

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

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Transcript of the Proceedings

Board Meeting

March 29th and 30th, 2011

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**APPEARANCES:**

For the State:           Ms. Jenny Gray, Esquire  
                                  500 James Robertson Pkwy  
                                  Nashville, TN 37243

Board Members:           Mr. Keith Whittington, Chairman  
                                  Mr. Ronnie Tickle  
                                  Mr. Jerry Hayes  
                                  Mr. William Mason  
                                  Mr. Mark Brodd  
                                  Mr. Reese Smith, III  
                                  Mr. Marvin Sandrell

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1           (Whereupon, proceedings commenced at  
2 11:31 a.m. as follows:)

3           MR. WHITTINGTON:  If I could call the March  
4 2011 meeting of the Board for Licensing Contractors for  
5 the State of Tennessee to order.  At this time I will  
6 begin with the roll call, starting with my left,  
7 Mr. Sandrell.

8           MR. SANDRELL:  Marvin Sandrell, Columbia,  
9 Tennessee.

10          MR. HAYES:  Jerry Hayes, Paris, Tennessee.

11          MR. BRODD:  Mark Brodd, Knoxville, Tennessee.

12          MR. WHITTINGTON:  Keith Whittington, Johnson  
13 City, Tennessee.

14          MR. SMITH:  Reese Smith, Franklin, Tennessee.

15          MR. TICKLE:  Ronnie Tickle, Memphis,  
16 Tennessee.

17          MR. MASON:  Bill Mason, Greenbrier.

18          MR. WHITTINGTON:  I would like to say thank  
19 you all for taking time out of your work schedule and  
20 attending our meeting and doing what we do.  The next  
21 item on the agenda is to actually approve our agenda  
22 for today.  Are there any questions?

23                 (No response.)

24          MR. WHITTINGTON:  Does everyone have a copy  
25 of the agenda in front of them?

1 MR. SMITH: Move for approval.

2 MR. TICKLE: Second.

3 MR. WHITTINGTON: There's a motion and a  
4 second. Is there any discussion?

5 (No response.)

6 MR. WHITTINGTON: All in favor, say aye.

7 BOARD MEMBERS: Aye.

8 MR. WHITTINGTON: Opposed likewise.

9 (No response.)

10 MR. WHITTINGTON: I have a question for the  
11 attorney. Do you want us to do these in a roll call  
12 type...

13 MS. GRAY: I mean, I don't think every motion  
14 needs to be a roll call.

15 MR. WHITTINGTON: When you feel like we need  
16 to do one --

17 MS. GRAY: I'll be sure to tell you.

18 MR. WHITTINGTON: -- please let us know.

19 MS. GRAY: I will do so.

20 MR. WHITTINGTON: Now, do we have an item?

21 MS. GRAY: Yeah. If I could, Mr. Chairman,  
22 have the board members look at their agenda at the --  
23 and it's behind tab number 10 in your notebooks. And  
24 this is going back to our rulemaking hearing in 2010,  
25 November. I failed to get a final roll call vote from

1 the board members, just a yea or nay on whether, as a  
2 whole, the board approved the rules that will be  
3 promulgated.

4 Most of these were housekeeping. I think the  
5 most substantial rule we had was the licensed masonry  
6 contractor, which was, of courses, in response to a  
7 statute that was passed. That's, basically, probably  
8 the most substantial thing we had in the rules. And  
9 just for -- I cannot file the rules with the secretary  
10 of state without a final roll call vote from the board.  
11 That's what I was requesting today.

12 MR. SMITH: Did you have to be present in  
13 November to vote on it today?

14 MS. GRAY: From my understanding, no, but if  
15 you looked at it another way, we do have four out of  
16 five members that were there that day.

17 MR. TICKLE: Can we redo this masonry for  
18 maybe some other people that would like to oppose that  
19 masonry classification if you weren't here that day?

20 MS. GRAY: It's not really the time or place  
21 for that, but I understand. That is on the record on  
22 the transcript from the rulemaking hearing, so if  
23 anybody wanted to know thoughts on that, they could  
24 look back on that.

25 MR. MASON: Did we not have a motion though

1 at the last meeting that asked you to reconstruct, as  
2 best you could, and then submit that to the secretary  
3 of state?

4 MS. GRAY: Well, I wouldn't -- I can't  
5 certify to the secretary of state that I have done what  
6 is stated in the statute without --

7 MR. MASON: But the question was, did we not  
8 pass a motion and ask you to do that?

9 MS. GRAY: Not that I'm aware of. I thought  
10 I was asked to reconstruct the vote, not to submit it  
11 with the secretary of state.

12 MR. MASON: Okay. Well, that may be true.  
13 We will have to look and see what, in fact, the motion  
14 was.

15 MS. GRAY: And that's behind tab two, is the  
16 reconstruction.

17 MR. SMITH: So you're asking for a motion on  
18 all of these at one time?

19 MS. GRAY: Correct.

20 MR. MASON: Is this like a ratification vote  
21 or what?

22 MS. GRAY: It's a vote from -- a yea or nay  
23 from each board member on whether they, as a whole,  
24 accept that I will now file the rules with the  
25 secretary of state that were discussed at the public

1 rulemaking hearing in November. So whether --

2 MR. WHITTINGTON: Actually, what she's saying  
3 is, is we voted on each one of these rules. We did a  
4 yea or nay vote. And according to what she's telling  
5 me, we need to do a roll call vote when we vote on a  
6 rule change. And we failed to do a roll call vote. So  
7 what we, as a board, need to do, probably -- and I  
8 think we can get this accepted -- is do a roll call  
9 vote to approve or ratify all of our changes or rule  
10 amendments that we made in the -- what was it, the  
11 November meeting?

12 MS. GRAY: Correct.

13 MR. MASON: Well, here's the motion that was  
14 passed last time. And what you say may be just fine.  
15 I move -- or I suggest, and then I make the motion that  
16 Jenny, since she knows how everybody voted, prepare a  
17 document that says how every board member present voted  
18 on every one of these votes and that she present it to  
19 this board for approval as a true and accurate record  
20 of the vote on those rules, and then see if that will  
21 be accepted. That's what we voted on last time. It  
22 passed unanimous. So when you didn't prepare the  
23 document on each one of these votes --

24 MS. GRAY: I did.

25 MR. MASON: It's in here? It has everyone's

1 name on it?

2 MS. GRAY: No. I don't have everyone's name  
3 on it.

4 MR. MASON: Well, that's what it says, was  
5 how every board member voted.

6 MS. GRAY: Well, I apologize for that  
7 misunderstanding.

8 MR. MASON: And that it be presented to the  
9 board for approval. So we can negate this, I suppose,  
10 with a new motion, and probably have the effect of  
11 that, but the board pretty specifically instructed you  
12 to do that last time and it didn't get done.

13 MS. GRAY: I reconstructed the vote last  
14 time, and I thought that that was sufficient. I didn't  
15 realize that we wanted the names. I can go pull the  
16 transcript now and get everybody's specific, by name  
17 vote, and present that by the end of the board meeting.

18 MR. MASON: Well, if you think -- I mean, if  
19 you think that this board today can make a vote to say,  
20 we ratify, as a board, what was done in the rulemaking  
21 previously and that that will meet the standards of the  
22 law, then, you know, I don't object to that, but I'm  
23 not sure that it will.

24 You know, it's -- my feeling was last time  
25 when we talked about this, that if you went back and

1 said, okay, I know that Marvin and Jerry and Mark and  
2 Keith voted yes on this and Bill voted no, and this is  
3 our reconstruction of the vote, then you have a record  
4 there of what actually did happen then. But if we vote  
5 today, what I'm concerned about -- and you're the  
6 attorney -- is that we're not actually passing the  
7 rules until today and that we really run into deadline  
8 issues and compliance issues.

9 MS. GRAY: It's my understanding that what  
10 I've described will be sufficient.

11 MR. MASON: From the attorney general's  
12 office?

13 MS. GRAY: From this department.

14 MR. MASON: From counsel in this department?

15 MS. GRAY: Correct.

16 MR. MASON: Then we want to make it --

17 MR. WHITTINGTON: I agree with Bill. We want  
18 to make sure that whatever we do right now is final.  
19 And if we feel as though we need to go and get the  
20 transcript --

21 MS. GRAY: Well, I think the only other  
22 option would be to have another rulemaking hearing, and  
23 I'm not sure if that's necessary. I can do the  
24 reconstruction. I can have that by the end of the  
25 board meeting.

1 MS. WISEMAN: I'm Katherine Wiseman. I'm  
2 chief counsel for regulatory boards. And, basically,  
3 the statute in the Uniform Administrative Procedures  
4 Act requires you to have a roll call vote on the  
5 rulemaking as a whole. At the rulemaking hearing there  
6 was not a roll call vote taken, and I don't think that  
7 there were even roll call votes for each individual  
8 rule. I think it was just a yes or no.

9 So even going back to the transcript or going  
10 back to the recording would not give that sort of  
11 information as far as who voted yes or no on  
12 everything. I mean, I think we can probably sort of  
13 figure it out. We all know how everyone feels about  
14 each rule. But that would not really be accurate. I  
15 did speak to the attorney general's office when trying  
16 to figure out the best way to cure this situation, and  
17 this is what they recommended. So this was our  
18 recommendation, as well as the attorney general's  
19 recommendation, so I think that's what we need to do.

20 MR. SMITH: We need to make a motion.

21 MR. BRODD: I have a question. Of all the  
22 rules on this page, it looks like there's only one that  
23 has differing votes. The rest of them are all  
24 unanimous. Is that correct?

25 MS. WISEMAN: That's how I remember it. Yes.

1 MR. TICKLE: That's how it was.

2 MR. BRODD: Why wouldn't we just have a roll  
3 call vote on that one rule?

4 MR. WHITTINGTON: Well, I don't know that we  
5 need to. I think that, as a rulemaking hearing, what  
6 she is saying is, for the whole hearing, we just needed  
7 to have a roll call vote that we, as the board,  
8 approved all the rule changes for the November meeting,  
9 yeas or nays taken into account as part of that  
10 rulemaking hearing.

11 MR. TICKLE: Basically, we agree with all  
12 this that she's written down. I make a motion we  
13 accept what Jenny has said in --

14 MS. WISEMAN: So the motion -- I'm sorry. I  
15 don't mean to cut you off. Basically, the motion that  
16 you need to make, is you need to make a motion to  
17 approve the rules as drafted or as promulgated at the  
18 rulemaking hearing in November, and then take a roll  
19 call vote on that. And then we can move the rules  
20 forward.

