

Meeting of the Temporarily Appointed Professional Engineering Committee of the Board of Licensure for Professional Engineers & Professional Surveyors held at 10:00 a.m., October 25, 2006 at the Albuquerque Convention Center in Albuquerque, NM.

Members Present: Thomas T. Mann, Jr., PE/PS,<sup>(Chair)</sup> Chair  
Rex Kirksey, Public Member  
David Marble, PE (Retired)  
James Wernicke, PE  
Sam Small, PE  
Dr. Kenneth White, PE

Others Present: Elena Garcia, Executive Director, BLPEPS  
Ed Ytuarte, Complaint Manager, BLPEPS  
Mary Smith, Assistant Attorney General, Board Counsel

**1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Members of the temporarily appointed Board convened to review cases 05-05-38A and 05-05-38B. Mr. Kirksey nominated Mr. Mann to be the Chair or presiding officer for this committee. The nomination was seconded by Mr. Marble and Mr. Mann was elected chair/presiding officer by acclamation.

**2. APPROVAL OF THE AGENDA**

Mr. Marble moved to approve the agenda. Motion was seconded by Mr. Small. Motion carried unanimously.

**3. CLOSED SESSION (Complaints and Violations)**

Mr. Marble moved to go into closed session pursuant to NMSA 1978, Section 10-15-1 (H)(#1) to discuss the cases on the agenda (05-05-38A and 05-05-38B). The motion was seconded by Mr. Small. A roll call vote was taken by Ms. Garcia: Voting Yes: R. Kirksey, D. Marble, S. Small, J. Wernicke, Dr. White and T. Mann. Voting No: no one. Motion passed unanimously.

3.A. **OPEN SESSION** – Action on cases on the agenda – Mr. Mann reconvened the meeting in open session and further stated that the discussions in closed session

were limited to those cases listed as 3.1 and 3.2 on the agenda. [*...All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-27.11(D), NMSA 1978*].

3.A. Cases 05-05-38A [unlicensed ] and case 05-05-38B [Licensee]– Motion by Dr. White, seconded by Mr. Small and unanimously,

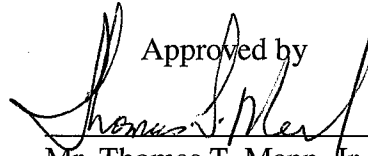
**VOTED:** for case 05-05-38A [Unlicensed] to issue a Notice of Contemplated Action in accordance to 61-23-23.1. Respondent offered to practice engineering as defined in the NM Engineering and Surveying Practice Act by responding to RFP and signing engineering contract. There is a possibility of early resolution through settlement agreement which might include a letter of reprimand, ethics course of a minimum of 20 hrs completed within six months, and if respondent is to continue on contract, respondent must immediately insure that the engineering work is being completed by a licensed professional engineer. On Case 05-05-38 B [Licensee] issue a Notice of Contemplated Action for aiding and abetting the illegal practice of engineering 61-23-24 (7) & (10). Possible early resolution through settlement agreement with letter of reprimand, 20 hours course in ethics completed within six months.

**ADJOURNMENT** – Having no further business, Mr. Mann adjourned the meeting.

Submitted by:

  
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Elena Garcia, Executive Director

Approved by

  
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Mr. Thomas T. Mann, Jr., PEPS, Chair  
Det

4-13-07  
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Approval Date