MS. DeBUSK:

20 Oh, just for unlicensed.

21 BY MR. SMITH:

22 And over limit.

23 BY MS. GRAY:

24 And over limit, which for a long time before  
25 we used the term over limit, and if you go to

1 court about these cases, a court would say  
2 your license does not go up to this limit or  
3 over this limit so what you're doing is  
4 unlicensed contracting. So that's why I sort  
5 of put those together. But you could choose  
6 specifically which cases, like I said, loosely  
7 12 out of 48; so we'll say 15 out of 50 are  
8 these unlicensed cases.

9 I propose that there might be more teeth  
10 behind our law if the cases are heard faster.  
11 I know attorneys are telling their clients  
12 don't worry about it, they're not going to get  
13 to you for years; don't worry about it. You  
14 might be dead by then. Whatever. I'm just  
15 saying there's no teeth sometimes with the  
16 unlicensed people.

17 And like he said, they don't show up,  
18 that's still going to happen. But there  
19 really are cases out there where they are not  
20 paying any attention to us because their  
21 attorneys or whoever, their friends, have  
22 advised them that we take so long to get to  
23 those cases.

24 BY MS. DeBUSK:

25 So if an ALJ for over license limit, is that

1 black and white? Either you did do this or  
2 you didn't. Your license is X amount, you  
3 were either over it or you were not.

4 BY MS. GRAY:

5 Usually. The best argument I see is well, I  
6 started it. The contract started at this  
7 amount, and then they did change orders, so it  
8 does get a little bit hazier. You know, I  
9 know that all the other boards -- and there  
10 may be a couple -- nearly all the other boards  
11 let an ALJ hear some of the cases. But I  
12 don't know the specifics about it. Obviously  
13 the ALJs education themselves about the law,  
14 but I can't promise.

15 That's why I thought maybe to start out  
16 with, you might just want to do the unlicensed  
17 home improvement cases, because the penalties  
18 are lower. That is something we have a big  
19 problem with, nobody's paying attention to  
20 that law. You might get a little more ---

21 BY MR. MASON:

22 Yet today, this afternoon and tomorrow formal  
23 hearing time is schedule and you've not ---

24 BY MS. GRAY:

25 Because we did not think we'd have a quorum.

1           We have to notify people before the judge and  
2           everybody.

3   BY MS. LAZENBY:

4           We weren't sure about a quorum. We only had  
5           four people when it was deadline time, to tell  
6           the judge and the others.

7   BY MR. SMITH:

8           I can only think of once a long time ago that  
9           we didn't have a quorum.

10   BY MS. GRAY:

11           We had one last year -- we had ---

12   BY MR. SMITH:

13           That was the first and we haven't had one  
14           since.

15   BY MS. GRAY:

16           Yeah, I can't say except we thought we didn't  
17           have a quorum.

18   BY MS. LAZENBY:

19           It didn't look good that we were going to have  
20           a quorum. Jerry and Mark saved the day.

21   BY MR. SMITH:

22           Is there an appeal -- I mean if an ALJ, say,  
23           if they rule and we read the case and see  
24           their ruling, does that stand?

25   BY MS. GRAY:

1 I think it does stand. I think possibly if  
2 the contractor appeals it might come to you  
3 all. I may be wrong about that, but I don't  
4 think there's an appeal process for you all.  
5 If there was, I'd be jumping up and down  
6 because I know ---

7 BY MR. MASON:

8 I can't imagine they would allow, the civil  
9 judge would allow us to overrule a favorable  
10 decision on behalf of ---

11 BY MS. GRAY:

12 I don't think there's an appeal process.

13 BY MS. DeBUSK:

14 So you're asking us if we are in agreement to  
15 allow an ALJ to oversee some unlicensed  
16 activity cases.

17 BY MS. GRAY:

18 Yes, whichever you all -- I think unlicensed  
19 cases in general, over 25,000 -- over 3,000  
20 would help us most, but if you're tentative  
21 about it and you just want to do home  
22 improvement, you could do that or nothing.  
23 It's just something to whittle this number  
24 down because I think for years there were no  
25 formal hearings at all. Now we're just trying

1 to get them cranked out basically.