21 MR. WHITTINGTON: I'll entertain a motion.

22 MR. TICKLE: I'll make a motion that we  
23 accept what has been written.

24 MR. MASON: Do you want to restate that for  
25 us?

1           MR. TICKLE: Whatever you're trying to say, I  
2 make that motion.

3           MS. WISEMAN: Make a motion to approve the  
4 rules as promulgated at the rulemaking hearing in  
5 November.

6           MR. TICKLE: Second. Or I make the motion.  
7 Whatever you all want me to do.

8           MR. WHITTINGTON: I've got a motion. I need  
9 a second.

10          MR. HAYES: Second.

11          MR. WHITTINGTON: Everyone understand what  
12 we're about to vote on? It's nothing that we haven't  
13 already cleared. I just want to make sure that -- it's  
14 a procedural matter. I'll start with my left, with  
15 Marvin, and please state your name and yes or no.

16          MR. SANDRELL: Marvin Sandrell, yes.

17          MR. HAYES: Jerry Hayes, yes.

18          MR. BRODD: Mark Brodd, yes.

19          MR. SMITH: Reese Smith, yes.

20          MR. TICKLE: Ronnie Tickle, yes.

21          MR. MASON: Bill Mason, present.

22          MR. SMITH: Does the chairman vote?

23          MS. WISEMAN: He can vote.

24          MR. WHITTINGTON: Keith Whittington, yes.

25 The ayes have it. Motion carries. Now, let's get back

1 on the agenda to the hardships. You'll find those  
2 behind tab one. Carolyn.

3 MS. LAZENBY: Yes. These were all reviewed  
4 by a board member, and we have posted on the website,  
5 as required by law. And so I just need you all to  
6 ratify by making a motion to approve issuance.

7 MR. BRODD: I make a motion we accept these  
8 hardship licenses as submitted.

9 MR. TICKLE: Second.

10 MR. WHITTINGTON: I have a motion and a  
11 second. All in favor, say aye.

12 BOARD MEMBERS: Aye.

13 MR. WHITTINGTON: Opposed likewise.

14 (No response.)

15 MR. WHITTINGTON: Motion carries. The next  
16 item is our February 23rd, 2011 teleconference, the  
17 minutes for that meeting. I need a motion to approve.

18 MR. TICKLE: Motion.

19 MR. MASON: Second.

20 MR. WHITTINGTON: I have a motion and a  
21 second. Any questions?

22 (No response.)

23 MR. WHITTINGTON: All in favor, say aye.

24 BOARD MEMBERS: Aye.

25 MR. WHITTINGTON: Likewise -- or opposed

1 likewise.

2 (No response.)

3 MR. WHITTINGTON: And the motion carries.

4 The next item is the transcript of the January 2011

5 board meeting. Everybody got a copy of this in the

6 e-mail sometime over the last week. Is there any

7 questions about the transcript or corrections or

8 omissions? I'll entertain a motion we approve.

9 MR. TICKLE: Motion.

10 MR. HAYES: Second.

11 MR. WHITTINGTON: I have a motion and a

12 second. All in favor, say aye.

13 BOARD MEMBERS: Aye.

14 MR. WHITTINGTON: Opposed likewise.

15 (No response.)

16 MR. WHITTINGTON: Motion carries. Behind tab

17 four are your interviewed and waived applicants.

18 Anybody holding any back here that you need to bring

19 before the board?

20 MR. SMITH: I move for approval of the

21 scheduled interviews.

22 MR. BRODD: Second.

23 MR. WHITTINGTON: I have a motion and a

24 second. Any discussion?

25 (No response.)

1 MR. WHITTINGTON: All in favor, say aye.

2 BOARD MEMBERS: Aye.

3 MR. WHITTINGTON: Opposed likewise.

4 (No response.)

5 MR. WHITTINGTON: Motion carries. Now, we're  
6 into revisions. Actually, these will include add  
7 class, combinations, increases, mode changes. I think  
8 I've got one here that is a transfer of mode. The  
9 applicant -- well, I guess we can still probably keep  
10 this in house. They refused to file a -- or sign a  
11 personal guarantee. How does the board feel about  
12 that?

13 MR. SMITH: If one's required, then we need  
14 to require it and not approve license if they won't do  
15 it.

16 MS. GRAY: This is a --

17 MR. SMITH: And that's the one we talked  
18 about they only had \$2,000 in cash?

19 MR. WHITTINGTON: Yeah.

20 MR. TICKLE: I agree. I mean, if we require  
21 it, they have to sign a personal guarantee or they have  
22 to be denied.

23 MR. WHITTINGTON: They said they've never had  
24 to sign one before and didn't want to now. Looking at  
25 their financial statements, they are within probably a

1 couple thousand dollars of being at a zero balance, and  
2 therefore feel like we need to have a personal  
3 financial statement supplemented so we can move forward  
4 with it. I'll bring that up at another time. Not that  
5 item, but a thought I had on it.

6 MR. BRODD: Just as a side bar, I think there  
7 are some folders over here that may fall in that same  
8 category. I haven't had a chance to look at it yet. I  
9 don't want to approve them if that is the case.

10 MS. GRAY: Is a personal guarantee usually in  
11 lieu of having enough financials or is it something  
12 that --

13 MR. TICKLE: It's additional to.

14 MR. WHITTINGTON: Supplement. If the  
15 corporate -- or the entity, whether it be corporate,  
16 sole proprietor, LLC, if their financial statement  
17 isn't strong enough to support the licensing limit  
18 requested, then usually we will allow a personal  
19 financial statement --

20 MS. GRAY: So it's --

21 MR. WHITTINGTON: -- to supplement. And, in  
22 fact, they get 50 percent of the personal financial  
23 statement.

24 MR. SMITH: Unless it's audited.

25 MR. WHITTINGTON: You very rarely see one of

1 those. I'm going to ask counsel how we should proceed.  
2 We have got two or three of these revisions that have  
3 not had a chance to be reviewed yet. Do we need to  
4 name those?

5 MS. GRAY: I mean, is there a reason we would  
6 name them outside -- I mean, are we talking about the  
7 ones we interviewed?

8 MR. WHITTINGTON: No.

9 MR. SMITH: They just haven't been looked at.

10 MR. WHITTINGTON: I've got a couple. Mark's  
11 got probably --

12 MS. GRAY: Oh, okay. Go ahead and discuss.

13 MR. WHITTINGTON: -- five or six.

14 MS. GRAY: Well, we don't have any open  
15 complaints, I don't think. Maybe approve the entire  
16 list and then with the exception of those three for  
17 discussion.

18 MR. WHITTINGTON: Well, there's more than  
19 just three. How many you got, Mark? That's why I  
20 wanted to know if we needed to list the names or --

21 MR. BRODD: Six.

22 MR. WHITTINGTON: We'll have a chance to  
23 review them. It's just, I hate to ratify them.

24 MS. LAZENBY: We can continue it until  
25 tomorrow.

1 MR. WHITTINGTON: All right.

2 MS. GRAY: Because I would like to look into  
3 the process.

4 MR. WHITTINGTON: Let's break away from the  
5 revisions portion of the meeting then, and if you will  
6 make a note, we'll add that to the first part of  
7 business tomorrow morning.

8 MS. LAZENBY: Okay.

9 MR. WHITTINGTON: Because once we get a  
10 chance to look at them, everything should move right  
11 along. The next one is home improvement applications.  
12 I have two that I need to talk to the board about.

13 MR. TICKLE: Tab six?

14 MR. WHITTINGTON: Yes. It's behind tab six.  
15 The first one, the company has made an application for  
16 a new home improvement license. They appear to have  
17 everything in order. The issue is, is there -- it's an  
18 LLC. The only reason I bring this up is I want the  
19 board's thoughts, the board's wishes.

20 After last year with American Shingle, I  
21 think we need to be very careful in what we do when we  
22 grant a license. The three members of this LLC all  
23 were employees of American Shingle. A couple of you  
24 weren't on the board, weren't with us, but we did have  
25 a summary suspension last September, sometime along in

1 there.

2 MS. LAZENBY: September. And it was revoked  
3 in November.

4 MR. WHITTINGTON: The main corporate  
5 officers, I think the FBI has rounded most of those up  
6 of American Shingle at this time. These three were  
7 salesmen for American Shingle. It kind of puts a  
8 little seed of doubt in my mind because they did  
9 actually go out and sell the job. Did you collect?

10 MR. O'SULLIVAN: We did not.

11 MR. WHITTINGTON: You did not collect  
12 payment; someone came along behind you?

13 MR. O'SULLIVAN: Yes, sir. We were not --

14 MR. WHITTINGTON: Just a moment. For the  
15 record, would you please come up and state your name.

16 MR. O'SULLIVAN: Absolutely. I'm sorry. My  
17 name is Mike O'Sullivan.

18 MR. WHITTINGTON: You're with who?

19 MR. O'SULLIVAN: I'm with SDS. I'm the  
20 managing partner of SDS of North Georgia, and I'm part  
21 of the partnership that wants to become SDS of  
22 Tennessee.

23 MR. WHITTINGTON: Okay. You say that you all  
24 did not collect?

25 MR. O'SULLIVAN: No, sir. We were strictly

1 sales. They were very -- if I may, they were a very  
2 siloed company. I was a 1099, as well as my two  
3 partners. We were never actually employees. They kept  
4 us in the dark of what the financial situation of the  
5 companies were.

6           We were told to go sell, do this, look for  
7 this, and that's what we did. And the reason why I  
8 left personally is the people I had talked to, the  
9 people I had dealt with, were not getting what we had  
10 promised. And I would go back and ask, and they would  
11 give me another song and dance. And after, you know, a  
12 couple of times, I'm smart enough to know that this is  
13 not what it is. So I left.

14           The other two gentleman left before I did.  
15 We knew each other. In fact, one of them lives not too  
16 far from me in North Georgia. He has a lake house. We  
17 met, we were talking, and said we could do this better  
18 because, you know, we can sell, and we have a gentleman  
19 who is a production manager. He built buildings in  
20 North Carolina for quite a while. We talked to him.  
21 He actually runs the production for us. We have two  
22 locations, one in Charlotte and one in North Georgia,  
23 which is Alpharetta.

24           And we went -- the North Carolina business  
25 started sometime early August as a corporation. I

1 started sometime a few days after that. Since then  
2 we've put over 300 roofs on. We only -- in my queue I  
3 have eight people left to put on, that's it, of all the  
4 ones we have taken in, and all of those have been  
5 contracted less than two weeks ago. In the packet it  
6 shows all of our customers that we had in North  
7 Georgia, the time we contracted with them, and the time  
8 we put the roof on.

9           We have zero complaints with the BBB of North  
10 Georgia. They have pulled our license. They've talked  
11 to us about the American Shingle Connection, because  
12 there is. And I'm not going to, you know, try to sweep  
13 it over. It happened. Pulled all of our ratings, went  
14 through all of our books, went through everything,  
15 reinstated our A plus rating about a week after they  
16 went through all this, and we are still A plus rated  
17 with the BBB down there.

18           We're on four insurance companies' preferred  
19 lists because of the workmanship we have, the  
20 turnaround time, and the customer satisfaction we have.  
21 Our two adjustors we have that goes and works with the  
22 adjustors, our main one is on three steep ladder teams  
23 for three different roofing companies -- or, I'm sorry,  
24 for three different insurance companies. That is, when  
25 it's too scary for the adjustors to go on, he goes on

1 there for them.

2 Even though we were salesmen for  
3 American Shingle, we are very different from them. And  
4 I understand that the -- what we're saying here in  
5 Tennessee, I'm putting my own reputation and my own  
6 personal freedom on the line, because if I do something  
7 wrong, I can go to jail or get fined, and I don't want  
8 to do that. That's why I'm standing before you today.

9 MR. WHITTINGTON: I have got one question.

10 MR. O'SULLIVAN: Yes, sir.

11 MR. WHITTINGTON: Something that just kind of  
12 hit me. You've got an office in Tennessee already?

13 MR. O'SULLIVAN: They did. They set up.  
14 Now, I wasn't a part of that. They set up before they  
15 knew about the homeowner's inspection, or homeowner's  
16 license.

17 MR. MASON: Who is they?

18 MR. O'SULLIVAN: That was the other two  
19 partners. They had a gentleman up here that was  
20 working.

21 MR. WHITTINGTON: You're the managing  
22 partner?

23 MR. O'SULLIVAN: No. I'm the managing  
24 partner in North Georgia. I'm not -- I don't have  
25 affiliation in North Carolina, and I did not in

1 Tennessee. I'm taking this office over. That's why  
2 I'm here.

3 MR. MASON: Who's the managing partner for  
4 Tennessee?

5 MR. O'SULLIVAN: Well, nobody is right now.  
6 We dissolved it. His name was John Franklin.

7 MR. MASON: Who will be?

8 MR. O'SULLIVAN: I will be.

9 MR. MASON: You will be.

10 MR. O'SULLIVAN: Provided you all allow me to  
11 be.

12 MR. SMITH: Has SDS engaged or offered to  
13 engage in putting on anybody's roof in Tennessee?

14 MR. O'SULLIVAN: No, sir. We have nothing --  
15 they put 12 on before -- all of them were contracted,  
16 all of them were on -- until we realized the error.  
17 Then we stopped, halted all production. Nothing is  
18 going on right now. There is no customers that we have  
19 contracts with that has not been provided for.

20 MR. SMITH: So you did contract without a  
21 license?

22 MR. O'SULLIVAN: Yes, sir. We did.

23 MR. WHITTINGTON: Yeah. Because you've  
24 actually offered to engage in construction with a  
25 website.

1           MR. O'SULLIVAN: Now, the website -- I will  
2 tell you, the website is a mirror. If you will go on  
3 there, that is a mirror of my site in North Georgia.

4           MR. WHITTINGTON: It's still an offer to  
5 engage in construction.

6           MR. O'SULLIVAN: Correct, sir.

7           MR. TICKLE: We had 27 complaints that I can  
8 remember with the previous company you were with.

9           MR. O'SULLIVAN: Yes, sir.

10          MR. TICKLE: A bunch of fraud and bad  
11 workmanship. It was horrible for us. It was horrible  
12 for the people that were taken advantage of. And it  
13 was really -- I'll be honest with you. It put a bad  
14 taste in my mouth. I am a contractor, and I didn't  
15 appreciate it at all and I still don't.

16          MR. O'SULLIVAN: I understand. And I will  
17 never make excuses, and that was something that was out  
18 of my control. I'm not laying it on somebody else. It  
19 was something I had no control of.

20          MR. SMITH: I think what I just heard, we're  
21 forced to hold his license for six months, even if it's  
22 granted. I found out about it today. Would it be six  
23 months from today?

24          MR. WHITTINGTON: If we issue it.

25          MR. SMITH: If it's granted.

1           MR. WHITTINGTON: You say you have already  
2 done 12 roofs?

3           MR. O'SULLIVAN: I believe it was 12. Yes,  
4 sir.

5           MR. WHITTINGTON: How does the board feel?  
6 We've been through this experience once.

7           MR. SMITH: Were any of the roofs over  
8 \$25,000?

9           MR. O'SULLIVAN: No, sir.

10          MR. SMITH: Labor and material, the tear off,  
11 everything?

12          MR. O'SULLIVAN: No, sir. I don't have the  
13 exact numbers, but I believe the most expensive one was  
14 around 8,000 tops. Here. Now, in Georgia I have some  
15 more than that but not here.

16          MR. TICKLE: And you say you have done 12  
17 here in Tennessee?

18          MR. O'SULLIVAN: I believe it was 12. Yes,  
19 sir.

20          MR. TICKLE: I would like to make a  
21 recommendation to the board that we get a list of the  
22 12 people he had done work for here in the state of  
23 Tennessee and review those people before anything  
24 actually is done.

25          MS. GRAY: Can I just clarify. Is this a

1 motion to hold the license under review upon that  
2 further information?

3 MR. SMITH: Slow the application.

4 MS. GRAY: Right. But for further review,  
5 basically. We're not denying at this time; the motion  
6 wasn't to deny?

7 MR. WHITTINGTON: No, it wasn't.

8 MR. TICKLE: We just need to review. We need  
9 to do a little more research. I feel like we need to  
10 do a little bit more research before we issue anything.  
11 Even though these gentleman were not at fault, from  
12 what they're saying, I would like to have a list of  
13 those 12 customers, talk to the 12 customers, and see  
14 if they're happy.

15 MR. MASON: And your website offering to  
16 contract needs to come down.

17 MR. O'SULLIVAN: That's not a problem.

18 MR. TICKLE: Then upon that -- go ahead,  
19 Mr. Chairman. I'm sorry.

20 MR. WHITTINGTON: Any thoughts or ideas for  
21 unlicensed activity?

22 MR. BRODD: If the work was less than  
23 \$25,000, is it a violation?

24 MR. WHITTINGTON: It's in the home  
25 improvement category.

1 MS. GRAY: Well, we don't -- I think,  
2 according to the statute, if he has violated the  
3 general statute of going over 25,000, that we would  
4 have to hold it for six months, no question. I don't  
5 know if that's a requirement for a violation of the  
6 home improvement law. The board could choose to do  
7 that, but from the wording of the law it says if you  
8 engage or offer to engage in a contract without a  
9 license, as required by 62-6-103. So --

10 MR. TICKLE: It's going to depend on what  
11 county. If he was in a county that requires a home  
12 improvement license, then he was in violation.

13 MS. GRAY: Well, right, but 103 applies to  
14 work over 25,000. The home improvement part of the law  
15 is in another part of the law.

16 MR. TICKLE: I understand.

17 MS. GRAY: But that's up for the board to  
18 decide.

19 MR. TICKLE: But I think the question was if  
20 he was in violation.

21 MR. WHITTINGTON: Okay.

22 MR. SMITH: Were any of those in  
23 Davidson County?

24 MR. O'SULLIVAN: I believe so. Yes, sir.

25 MR. MASON: Well, is the website offer a

1 violation in and of itself?

2 MR. WHITTINGTON: It's an offer to engage in  
3 construction.

4 MR. TICKLE: It's a violation too. We have  
5 several violations among us right now.

6 MR. MASON: The question is, are we just  
7 going to delay or do we want to act today? It's a yes  
8 or a no.

9 MR. WHITTINGTON: It's up to the board.

10 MR. MASON: Well, we have got a motion on the  
11 floor.

12 MR. WHITTINGTON: That was the whole  
13 discussion point, was the motion. Is there any further  
14 discussion on the motion?

15 MR. MASON: Review for me what the motion is  
16 again.

17 MS. GRAY: I think you wanted us to look for  
18 the 12 customers that they had done work for and take  
19 the website down. Basically, an investigation, and I  
20 can have it done, I'm sure, by the next meeting in May.  
21 Just based on the work he's admitted he did without a  
22 license, it may or may not have violated the home  
23 improvement law. And I think the board -- I think  
24 Mr. Tickle wanted to review that.

25 MR. MASON: Can we amend that also to have

1 you review the website violation and make a  
2 recommendation on that, or just to have an  
3 understanding about that?

4 MR. WHITTINGTON: I think, according to  
5 Robert's Rules of Order, Ronnie will have to amend his  
6 motion.

7 MR. TICKLE: If you would like to amend my  
8 motion, I will stipulate your amendment.

9 MR. WHITTINGTON: Now, we have a motion that  
10 has been amended. Do I have a second?

11 MR. BRODD: I second.

12 MR. WHITTINGTON: Is there any other  
13 discussion? Does everyone understand the motion? Is  
14 this one of them things we need a roll call or just a  
15 yea or a nay?

16 MS. GRAY: I think a yea or nay is fine.

17 MR. WHITTINGTON: Okay. All in favor, say  
18 aye.

19 BOARD MEMBERS: Aye.

20 MR. WHITTINGTON: Opposed likewise.

21 (No response.)

22 MR. WHITTINGTON: The motion carries. Thank  
23 you for your time. The next one I have, I've got an  
24 open complaint of a company. The actual complaint came  
25 from an ex-father-in-law. It's unlicensed activity.

1 Currently holds a CMCA plumbers license. I can't find  
2 it. I believe it is. He is actually applying for a  
3 home improvement license.