2 BY MS. DeBUSK:

3 What do you think for unlicensed activity ---

4 BY MR. HAYES:

5 How many -- when we started working on this

6 how many cases were pending?

7 BY MS. GRAY:

8 Over a hundred if not -- there's going to be

9 -- when I came in it was just out of control

10 because of just they sat there for so long.

11 We whittled it down easily with people who

12 weren't in business anymore, just did not

13 exist anymore. And older cases, you know.

14 And that was another suggestion. Sometimes

15 you all I've seen become frustrated when it's

16 an old, old case.

17 But I hate to -- it still could be

18 workmanship. I do think the board needs to

19 hear the workmanship cases, because I've seen

20 you all have the experience and knowledge of

21 the industry.

22 BY MR. MASON:

23 I could see perhaps turning over some

24 unlicensed, but I'm real reluctant with

25 anybody who does have a license.

1 BY MS. GRAY:

2 Yeah, I think that's ---

3 BY MR. MASON:

4 I'm reluctant on that. But I could be  
5 persuaded on the unlicensed activity.

6 BY MS. GRAY:

7 Like I said, if you see results you don't  
8 like, I mean as far as I -- approve it now to  
9 be rescinded later ---

10 BY MR. MASON:

11 Well, I do think we ought to all review what  
12 the ALJ is doing, make sure it's satisfactory.

13 BY MS. LAZENBY:

14 Will a lot of these be like unpaid citations?

15 BY MS. GRAY:

16 Yes, I assume. It's hard for me to know  
17 exactly how Michael will approach it, but  
18 she's right, it may be where he can set a date  
19 with the judge and take care of several cases  
20 in one day, which is a huge deal.

21 BY MR. SMITH:

22 We've already ruled on and said they'd be ---

23 BY MS. GRAY:

24 Yes, so you've had that.

25 BY MR. MASON:

1           And also I'd like to say if we can get this  
2           backlog cleared out, then let's review whether  
3           we want to continue with an ALJ. And really  
4           make a strong commitment to use our formal  
5           hearing time. That way you already have a  
6           schedule. I understand what you're saying, I  
7           guess, we have six of nine members here, which  
8           is well above quorum.

9       BY MS. GRAY:

10           I do think there needs to be probably a roll  
11           call vote on that if you all want to, to  
12           approve or disapprove it.

13       BY MR. WHITTINGTON:

14           I think we need a motion.

15       BY MR. MASON:

16           Jenny, are you going to try to do them in a  
17           certain order, the oldest ones first?

18       BY MS. GRAY:

19           It'll be up to Michael and I assume -- I mean  
20           he's pretty good about ---

21       BY MR. MASON:

22           Or will it be up to us? Seems to me ---

23       BY MS. GRAY:

24           It's been up to Michael. Up until now you all  
25           have not really directed him in that way, but

1 if you want to that's fine.

2 BY MR. MASON:

3 I'm not sure we should, but I guess it -- they  
4 ought to be about ready by now.

5 BY MS. GRAY:

6 Yeah, I think they're going to be ready. I  
7 don't know if Michael might base it on people  
8 -- I mean ---

9 BY MR. MASON:

10 You've got 48 you say?

11 BY MS. GRAY:

12 Well, 12 out of 48 are unlicensed. So the  
13 rest of them are something that does not  
14 involve ---

15 BY MR. SMITH:

16 How many of them -- you might not know, you  
17 can let us know -- are just a fine that hasn't  
18 been collected, uncollected fine?