4 The investigation does confirm that he is  
5 performing home improvement work in a home improvement  
6 county. One investigator contacted several customers  
7 for which, allegedly, the respondent doesn't work for  
8 over 3,000. One customer stated he had but nothing --  
9 had done work in his home but nothing over 3,000. A  
10 second said he had done work over 3,000 but refused to  
11 supply a sworn statement. Another stated the  
12 respondent was hired to perform a project over 25,000,  
13 but she refused to provide a sworn statement.

14 I did the interview with the guy this  
15 morning. He's got him a website. He's looking to  
16 advertise it on HD-TV. His little home improvement  
17 business is rocking and rolling. I offered to give him  
18 a license with a \$3,000 civil penalty for operating  
19 without a license, and he said that would put him out  
20 of business. He did make an offer of \$500 and settle  
21 it. My recommendation is for the board to discuss this  
22 and see what your feelings and thoughts are.

23 MR. SMITH: You came up with a 3,000 by three  
24 violations, or how did you come up with three?

25 MR. WHITTINGTON: Actually, two that were not

1 really paper backed. They were verbal. The \$3,000, he  
2 has a criminal background. He actually -- I believe  
3 theft.

4 MR. MASON: Theft?

5 MR. WHITTINGTON: Theft.

6 MR. MASON: How long ago was that?

7 MR. WHITTINGTON: Ten years ago. That was a  
8 little bit of an issue, giving the home improvement  
9 license to a convicted felon, especially it being  
10 theft. He did in a letter, in his application, explain  
11 the felony and blamed it on a whole lot of family,  
12 father dying. He got on drugs. He and a buddy went  
13 out. And that's admission of a felony, I guess, but  
14 one he wasn't prosecuted for. Went out and stole some  
15 computers. And, you know, agreed, that that's been 10  
16 years ago, but he has never had it expunged.

17 MR. TICKLE: How old is this gentleman or  
18 lady?

19 MR. WHITTINGTON: How old was he?

20 MR. TICKLE: How old are they now? Or what's  
21 the age? Do you know?

22 MR. WHITTINGTON: I'm not real good at  
23 guessing age. I'm going to guess he's probably about  
24 40, 45.

25 MR. TICKLE: I wondered if he was a kid when

1 he did it or what.

2 MR. MASON: He doesn't deny doing work  
3 without a license.

4 MR. WHITTINGTON: Yes, he does.

5 MR. MASON: He does?

6 MR. WHITTINGTON: Yes, he does. He, in fact,  
7 very staunchly told us that we had no proof that he  
8 had -- as he pounded on the table over here, no proof  
9 whatsoever that he had done work over \$3,000.

10 MR. MASON: He has a website up soliciting  
11 work without a license?

12 MR. WHITTINGTON: Yes.

13 MR. MASON: So that's a violation in and of  
14 itself. He's advertising on television?

15 MR. WHITTINGTON: That was his story.

16 MR. TICKLE: Going to.

17 MR. MASON: But he does have a website, doing  
18 it now, in violation of the law.

19 MR. WHITTINGTON: I want to make sure that --

20 MR. MASON: We just had another guy in here  
21 with the same issue.

22 MR. BRODD: Is it a violation if he's  
23 advertising or does it say he could work over \$3,000?

24 MR. WHITTINGTON: It's an offer to engage in  
25 construction.

1           MR. MASON: Does he specifically have to say  
2 though on his advertising that it has to be less than  
3 \$3,000 or I can't do it? I don't know.

4           MR. BRODD: He has the right to advertise and  
5 do work under \$3,000.

6           MR. WHITTINGTON: I guess he does that.  
7 Although this says, we handle anything from your roof  
8 to your basement, from your kitchen to your bathroom,  
9 from your ceiling to your floors, and everything in  
10 between.

11          MR. MASON: Well, I can't get that done for  
12 \$3,000.

13          MR. WHITTINGTON: Well, it just depends. You  
14 know, if it's a leak repair or something like that.  
15 And that's what he claimed that he done, although one  
16 of the pictures showed him trenching a water line  
17 through solid rock on the back of a veneer rock  
18 trencher.

19          MS. GRAY: I mean, from what I heard, he did  
20 admit to the unlicensed work over 3,000, but he just --  
21 he admitted enough to pay a \$500 penalty, but he didn't  
22 want to admit enough to get his license denied or for a  
23 higher penalty. So he was caught in between a rock and  
24 a hard place there. So I just wanted to offer that.

25          MR. WHITTINGTON: I never did hear him admit

1 to it.

2 MS. GRAY: I mean --

3 MR. HAYES: I wouldn't have even offered him  
4 the \$500.

5 MS. GRAY: You know, I think he admitted  
6 about this former gentleman that spoke to the board. I  
7 think, you know, from what I heard, he admitted, but he  
8 didn't think it was -- didn't warrant the \$3,000.

9 MR. MASON: What is his financial statement?

10 MS. GRAY: It's a home improvement. Just a  
11 bond.

12 MR. WHITTINGTON: He's got a bond.

13 MR. SANDRELL: I think it needs to be more  
14 than 3,000.

15 MR. WHITTINGTON: I've made the comment  
16 before we have to set precedence when we, as a board,  
17 rule about these, and I'm not certain where our  
18 precedence goes. And we need to have a reason to go  
19 more than three. And not that the felony was one of  
20 the three. It was the offer to engage, was my biggest  
21 reason, with the website, and then the other two  
22 unsigned admissions was where I kind of came up with  
23 the three.

24 MS. GRAY: And he also failed to notify the  
25 board of this open complaint on his plumbing

1 application, which was in a company name, and he acted  
2 confused about whether he knew about it at this time.  
3 But I would argue that he did.

4 MR. WHITTINGTON: He claimed that when he got  
5 his metro license, Metro Davidson County license, that  
6 they told him, don't you have other contractor buddies?  
7 And he said yes. Well, do what they do, was what they  
8 told him down here at Davidson County.

9 Now, apparently, he said that there's a lot  
10 of them out there that don't have home improvement  
11 licenses, and they're working, because he followed  
12 their footsteps. I said, well, you knew enough to come  
13 and get a state plumbing license. At some point in  
14 time, you had to know enough to get a home improvement  
15 license, to which I don't remember his response.

16 MR. SMITH: But you interviewed him, you  
17 talked to him, and you're recommending a \$3,000 fine  
18 and issue the license upon payment?

19 MR. WHITTINGTON: Yes.

20 MR. MASON: Can we fine him and then deny him  
21 a license both?

22 MS. GRAY: Yeah. I mean, they're two  
23 separate issues.

24 MR. WHITTINGTON: Actually, we can fine him  
25 and not issue the license.

1 MR. MASON: That's what I'm asking.

2 MR. WHITTINGTON: We can fine him and then,  
3 once the fine is paid, issue the license, or we can do  
4 nothing.

5 MR. SANDRELL: Or hold it for six months.

6 MR. HAYES: Do we have to hold it for six  
7 months, since he's offered to do this contract?

8 MR. WHITTINGTON: That, there again, falls  
9 back under what Jenny was saying a few minutes ago.  
10 That's under our regular contractor's law. There's  
11 nothing that states a time period in the home  
12 improvement law. Now, we can hold it if the board  
13 chooses to.

14 MR. MASON: Can we fine him the \$3,000 and  
15 hold off on giving him a license until later, until  
16 after it's paid.

17 MR. WHITTINGTON: That's my recommendation.

18 MR. MASON: And then decide on whether we  
19 give him one or not. It seems like his attitude is  
20 like, prove it, copper, you know. It's not a very good  
21 attitude towards his violation.

22 MS. LAZENBY: I think there's a notarized  
23 statement in his complaint where he said that he was  
24 turned in for doing plumbing, that he said, I am not a  
25 plumber, and then six months later he got a plumbing

1 license.

2 MR. WHITTINGTON: Well --

3 MR. BRODD: Keith, I have a question. Just  
4 reading through the home improvement application, it  
5 says, an applicant for a home improvement contractor's  
6 license shall file with the board a cash surety or  
7 property bond or irrevocable letter of credit in the  
8 amount of \$10,000 for the benefit of any person who was  
9 damaged because of the breach of home improvement  
10 contract. Has he not done that?

11 MR. WHITTINGTON: Yes.

12 MR. BRODD: Oh, he has done that. If he's  
13 done that, he's got \$3,000.

14 MR. WHITTINGTON: Here's a copy. Or the  
15 actual home improvement contract surety bond, \$10,000  
16 bond, for what that's worth.

17 MS. LAZENBY: It costs maybe \$200 to get a  
18 \$10,000 bond.

19 MR. BRODD: Right. But the bonding company  
20 is not going to issue that without a \$10,000 net worth.

21 MR. WHITTINGTON: I'm not sure how they do  
22 that.

23 MS. GRAY: I know he had said he had medical  
24 bills. I remember that part, approximately 50,000.

25 MR. WHITTINGTON: In trying to present all

1 sides, he did say that he was operating his business as  
2 honest as he could. He had general liability. He had  
3 workers' compensation. So do I feel like he was making  
4 an honest effort to be a good businessman? Yes. He  
5 probably was, or he wouldn't have had his insurances.  
6 Now, do I feel like he knew he was violating the law?  
7 Yes, I do.

8           And, again, I will say my recommendation to  
9 the board is for a \$3,000 civil penalty for contracting  
10 without a license, hold issuance of the license until  
11 full payment is made of the \$3,000. Now, that's my  
12 recommendation. I think he can pay it. I think he  
13 will pay it.

14           MR. SMITH: You can't make a motion?

15           MR. WHITTINGTON: I can't make a motion. I'm  
16 only making a suggestion.

17           MR. SMITH: That's your recommendation?

18           MR. WHITTINGTON: Since I interviewed him.  
19 If the board feels different, let's hear it.

20           MR. BRODD: I have a question. The home  
21 improvement law also states that we can impose a \$1,000  
22 civil penalty against him.

23           MR. WHITTINGTON: Only?

24           MR. BRODD: Against any person who engages in  
25 unlicensed home improvement contracting.

1 MS. GRAY: Per instance.

2 MR. BRODD: Is that per occurrence? I assume  
3 that's what it is, but it doesn't really say that.

4 MR. WHITTINGTON: We have evidence of at  
5 least three.

6 MR. SMITH: I make a motion that we take the  
7 chairman's recommendation to approve the license,  
8 subject to payment, and hold it until payment of the  
9 \$3,000 fine for unlicensed activity.

10 MR. WHITTINGTON: I have a motion.

11 MR. BRODD: I'll second that.

12 MR. WHITTINGTON: I've got a second. Now, is  
13 there any discussion? I saw our attorney wanting to  
14 speak.

15 MS. GRAY: Well, I'm not sure if there's a  
16 provision in our law for holding the license. I see  
17 the six month provision in the law, but when you have  
18 somebody that comes in, and you agree on a -- you know,  
19 the complaint and license are separate issues.

20 And when somebody comes in for an interview,  
21 we've got both things going on, and it's sometimes hard  
22 to separate the two. But if everybody can come  
23 together and agree, then I think you can hold the issue  
24 and pay and do it all at the same time because there's  
25 that agreement. In this case there was not that

1 agreement.

2           So my recommendation is that the license be  
3 denied, and if you want to deny it based on the open  
4 complaint of nonpayment, that would be fine. But that  
5 holding is a problem when not everybody agrees because  
6 it's a limbo. And it's not really appropriate, just  
7 because we don't have a provision for it.

8           MR. MASON: So your recommendation is that we  
9 fine him \$3,000 and deny his license?

10          MS. GRAY: Correct.

11          MR. MASON: And then tell him that after it's  
12 paid he can come back and apply again?

13          MS. GRAY: I would advise the board not to,  
14 for lack of a better word, nail themselves into that  
15 window. I would say the denial is based on the open  
16 complaint, and, you know, at this point he's still got  
17 an open complaint. He's not satisfied on what the  
18 board has decided is the penalty for that complaint,  
19 and until then he is not going to be issued a license.

20          MR. WHITTINGTON: I thought that was what we  
21 just decided.

22          MS. GRAY: Right. But he could be -- what  
23 I'm saying is I wouldn't want to say, if you pay the  
24 3,000, you get a license, and him do something in  
25 between this time and the next time and say, well, you

1 told me I could have my license if I paid the 3,000, so  
2 forget this other behavior. That's all I'm saying, is  
3 we just -- a denial based on the open complaint and not  
4 necessarily payment. You know, it can be all -- you  
5 just --

6 MR. WHITTINGTON: Well, I see what you're  
7 saying, but is this \$3,000 fine not a closure to the  
8 open complaint?

9 MS. GRAY: If he pays it.

10 MR. WHITTINGTON: Okay. So once he satisfies  
11 the open complaint, then he can reapply?

12 MS. GRAY: Right. That's my recommendation.

13 MR. SMITH: With another application fee?

14 MS. GRAY: That's my recommendation.

15 Unless -- you know, I suggest that we might make a rule  
16 for this type of provision, because I think we come to  
17 this point a lot, but I just don't know any other way  
18 to do it because there's really no --

19 MR. SMITH: I withdraw mine.

20 MR. WHITTINGTON: Withdraw your second?

21 MR. BRODD: I withdraw my second.

22 MR. WHITTINGTON: Now, let's restate the  
23 motion.

24 MR. SMITH: I'm not 100 percent in approval  
25 of what she's talking about. If he pays his \$3,000, I

1 think he ought to get a license, from what I've heard.  
2 I'm not one to take his money and then say, by the way,  
3 you don't get your license either.

4 MS. LAZENBY: Haven't we done that before in  
5 consent orders?

6 MS. GRAY: Yeah. But that's where I'm  
7 saying --

8 MR. SMITH: He didn't consent.

9 MS. LAZENBY: You could offer a consent order  
10 with that.

11 MS. GRAY: We did today.

12 MS. LAZENBY: Oh, you already did.

13 MS. GRAY: Now, you know, there may be -- it  
14 may be reasonable to hold it --

15 MR. WHITTINGTON: We didn't offer it to him  
16 in writing.

17 MS. GRAY: Right. It may be reasonable to  
18 hold it until May if you want to vote on that. I guess  
19 I'm just uncomfortable with the holding.

20 MR. MASON: Well, if we offer him a written  
21 consent order, and he understands that he either pays  
22 the \$3,000 or he's not going to get a license, his  
23 motivation would be there to do it.

24 MS. GRAY: Right.

25 MR. MASON: So maybe the motion needs to be

1 to offer him a consent order and to that effect.

2 MS. GRAY: I think that --

3 MR. MASON: Does that work?

4 MS. GRAY: Yeah. At this point if you want  
5 to hold the license under review, as we did in the last  
6 case, until the status of the issuance, until we see  
7 what happens with the consent order. The only thing  
8 I'm uncomfortable with is the holding like there's a  
9 license there that's been approved, but it's not  
10 usable.

11 MR. SMITH: We grant the license upon --

12 MS. GRAY: With conditions.

13 MR. SMITH: With the condition of the consent  
14 order to pay it.

15 MS. GRAY: That's what I have the problem  
16 with. We don't have any statute on that. We don't  
17 have any rules on that. It's just hard for me. If  
18 that's what the board wants to do. That's just my  
19 suggestion on it, that you have an issued license with  
20 conditions.

21 MR. TICKLE: Just because he paid 250 doesn't  
22 mean you have got a license.

23 MR. BRODD: No. It doesn't. But she wants  
24 us to either deny the license or say we're reviewing  
25 the license. Not a hold on it or a contingency on it.

1 MR. WHITTINGTON: It's still a hold.

2 MR. BRODD: I agree.

3 MR. MASON: Can we put it on a hold  
4 pending --

5 MR. WHITTINGTON: Resolution.

6 MR. MASON: -- resolution?

7 MR. WHITTINGTON: Resolution of the open  
8 complaint. And the resolution of the open complaint  
9 would be for him to pay the \$3,000 fine.

10 MR. MASON: Right. Good.

11 MR. WHITTINGTON: And that's what the motion  
12 needs to be.

13 MS. GRAY: Maybe under review instead of  
14 hold.

15 MR. MASON: Isn't that what we just did with  
16 this other guy, put it on hold?

17 MS. GRAY: Well, you have it under review.  
18 He has not been issued a license. I mean, not from  
19 what I understood. That company has not been issued a  
20 license.

21 MR. SMITH: And this guy wouldn't either  
22 until he paid his \$3,000.

23 MR. MASON: Well, under review and hold, they  
24 can mean the same thing, right?

25 MS. GRAY: Well, not to me, and I don't think

1 to somebody else.

2 MR. BRODD: Review means we have asked for  
3 additional information and we want to review it. Hold  
4 means hold until he pays his consent order.

5 MS. GRAY: Have a license and we might let  
6 you use it based on -- I mean, it's just hard to grant  
7 somebody --

8 MR. WHITTINGTON: Let's do a motion and move  
9 on. These little things need to be shorter.

10 MR. TICKLE: I make a motion that we review  
11 his license -- we review his application, and we are  
12 going to hold his application until we get a consent  
13 order for the \$3,000.

14 MR. HAYES: Hold application rather than the  
15 licensure?

16 MR. TICKLE: Yes.

17 MR. WHITTINGTON: I have a motion. Do I have  
18 a second?

19 MR. HAYES: Second.

20 MR. WHITTINGTON: Any further discussion?

21 (No response.)

22 MR. WHITTINGTON: All in favor, say aye.

23 BOARD MEMBERS: Aye.

24 MR. WHITTINGTON: Opposed likewise.

25 (No response.)

1 MR. WHITTINGTON: The motion carries. Are  
2 there any other files on this home improvement  
3 applicant list that we need to...

4 MR. MASON: Well, this list is in the book.  
5 I've looked through all but the last, and I haven't  
6 actually had time to look at these yet. It looks like  
7 it needs to be looked at a little more. The first six  
8 of them, I think we can approve, but I haven't had time  
9 to do the last ones yet. Are we going to be back  
10 tomorrow?

11 MR. WHITTINGTON: Yes.

12 MR. MASON: We can push 6827 until tomorrow  
13 then?

14 MS. LAZENBY: Uh-huh.

15 MR. MASON: I would move that we approve  
16 these first six listed in the book and put the seventh  
17 on hold until tomorrow.

18 MR. WHITTINGTON: Well, there's --

19 MS. ROBERTS: Two of them in the middle.

20 MR. WHITTINGTON: -- two of them that I  
21 just --

22 MR. MASON: Other than those two.

23 MS. ROBERTS: Okay.

24 MR. WHITTINGTON: Then I guess what we need  
25 to do is just postpone this section of the meeting, the

1 home improvement, until tomorrow. Then we'll make a  
2 full determination at that time.

3 MR. MASON: What were the number on those  
4 two?

5 MS. LAZENBY: 6707 and 6772.

6 MR. MASON: Okay.

7 MR. WHITTINGTON: The next is LLE applicants.  
8 Have we got any LLE applicants?

9 MR. SANDRELL: Yeah. I have one on the  
10 electrical. It had in here that I need a copy of proof  
11 to show the release of probation because he's got a  
12 felony, a couple of felonies. If all information  
13 received, the board will review your application. And  
14 we have got no proof of that yet.

15 MR. WHITTINGTON: What's the number on that  
16 one?

17 MR. SANDRELL: The number would be --

18 MS. LAZENBY: 60285.

19 MR. SANDRELL: Yeah.

20 MR. WHITTINGTON: Has someone else reviewed  
21 and approved all the others?

22 MS. LAZENBY: Did you approve?

23 MR. SANDRELL: Yeah. All of these right  
24 here. Sure did. And the LLE.

25 MR. WHITTINGTON: Then if you don't care,

1 make a motion to approve all except for the one.

2 MR. SANDRELL: I make a motion to approve all  
3 of them except for the one.

4 MR. SMITH: Second.

5 MR. WHITTINGTON: Motion and a second. Are  
6 there any discussion?

7 (No response.)

8 MR. WHITTINGTON: All in favor, say aye.

9 BOARD MEMBERS: Aye.

10 MR. WHITTINGTON: Opposed likewise.

11 (No response.)

12 MR. WHITTINGTON: Motion carries. LLP  
13 applicants. That would be under tab nine -- or eight.  
14 No. I guess it is nine, isn't it?

15 MR. SANDRELL: I think I got one of them.  
16 Same deal, felony. Just released off of probation  
17 10/25/10. And I guess my question was, the reason I  
18 brought it before everybody, is that soon enough or --  
19 you know, it hasn't been but three or four months, four  
20 or five months.