19 BY MS. GRAY:

20 I mean I think all of them have -- let me just  
21 say all of them have been shown to you all.  
22 You've authorized some consent order along  
23 with the formal hearing. And I just think  
24 they've been ignored or -- I mean mostly  
25 ignored. I can't think of any other

1 unlicensed cases that were still ---

2 BY MR. SMITH:

3 So there are cases that we've seen where  
4 there's a \$2500 fine or formal hearing.

5 BY MS. GRAY:

6 Right.

7 BY MR. SMITH:

8 And we sent a letter -- you sent a letter and  
9 they just haven't responded.

10 BY MS. GRAY:

11 Right. And if they did ---

12 BY MR. SMITH:

13 So if we set a hearing date they're probably  
14 not going to respond.

15 BY MS. GRAY:

16 Well, let me just say this. If they  
17 disappeared off the face of the earth, and  
18 I've never heard anything about that, don't  
19 have any certified mail receipt or can't  
20 locate them at all, I will usually bring them  
21 back to you all and we close and flag it.  
22 That's just what I do.

23 So these cases are ones that I think  
24 there's merit to find them. I think they're  
25 out there, they know what's going on. And

1           it's these particular people that I'm talking  
2           about that are just ignoring, you know, what  
3           the Board has decided.

4   BY MR. MASON:

5           So you're talking about asking for  
6           authorization for these 12 cases ---

7   BY MS. GRAY:

8           Well, I don't want to say 12 because my  
9           numbers could be off by ---

10   BY MR. MASON:

11           But right now it's about 12 of unlicensed  
12           activity.

13   BY MR. WHITTINGTON:

14           And over limit.

15   BY MS. GRAY:

16           If you're not comfortable with that, let's  
17           just do unlicensed.

18   BY MR. MASON:

19           I'll make a motion on that in a minute, but I  
20           want to say something about the other backlog.  
21           I think you have two problems. One is some of  
22           them are very old. And then two, you just  
23           mentioned it, attorneys or people who are used  
24           to the system tell their clients don't worry  
25           about it, they're never going to get to it.

1           So I would hope as Michael, you decide to  
2           schedule these formal hearings for us, there  
3           will be some kind of mix of the most recent  
4           and old so that we reduce that backlog to the  
5           point where the message should be you can't  
6           count on that being years. And that we're  
7           also clearing up old backlog. See what I'm  
8           saying?

9           Now I understand you've got to gather up  
10          all the evidence and all that stuff, but I  
11          would like you to select, knowing how much  
12          time we've got to deal with these cases; first  
13          of all, let's make use of the time we've got,  
14          that we've got scheduled. And two, do a  
15          mixture of recent and older cases and try to  
16          clear out this backlog. Maybe we need to do  
17          some special meetings to reduce them. All of  
18          the things I said before about time is money.

19          So if you'd like to pass that on because  
20          I think it's a good idea as a policy and as a  
21          warning to people that they can't count on  
22          years and years in the future of being dealt  
23          with. So I will move, Mr. Chairman, that we  
24          authorize an ALJ to hear unlicensed activity  
25          cases on behalf of the Board.

1 BY MR. WHITTINGTON:

2 I've got a motion, do I have a second?

3 BY MS. DeBUSK:

4 Second.

5 BY MR. WHITTINGTON:

6 Is there any discussion?

7 BY MR. HAYES:

8 Is that an ongoing or is that just for the  
9 backlog?

10 BY MR. WHITTINGTON:

11 I take it that we need it for the backlog.

12 BY MR. MASON:

13 I mean to do the existing backlog.

14 BY MS. DeBUSK:

15 Amend my second.

16 BY MR. WHITTINGTON:

17 We have a motion that's amended, properly  
18 amended and seconded. Any questions on the  
19 motion and/or the amendment? All in favor say  
20 aye.

21 (AYES)

22 BY MR. WHITTINGTON:

23 Opposed likewise?

24 (NO RESPONSE)

25 BY MR. WHITTINGTON:

1 Motion carries.

2 BY MR. MASON:

3 Jenny, do you think we need a roll call?

4 BY MS. GRAY:

5 Just probably for the other members. If  
6 there's anybody that's not here today that  
7 might have a problem with it. That's the only  
8 reason why.