21 MR. TICKLE: He would be a plumber, correct?

22 MR. SANDRELL: I'm sorry?

23 MR. TICKLE: Is it a licensed plumber  
24 applicant?

25 MR. SANDRELL: Plumber.

1 MR. WHITTINGTON: What was his felony for?

2 MR. BRODD: Carrying a concealed weapon.

3 MR. SANDRELL: Yeah.

4 MR. WHITTINGTON: They might could get half  
5 of us in this room for that.

6 MS. GRAY: I want to say normally for it to  
7 be a felony you at least have to have some history.

8 MR. SMITH: There was something else  
9 involved.

10 MR. WHITTINGTON: It goes back to the home  
11 improvement license. I'm real hesitant about allowing  
12 a convicted felon just to run into somebody's house and  
13 fix their toilet and trust him, although the offense we  
14 have to take into consideration if we don't know any  
15 extenuating circumstances. Can we ask for them?

16 MS. GRAY: Yeah. I can put it under review  
17 until then. Yeah.

18 MR. WHITTINGTON: Further explanation of the  
19 felony?

20 MS. LAZENBY: I think he's provided -- did he  
21 provide a reason?

22 MS. GRAY: You know, I could be wrong about  
23 that. It could be a straight felony for carrying a  
24 concealed weapon.

25 MR. SANDRELL: I think that's right. It

1 says --

2 MS. LAZENBY: It says, December 23rd, 2009,  
3 in the state of Ohio I was arrested for carrying a  
4 concealed weapon at an establishment that sells  
5 alcohol. This weapon was found in my personal vehicle  
6 in the glove compartment. It had not been removed.  
7 This was found to be carrying a concealed weapon, a  
8 felony of the fifth degree.

9 I received one year probation. Probation was  
10 early terminated after six months with no fine  
11 incurred. At the time of the incident I, in fact, held  
12 a permit to carry a concealed weapon, but in the state  
13 of Ohio this permit does not include establishments  
14 that sell alcohol.

15 MS. GRAY: That's a different state, so I  
16 wouldn't have any --

17 MR. MASON: Well, it's not like a thief.

18 MR. SMITH: I move for approval.

19 MR. BRODD: I second.

20 MR. WHITTINGTON: A motion and a second. Any  
21 discussion?

22 (No response.)

23 MR. WHITTINGTON: All in favor, say aye.

24 BOARD MEMBERS: Aye.

25 MR. WHITTINGTON: Opposed likewise.

1 (No response.)

2 MR. WHITTINGTON: Motion carries. Now, we're  
3 on to the legal report.

4 MS. GRAY: However you want to take it,  
5 Mr. Chairman.

6 MR. WHITTINGTON: That's next.

7 MS. GRAY: Okay.

8 MR. WHITTINGTON: Ready or not, here we come.

9 MS. GRAY: Residential and commercial  
10 subcommittees have reviewed my legal report, and I'm  
11 just going to read all the changes that were made.  
12 Item number two on the legal report, I had recommended  
13 the \$500 civil penalty. That's been changed to a  
14 recommended \$1,000 penalty.

15 Item number nine on the legal report, it was  
16 originally recommended for discussion -- or, no, I'm  
17 sorry. The party offered to settle the matter for a  
18 \$7,500 civil penalty. The board originally offered to  
19 settle the item for a \$50,000 civil penalty. So the  
20 board first came with a 50,000, and they offered 7,500.  
21 I've now been authorized to negotiate with the  
22 respondent for between 15- and 25,000.

23 Item number 24 on the legal report, it was  
24 marked for discussion, and it's been recommended that  
25 both respondents in that case be sent a letter of

1 warning. Number 36 on the legal report was recommended  
2 for discussion, and it's been closed, recommended for  
3 closure.

4 Number 37 on the legal report, I had  
5 recommended a \$1,000 penalty. That's been lowered to a  
6 \$500 civil penalty. Number 46 on the report, I had  
7 recommend a \$5,000 penalty. That was recommended for  
8 lowering to a \$1,000 penalty. Number 48, I recommended  
9 a monitoring consent order. It's been recommend that  
10 we send a letter of warning to that respondent.

11 Item number 51, it's been changed from a  
12 \$5,000 penalty to a \$2,500 civil penalty for both  
13 respondent number one and number two. And item number  
14 52 on the legal report, it was originally recommended  
15 \$5,000 penalty. That's been lowered to 2,500.

16 Item number 69, it was originally recommended  
17 a letter of warning. That's now been recommended for  
18 closure. Item number 82 was -- I recommended  
19 discussion, and it was recommended that -- that's  
20 actually one we discussed, one of the home improvement  
21 applicants, so it was recommended that we offer to  
22 settle the matter for a \$3,000 civil penalty. And item  
23 number 93 was marked for discussion, and it's been  
24 recommended that we offer a \$500 civil penalty.

25 Going now to the commercial portion of the

1 legal report. I had item number two marked for  
2 discussion. It's been recommended that that number be  
3 closed. And item number five, I had -- I had  
4 recommended a \$1,000 civil penalty, and that's been  
5 recommended for closure. Also, item number 12, which I  
6 believe is the last one on the report, I had marked  
7 that for discussion, and it's been recommended that  
8 that be closed, and it's best left for resolution in  
9 civil litigation.

10           And I apologize. I do have an addition to  
11 the residential portion. I think all the board members  
12 have received this addendum. And it looks like at  
13 least 12 -- I think 12 complaints here. I'm sorry.  
14 Eleven complaints here. And I think the board  
15 previously authorized a \$1,000 penalty. I believe  
16 there was an informal hearing held, and the  
17 recommendation from the board member who attended that  
18 informal was that we stick with the \$1,000 civil  
19 penalty and/or authorization for a formal hearing.

20           And then I also -- I was -- I had spoke with  
21 one individual board member about a particular case, a  
22 commercial case. And it's been on a legal report  
23 before. It's not in front of you today. But the board  
24 authorized a \$5,000 penalty for unlicensed contracting,  
25 and basically we just have an offer to -- it's about a

1 \$50,000 job offer to install technical equipment in a  
2 commercial building.

3           And upon further review, it appears that it's  
4 essentially an offer to provide materials. There was  
5 about \$7,000 worth of the approximately \$50,000 bid  
6 that was for technical services, but the contract  
7 states that the owner shall be responsible for labor  
8 necessary to connect everything and that the respondent  
9 shall not be responsible for any of the electrical  
10 services required for completion and installation of  
11 the proposed equipment. So upon further review by that  
12 individual board member, it was recommended for  
13 closure. And if I could just read that number for the  
14 record, 2010032941. And that's all I have for my legal  
15 report.

16           MR. WHITTINGTON: Motion we approve from  
17 somebody?

18           MR. SMITH: I move we approve the legal  
19 report as stated.

20           MR. TICKLE: Second.

21           MR. WHITTINGTON: Any questions?

22           (No response.)

23           MR. WHITTINGTON: All in favor, say aye.

24           BOARD MEMBERS: Aye.

25           MR. WHITTINGTON: Opposed likewise.

1 (No response.)

2 MR. WHITTINGTON: Seeing none, the motion  
3 carries. Jenny, there's another item on here, new  
4 rules for the rulemaking hearing.

5 MS. GRAY: I think Carolyn printed something  
6 out behind tab number nine for this. And, basically --  
7 I want to give you all a chance to look at it, but the  
8 board right now issues hardship license -- or issues a  
9 hardship license in between meetings, if necessary.  
10 The proper information -- which, they have to turn in a  
11 full application, from what I understand, along with a  
12 letter from a homeowner describing the detriment if  
13 this particular contractor is not issued a license.

14 But what I would request from the board right  
15 now is a vote allowing Carolyn to oversee this process,  
16 along with possibly the chairman, until we can get  
17 rules promulgated. Because according to the statute,  
18 we need rules based on this process. We have done it  
19 for years the same way, but what I would like to do is  
20 start right now today, especially since we have got  
21 these other rules out of the way, promulgating,  
22 drafting rules to present at the May meeting, just  
23 setting out in stone what happens with these licenses.

24 Right now, if you'll look at that first  
25 statute, 62-6-109, it starts out with, the board may

1 specify by rules and regulations specific board actions  
2 that may be taken by the executive director without a  
3 meeting of the board. The action took shall be limited  
4 to increasing the limits and timely consideration of  
5 licensure applications or renewals for which there are  
6 no evident impediments to licensure and loss of  
7 substantial business is eminent. Basically, that's  
8 what we do right now.

9 MR. WHITTINGTON: That's what I was going to  
10 say.

11 MS. GRAY: But we don't have any rules.

12 MR. WHITTINGTON: Well, that's the rule.  
13 It's in the law. It allows us to do that.

14 MS. GRAY: But the board may specify by rules  
15 and regulations actions that may be taken by the  
16 executive director without a meeting of the board. I  
17 mean, rules and regulations are --

18 MR. WHITTINGTON: I know that the hardship  
19 policy hasn't been but, what, maybe four years,  
20 Carolyn?

21 MS. LAZENBY: I think it passed in 2007.

22 MR. WHITTINGTON: It's not been that long ago  
23 that we done that. But if you're saying we need a  
24 rule...

25 MS. GRAY: Well, I'm saying we need a rule,

1 just based on my reading of that statute, and until  
2 then, all I want is to make sure everybody is on board  
3 with the vote.

4 MR. WHITTINGTON: We had the vote in 2007 --  
5 I remember that very well -- that gave Carolyn  
6 authority to do that.

7 MS. LAZENBY: Yeah.

8 MR. WHITTINGTON: There's no need to vote  
9 something we've already voted on once before.

10 MS. LAZENBY: And we drafted rules in 2007.

11 MS. GRAY: Let me ask you this --

12 MR. MASON: You did.

13 MS. GRAY: Well, it's not been -- no  
14 attorney --

15 MS. LAZENBY: Hasn't been published.

16 MS. GRAY: There is no rule on it.

17 MS. LAZENBY: What about where it says "may"  
18 versus "shall"?

19 MS. GRAY: I mean, from my understanding, it  
20 needs a rule. I can see where it says may, but then it  
21 also says that may be taken by the executive director.  
22 So I just think there needs to be a rule if anybody is  
23 doing anything without full board approval.

24 MR. WHITTINGTON: Well, then I suggest that  
25 we get the minutes out of the 2007 meeting because --

1 MS. GRAY: I think she put -- well, no. What  
2 did you put in, Carolyn, just a draft?

3 MS. LAZENBY: I put in the policy that you  
4 all adopted for the attorney back then to draft the  
5 rule.

6 MR. TICKLE: It's on the backside, hardship  
7 license policy.

8 MS. LAZENBY: And you all voted on --

9 MR. TICKLE: On July 23rd, 2007.

10 MS. GRAY: Let me ask you this: Do you all  
11 want to specify who Carolyn should work with? Do you  
12 want to specify that it's any board member, the  
13 chairman, a part of the -- you know, whatever  
14 subcommittee for whatever license we're looking at?

15 MR. WHITTINGTON: We have been doing any  
16 board member. I think any board member has that --

17 MS. GRAY: I'll draft -- if, you know --

18 MR. MASON: The draft is here. Is this the  
19 draft?

20 MS. GRAY: Well, I didn't draft that.

21 MR. MASON: Well, the board's already  
22 approved this, right? So this is the rule.

23 MS. GRAY: There is no rule.

24 MR. MASON: So, basically, what you're  
25 wanting to do is take the rule that the board approved

1 in 2007 and formalize it in some way; is that what  
2 you're basically asking to do?

3 MS. GRAY: Right. But I may not use that  
4 draft, because I did not draft that.

5 MR. MASON: Well, wait a minute. The board  
6 approved this already.

7 MS. GRAY: I understand. I would not do  
8 anything without board approval, and I will bring it  
9 back in May. And I understand that this is a policy,  
10 not a rule. I'm just saying I was not here when that  
11 was done, so I have to look at something before I would  
12 recommend it to the board. The board can still accept  
13 it. I'm just -- for my recommendation I would want  
14 to --

15 MR. WHITTINGTON: You can repaint the walls,  
16 but that don't mean we have to like the color.

17 MS. GRAY: True, Mr. Chairman.

18 MR. WHITTINGTON: We have got some items up  
19 for discussion. I think they start under tab 12. And  
20 that's the masonry issue with primes and subs.  
21 Carolyn, do you want to --

22 MS. LAZENBY: I'll try. Martin might need to  
23 help me. We do -- we do get a lot of questions in the  
24 office, and so we do need the board to maybe make a  
25 formal opinion. And if it needs to be in a rule, we

1 could do that, too, as well.

2           But I've listed right here, what I've  
3 drafted, is how I interpret it, but I need you all to  
4 see how you interpret it. A prime contractor with a  
5 LMC license classification may list themselves on the  
6 outside of a bid envelope as a masonry contractor. And  
7 this is similar. It's just like -- because it's the  
8 same part of the law -- where they may list themselves  
9 and do the plumbing, electrical, mechanical, HVAC. So  
10 if the prime has a LMC, they can also list themselves  
11 as the masonry sub.

12           MR. WHITTINGTON: What you're saying is we  
13 need to make some changes to our law because of the  
14 masonry law?

15           MS. LAZENBY: No. We just need you all --

16           MR. SMITH: Clarification.

17           MS. LAZENBY: Yeah. To see if I'm  
18 understanding it right, so when I give opinions to the  
19 public. But, mainly, when a masonry prime or general  
20 contractor lists himself on the outside of the bid  
21 envelope because he had that classification, what I'm  
22 wanting to make sure is that that does not prohibit him  
23 from subcontracting it to another, just like it has  
24 been your all's opinion in the past with the  
25 electrical, plumbing, and HVAC. So should it be the

1 same?

2 MR. BRODD: What this says is he has to  
3 subcontract it to a licensed masonry contractor.

4 MR. SMITH: If he lists himself?

5 MR. BRODD: Yes.

6 MR. WHITTINGTON: Just a question. If he's  
7 going to list himself as the contractor or the  
8 subcontractor, the masonry subcontractor, should not  
9 any subs he uses be listed on that envelope as well?

10 MS. LAZENBY: No. You can only list one.

11 MR. WHITTINGTON: Okay.

12 MR. HAYES: He's not through beating those  
13 subs over the head.

14 MS. LAZENBY: And I know the explanation that  
15 the board gave years ago when they made this decision  
16 for the electrical, plumbing, HVAC, they said that they  
17 could list themselves, but, like, if there was a case  
18 where it was a time issue, a deadline, and they could  
19 not get the job completed, then they should not be  
20 prohibited from hiring other subs. And if the job was  
21 over 25,000, they would have to be licensed. The sub  
22 to a sub to a sub would have to be licensed.

23 MR. SMITH: What do you think, Mark? Are you  
24 okay with that?

25 MR. BRODD: I'm okay with this. In the case

1 where you have got a lot of work to get done in a short  
2 period of time and you need two masonry contractors,  
3 and you can only list one on the envelope, you're in a  
4 predicament there, same with plumbing and electrical.

5 MR. MASON: But it says that they --

6 MR. BRODD: It does not help the bid shopping  
7 situation, but I don't know how to fix that.

8 MS. GRAY: Just as long as everybody is  
9 licensed for anything over 100,000.

10 MR. WHITTINGTON: This comes into a situation  
11 where we've got \$100,000 license limit, and only the GC  
12 has the \$100,000. But he can turn around and  
13 subcontract for subcontractors that have a \$25,000  
14 license and let them go work on the building. So is  
15 that not in essence -- no, it's not. I mean, you can  
16 do that with mechanical now. You can do that with  
17 electrical now.

18 MR. BRODD: Up to their license limit. If  
19 they had a limit of 50,000, you couldn't give them a  
20 \$100,000 limit.

21 MR. WHITTINGTON: Right. But all of them  
22 have to be licensed for that portion of the work.

23 MR. BRODD: If you do work under 100,000, you  
24 don't have to have the license.

25 MR. YOUNG: Mr. Chairman, Bill Young, AGC of

1 Tennessee. I have got a question just to follow along  
2 with that, that's come up in your area, in the  
3 Tri-Cities, where if you look at the list of the  
4 contractors who have received the license, about a  
5 third of them are general contractors that have taken  
6 the test and have the certification for that. The  
7 question has been raised, well, what if I just --  
8 typically, in the Tri-Cities area primarily, the  
9 atmosphere there has been for years where the  
10 contractor, the general contractor, bought the material  
11 and subbed to a masonry subcontractor who provided  
12 labor only.

13           The question's raised now, well, what if I'm  
14 the general contractor, and I have listed myself on the  
15 bid envelope? I go to my usual regular masonry  
16 subcontractor and say, okay, I'm going to pay your  
17 employees directly. They're going to work for me.  
18 They don't have to have a contractor's license, do  
19 they, because they're working under the GEC's license.  
20 And he can do whatever sized job he wanted to do.

21           So the sponsor of this bill -- sponsors of  
22 this bill, for what they were trying to do, have just  
23 exacerbated the whole thing. It's just gone the  
24 complete opposite way of what they were trying to  
25 eliminate.

1           MR. TICKLE: So I would like somebody to  
2 remove that.

3           MR. WHITTINGTON: A lot of people would.

4           MR. YOUNG: You will have to get the --

5           MR. BRODD: We need a sponsor of the  
6 legislative process to do that.

7           MR. SMITH: Do you have a shot of that?

8           MR. YOUNG: I don't. Frank doesn't. I mean,  
9 this is a single issue, piece of legislation. It  
10 happened in Cookeville, Tennessee. And, personally, I  
11 don't like pieces of legislation that just address one  
12 person's individual problem.

13           But that's what this was doing, to try to  
14 eliminate. And even the masonry contractor, members of  
15 AGC, Roscoe being one of them, they don't like it,  
16 because now the same thing that's happening in  
17 Tri-Cities is going to spread across the state.

18           MR. SMITH: But in answer to Carolyn's  
19 question that's on the floor, it's, yes, on that first  
20 one. Was there another question to clear up anything?

21           MR. WHITTINGTON: Okay. The next item is --

22           MR. BRODD: Do we want to vote on that,  
23 Keith, or are we just giving her our opinion?

24           MR. WHITTINGTON: Well, is this a rule  
25 change?

1 MS. LAZENBY: It really wouldn't be a rule  
2 change. It's just how I answer my e-mails and calls  
3 when they -- if I get a call, they ask this. And I  
4 just wanted to make sure I'm telling them correctly.

5 MR. WHITTINGTON: Okay. I'll entertain a  
6 motion, just for the record, that our direction for  
7 Carolyn states -- someone want to state that motion?  
8 The chair can't make a motion.

9 MR. BRODD: States that she follow the  
10 guidelines as listed in this tab 12, a licensed masonry  
11 contractor can subcontract work to another licensed  
12 masonry contractor for work over \$100,000.

13 MR. SMITH: Second.

14 MR. WHITTINGTON: I've got a motion and a  
15 second. Any discussion?

16 (No response.)

17 MR. WHITTINGTON: All in favor, say aye.

18 BOARD MEMBERS: Aye.

19 MR. WHITTINGTON: Opposed likewise.

20 (No response.)

21 MR. WHITTINGTON: Motion carries. Behind tab  
22 13 are classifications being exchanged.

23 MS. LAZENBY: I figured that sounded better  
24 than class swapping. But this was a topic that you  
25 wanted to discuss, that you wanted to bring up. This

1 was something that happened on -- we do get revisions  
2 for contractors who will want to take off a  
3 classification and put another one in its place,  
4 because there's a law that says you can have up to  
5 five -- I guess it's called specialty or  
6 subclassifications, without having to take a trade  
7 exam. So we do have this happen on occasion.

8           And one of the staff was afraid it was going  
9 to be a big issue, and she had drafted a letter to  
10 state that it was the board's policy that you can't  
11 swap license classifications. So we wanted to make  
12 sure that maybe it should probably continue as a case  
13 by case basis. That would be something that you all  
14 look at and decide whether or not they can swap it.

15           MR. WHITTINGTON: Actually, what happened,  
16 that kind of got me fired up about it, was we had a  
17 contractor who had six of the building subcategories  
18 listed on a license. For about the third or fourth  
19 time he had applied to readjust or rearrange or add and  
20 delete some of the classes.

21           And so I got to looking and checked his  
22 website out down in Mississippi to find out that they  
23 are a general contractor in Mississippi. And the only  
24 thing they were doing was changing their  
25 classifications to meet whatever part of the project --

1 that's the feeling that I got -- that they needed to do  
2 at the time. Therefore, they were skirting our  
3 licensing law and not having to take a test. That was  
4 the only thing they didn't have to do. So I denied the  
5 change of classification and told them they would have  
6 to take the full PC for commercial, because it was a  
7 commercial application.