9 BY MS. DeBUSK:

10 You mean the other three?

11 BY MS. GRAY:

12 I don't think it's a big deal.

13 BY MR. WHITTINGTON:

14 Let's do a roll call vote on the motion as  
15 amended and seconded, and properly discussed.  
16 Starting over to my left with Bill.

17 BY MR. MASON:

18 Bill Mason, aye.

19 BY MR. SMITH:

20 Reese Smith, aye.

21 BY MR. WHITTINGTON:

22 Keith Whittington, aye.

23 BY MR. BRODD:

24 Mark Brodd, aye.

25 BY MS. DeBUSK:

1 Cindy DeBusk, aye.

2 BY MR. HAYES:

3 Jerry Hayes, aye.

4 BY MR. WHITTINGTON:

5 Roll call vote carries.

6 BY MS. GRAY:

7 And I'll tell Michael to just ---

8 BY MR. WHITTINGTON:

9 Do you have anything else?

10 BY MS. GRAY:

11 No, that's all.

12 BY MR. WHITTINGTON:

13 Carolyn.

14 BY MS. LAZENBY:

15 Next thing we have is reciprocity request.

16 It's behind Tab 10. We discussed this a

17 little bit at the last meeting, and the

18 question was how come they only wanted to

19 reciprocate with electrical -- let me look at

20 my notes -- with the electrical, HVAC,

21 refrigeration, plumbing. And the reason why

22 is it's the only ones they license in Ohio.

23 They do not do the commercial, residential,

24 those are the only licensing, exam for.

25 BY MS. DeBUSK:

1 Under electrical, is it just CE, do they have  
2 like an LLE or ---

3 BY MS. LAZENBY:

4 They don't, pretty much all on the local level  
5 so it would just be the CE and the exam is the  
6 same, basically the same.

7 BY MR. WHITTINGTON:

8 Does that make it confusing for you and the  
9 staff?

10 BY MS. LAZENBY:

11 No, because right now it is sort of like  
12 Alabama for instance, they have a different  
13 board for each discipline and their plumbing  
14 board doesn't reciprocate. In North Carolina,  
15 they're the same way. They have separate  
16 boards and only their commercial, residential  
17 reciprocate where their electrical doesn't.  
18 So we have a form that we go by when they do a  
19 license verification, which we'll take. We do  
20 the same as they do. Even though we do more,  
21 we'll only -- they'll only reciprocate with  
22 residential, commercial. That's the only way  
23 we'll do.

24 BY MR. SMITH:

25 They're two different testing agencies for

1 Tennessee and Ohio?

2 BY MS. LAZENBY:

3 Same testing agency.

4 BY MR. SMITH:

5 Same testing agency, okay.

6 BY MR. SMITH:

7 I'll move for approval.

8 BY MR. BRODD:

9 Second.

10 BY MR. WHITTINGTON:

11 Motion and second, any other discussion? All  
12 in favor say aye.

13 (AYES)

14 BY MR. WHITTINGTON:

15 Opposed likewise?

16 (NO RESPONSE)

17 BY MR. WHITTINGTON:

18 Motion carries.

19 BY MS. LAZENBY:

20 Next thing on the agenda is home improvement  
21 law update left over from the last meeting. I  
22 did contact Shelby County and talked with  
23 them, and they do require a home improvement  
24 license. They do observe that law, so  
25 contrary to the rumors that they're not taking

1           it, their codes office says yes, it is in  
2           effect. That was just to update you all  
3           because that was a concern.

4           The next thing we have, Michelle had some  
5           question about Shelby County, next thing we  
6           have is behind Tab 11, and this is an opinion  
7           request received from a utility company on  
8           whether or not a contractor's license will be  
9           required for electric meter installation, and  
10          of course the contracts are going to be  
11          performance of a \$25,000.

12       BY MS. DeBUSK:

13          Carolyn and I looked at this together and  
14          based on just the limited information you were  
15          given, my opinion is a CE is needed just to  
16          prevent future problems with this situation,  
17          CE is needed.

18          And if we said no, nothing's required,  
19          then I can see people from other states --  
20          because I think the new wave is going to be  
21          this, to measure electricity down to half-hour  
22          increments not just for the day. So I can see  
23          this as a new wave, and I can see people  
24          coming from other states, coming in to oh, we  
25          can add this to your meter and save you tons

1 of money. And I showed you a video on  
2 installation. So based on just information  
3 they provided, a CE is required.

4 BY MS. LAZENBY:

5 I guess since they want a formal opinion, they  
6 need to vote?

7 BY MS. GRAY:

8 Well, it's up to the Board whether they vote  
9 or not. I think it's fine if you do, it's  
10 fine if you don't. I didn't think this was a  
11 really technical question.

12 BY MR. MASON:

13 I assume everybody would be in agreement. I  
14 certainly would agree.

15 BY MS. GRAY:

16 A vote is fine.

17 BY MS. LAZENBY:

18 We better.

19 BY MS. GRAY:

20 Carolyn often answers really general  
21 questions. I think she just brought this one  
22 to the Board.

23 BY MR. MASON:

24 Do you think we need to vote or not?

25 BY MS. LAZENBY:

1 Yes, just in case. We've had this happen  
2 before where the Board didn't vote.

3 BY MR. WHITTINGTON:

4 Make a motion.

5 BY MS. DeBUSK:

6 Make a motion that a CE is required for  
7 electric meter installations, and polyphase  
8 meters, because they said they agreed to take  
9 that out. Just electrical meters, polyphase  
10 meters, a CE is required. Smart Meter  
11 installation because that's their specific  
12 question, their Smart Meters. And they  
13 originally had polyphase meters in there, but  
14 they agreed to take it out. Still, with the  
15 Smart Meters you're going to need a CE. So  
16 I'll make that form of a motion.

17 BY MR. MASON:

18 Second.

19 BY MR. WHITTINGTON:

20 Motion and second. Now, a question I've got  
21 to ask, and that's from my electrical  
22 contractor. Are utility companies right now  
23 currently required to have a license to  
24 install their meters?

25 BY MS. LAZENBY:

1           No, but they are hiring people to do this for  
2           them.

3   BY MR. WHITTINGTON:

4           This issue has to deal with the issuance of a  
5           contract to the subcontractor outside their  
6           paid employees. I want to make that clear.  
7           Any other discussion? All in favor of the  
8           motion say aye.

9   (AYES)

10  BY MR. WHITTINGTON:

11           Opposed likewise?

12  (NO RESPONSE)

13  BY MR. WHITTINGTON:

14           Motion carries.

15  BY MS. LAZENBY:

16           I believe that's it. Next meeting is  
17           November 29th and 30th in Nashville. I  
18           thought about since this is the 80th year of  
19           regulations, that maybe we might have someone  
20           come in that did a presentation from NASCLA on  
21           the first licenses issued in Tennessee in  
22           1931. He's got a really good PowerPoint if  
23           it's something you all are interested in  
24           seeing.

25  BY MR. SMITH:

1 I don't know what all they're doing, maybe  
2 they're not doing anything, but let's get some  
3 public awareness out there. Let's get a press  
4 release and send it all over.

5 BY MR. WHITTINGTON:

6 News stations.

7 BY MS. LAZENBY:

8 Okay, sounds good, we'll work on that.

9 BY MR. SMITH:

10 Let's have a holiday.

11 BY MR. WHITTINGTON:

12 I'll entertain a motion we adjourn.

13 BY MS. DeBUSK:

14 Second.

15 (PROCEEDINGS IN THE ABOVE-ENTITLED MATTER WERE  
16 ADJOURNED AT APPROXIMATELY 12:49 P.M.)

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CERTIFICATE

I, Dee Anna Michaels, CVR, Court Reporter and Notary Public, do hereby certify that the foregoing 92 pages are an accurate transcript of the hearing taken by me and transcribed under my supervision.

I further certify that I am not financially interested in the outcome of this action, a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel.

This is the 3rd day of October, 2011.

\_\_\_\_\_

DEE ANNA MICHAELS, CVR

Notary Public No.: 19963300157