8 MR. SMITH: Couldn't they just reciprocate?

9 MR. WHITTINGTON: They could have very easily  
10 reciprocated from Mississippi and went through the  
11 process.

12 MS. LAZENBY: And then another concern that  
13 popped up, and it was because of some calls again that  
14 the staff had been getting, was, you know, with the new  
15 masonry law, the BC-9 is not any good anymore. So a  
16 lot of them were wanting to remove it and replace it  
17 with another one, which makes sense. And it would be  
18 okay if, you know, whatever board member reviewed that.

19 But Jenny made a good catch. She saw that  
20 where the license, the LLC, the masonry contractor  
21 classification, is not one of the nine major classes.  
22 And so if a contractor had five classifications already  
23 and the LMC, he should not be allowed to swap the BC-9  
24 for another one, because he would be over the  
25 threshold. But I -- I think that's really just

1 something --

2 MS. GRAY: Right now, though, it's not in the  
3 major, so -- I mean, whether it was intended to be,  
4 maybe.

5 MS. LAZENBY: So that's just something for  
6 you to you look at when you see the revisions. If  
7 they're wanting to swap a class, if they have LMC, and  
8 they have four other classes, then they probably should  
9 not be able to swap the BC-9 because the LMC is almost  
10 the same thing. It's a subclass.

11 MR. BRODD: Why on this page are you changing  
12 it from five to six?

13 MS. LAZENBY: The way the law is written, it  
14 says a contractor may not be licensed in six or more  
15 specialty classifications, so what that means is as  
16 long as they have five, they're within the law.

17 MR. BRODD: Okay. We used to say five or  
18 more?

19 MS. LAZENBY: I think that's just how we --  
20 it's always been in the law like that, but it means --

21 MS. GRAY: It's written weird but --

22 MS. LAZENBY: It means five.

23 MS. GRAY: You can't have six or more. You  
24 may not have six or more.

25 MS. LAZENBY: But you can have five.

1           MR. BRODD: Before it said five. Now you  
2 want to make it say six?

3           MS. GRAY: No. I mean, that's what it says.

4           MS. LAZENBY: Oh, no, no. You're talking  
5 about my comment there?

6           MR. BRODD: Yeah.

7           MS. LAZENBY: My comment is just saying an  
8 exam is not required for five subclassifications. I'm  
9 just explaining.

10          MR. BRODD: So we're not changing it?

11          MS. LAZENBY: No. No changes at all. I'm  
12 sorry. I was just making little notes.

13          MR. BRODD: All right.

14          MS. LAZENBY: And then I think that's it,  
15 except if you want to go on to the next topic for  
16 legislation update.

17          MR. WHITTINGTON: Yes.

18          MS. LAZENBY: Okay. Behind tab 14, this is  
19 to let you know that the geothermal bill did pass, and  
20 so that is again law. It accidentally got removed when  
21 they passed the masonry law, and it said -- it did say  
22 you have to list the geothermal on the outside of the  
23 bid envelope, and it accidentally got deleted. And now  
24 it's back in there. So that's the only bill that I  
25 know of that's passed so far that concerns contractors.

1 And I had put that on the website.

2 MR. WHITTINGTON: Okay. Any other business  
3 for today? I think we have formal hearings at 9:00 in  
4 the morning. For those of you that may not be here  
5 tomorrow, our next board meeting will be May the 24th  
6 and 25th in Memphis. See the website for directions if  
7 you don't know how to get down there. Take your own  
8 water or drink at your risk.

9 MR. SMITH: I wish we would talk to  
10 Legislative Michael, or whatever, and you all two work  
11 together. We might could have had two formals this  
12 afternoon. I mean, if it looks like if --

13 MS. GRAY: You have to give notice. You  
14 can't change it.

15 MR. SMITH: For Memphis.

16 MS. GRAY: Oh, okay. I'm sorry.

17 MR. SMITH: In July or August. If you all  
18 had been talking, her last appointment was 10:30. Her  
19 last interview was 10:30. We can usually knock this  
20 out in about an hour or so. We probably could have  
21 knocked it all out today and saved the state some money  
22 and everything.

23 MR. WHITTINGTON: I agree.

24 MS. LAZENBY: I will. I'll get something to  
25 him and let him know that. I will talk to him, too, to

1 let him know to start scheduling these right after the  
2 board meetings.

3 MR. SMITH: You run into the checkout  
4 problems and all that kind of stuff. I understand.

5 MR. WHITTINGTON: We can deal with that.  
6 We'll adjourn the meeting then again until 9:00 in the  
7 morning.

8 (Whereupon, the meeting was adjourned at  
9 1:01 p.m. and resumed the following day, March 30th, at  
10 9:00 a.m. as follows:)

11 MR. WHITTINGTON: I would like to call the  
12 March 30th, 2011 Board for Licensing Contractors of the  
13 State of Tennessee to order. The first item on the  
14 agenda is we have a little unfinished business from  
15 yesterday. Members, that's behind tab number five in  
16 your book, and that is the revisions to the licenses.  
17 I think we had three or four files that a couple of  
18 members hadn't got through, and we did get through  
19 those. I would like to entertain a motion that we go  
20 ahead and approve the revisions as behind number five  
21 in our folders.

22 MR. MASON: So moved.

23 MR. BRODD: Second.

24 MR. WHITTINGTON: Motion and a second. Is  
25 there any discussion?

1 (No response.)

2 MR. BRODD: Seeing none, all in favor, say  
3 aye.

4 THE BOARD: Aye.

5 MR. WHITTINGTON: Opposed likewise.

6 (No response.)

7 MR. WHITTINGTON: Motion carries. The second  
8 item is behind tab six in your folder. That is for  
9 home improvement applicants. I think we have two that  
10 were denied on that list. Do we need to list those  
11 numbers for the record?

12 MS. LAZENBY: We can, because I'm not sure if  
13 we did yesterday or not.

14 MR. WHITTINGTON: I don't think we ever did.

15 MR. MASON: They were 6707 and 6772.

16 MR. WHITTINGTON: That's correct.

17 MR. MASON: And then the other five, I move  
18 that we approve those other five and with the notation  
19 on the two that were denied yesterday.

20 MR. SMITH: Second.

21 MR. WHITTINGTON: We have a motion and a  
22 second. Any discussion?

23 (No response.)

24 MR. WHITTINGTON: All in favor, say aye.

25 THE BOARD: Aye.

1 MR. WHITTINGTON: Opposed likewise.

2 (No response.)

3 MR. WHITTINGTON: The motion carries. It  
4 would be a good idea to go ahead and do our roll call  
5 so we know who is here. Starting at my left, would you  
6 please state your name and where you're from.

7 MR. HAYES: Jerry Hayes, Paris, Tennessee.

8 MR. BRODD: Mark Brodd, Knoxville.

9 MR. WHITTINGTON: Keith Whittington, Johnson  
10 City.

11 MR. SMITH: Reese Smith, Franklin.

12 MR. MASON: Bill Mason, Greenbrier.

13 MR. WHITTINGTON: Now we have got a roll call  
14 on there. Madam Chairman, I think all other items in  
15 the agenda have been concluded, so at this point in  
16 time we'll --

17 MS. LAZENBY: Well, before you adjourn, I did  
18 want to bring up one little thing. It's just for your  
19 information. We do have the exam test contract out for  
20 bid. You know, we approved it last 2006 for five  
21 years, and so it's come up again. It just seems like  
22 yesterday, I know.

23 And so I just wanted to let you know that  
24 that is going on right now, and it probably will be in  
25 a couple of months -- well, I guess, probably the next

1 board meeting. You all may be wanting to assign some  
2 board members to review the exams from the winning  
3 contractor/vendor that bids on it.

4 MR. SMITH: The department awards that  
5 contract?

6 MS. LAZENBY: Yes.

7 MR. SMITH: Do you know how many bidders or  
8 how many people have requested the proposal?

9 MS. LAZENBY: No. I think last time we got  
10 maybe five bids. There are not a whole lot of people  
11 that do exams.

12 MS. GRAY: It hasn't been let yet. It will  
13 be probably between this meeting and the next. And I  
14 have drafts. Of course, they're not complete yet, but  
15 they are going to be pretty much identical to the last  
16 one.

17 MS. LAZENBY: And so, you know, the exam, you  
18 all will still approve the exam just like you did  
19 before. So it's pretty much the same. But for you  
20 that are new, you don't -- you will have the  
21 opportunity to sit in on committees to review the exams  
22 or designate somebody, and that's what we have done in  
23 the past, is have several board members recommend  
24 people, especially go to the associations and ask for  
25 experts.

1 MR. WHITTINGTON: AGC, the Home Builder's  
2 Association.

3 MS. LAZENBY: They call them SME's, subject  
4 matter experts. Just to let you know, that is going  
5 on. And the contract -- our current contract with PSI  
6 actually expired July 1st.

7 MR. WHITTINGTON: If PSI were to be rewarded  
8 a renewal, would there be any need for that examination  
9 process?

10 MS. LAZENBY: It would be up to you. It  
11 would be up to you if you want to keep the same  
12 questions or if you want to do new ones.

13 MR. WHITTINGTON: I think they change them  
14 out ever so often anyway.

15 MS. LAZENBY: Well, they won't change them  
16 without your approval. I know they are in the process  
17 of upgrading to a new code, so it's just up to you all  
18 if you want to see the new questions or not.

19 MR. WHITTINGTON: The '09 code?

20 MS. LAZENBY: I can't remember. We discussed  
21 that like a year ago, so I can't remember. But I can  
22 have that ready for you though at the next meeting.  
23 Don't hold me to it if I forget.

24 MR. WHITTINGTON: Any other discussion to  
25 come before the board?

1 (No response.)

2 MR. WHITTINGTON: If not, I'll adjourn this  
3 meeting, and we'll go into the March 30th, 2011 formal  
4 hearing docket. I call Michael Driver, lead counsel,  
5 up, and we'll get prepared for that.

6 (End of board meeting, 9:25 a.m.)

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State of Tennessee    )  
                                  )  
County of Davidson    )

I, Brittany Temples, Court Reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing proceeding by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

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Brittany Temples, LCR #099  
Notary Public  
State of Tennessee

My Commission Expires 5/25/2014