

# New Jersey State Board of Architects

January 24, 2002

## Public Session Minutes

### I CALL TO ORDER

The regularly scheduled meeting of the Board was called to order at 9:50 am in the Union Conference Room on the third (3rd) floor at 124 Halsey Street, Newark, New Jersey.

PARTICIPANTS	PRESENT	ABSENT	EXCUSED
President Frederick Kniesler, CLA	(X)	( )	( )
Vice President Howard Horii, RA	(X)	( )	( )
Board Member Barbara Brandon	(X)	( )	( )
Public Member			
Board Member Paul DeMassi, RA	( )	( )	(X)
Board Member Bernard Kellenyi, RA	(X)	( )	( )
Board Member Vivian G. Lopez, Esq	(X)	( )	( )
Government Member			
Board Member Jeanne Perantoni, RA	(X)	( )	( )
Board Member Kyu-Jung Whang, RA	(X)	( )	( )
Board Member Vacant	( )	( )	( )

**OTHERS PRESENT:** James S. Hsu, Executive Director, NJ Board of Architects; Shirley Passow, Deputy Attorney General; Margaret Hinkley, Secretary to the Executive Director, Board of Architects.

**ALSO PRESENT:** Sandra Y. Dick, DAG

### II OPEN PUBLIC MEETINGS ACT

The statement required by Chapter 231, public laws of 1975, the "Open Public Meetings Act," was read and it was announced that notice of this meeting was prepared in the office of the Board of Architects and mailed to the Secretary of State, the Newark Star-Ledger, the Trenton Times, the Camden Courier-Post, the Bergen Record and the Atlantic City Press.

### III APPROVAL OF MINUTES

January 10, 2002

**ACTION:** Ms. Brandon moved that the Board vote to accept the minutes as corrected. Mr. Horii seconded the motion. It passed unanimously.

## **IV ANNOUNCEMENTS**

It was announced that at 10:30 am an Investigative Inquiry is scheduled pertaining to ITEM NO. 01-05-01.

Executive Director Hsu announced the following:

- Mr. DeMassi is on his way to Key West, Florida to attend the NCARB IDP Committee meeting.
- An e-mail was received from NCARB requesting candidates who wish to run for one of NCARB's elective offices.

Mr. Horii announced that he has had discussions with William Brown, of NJ ASLA, and DAG Passow to set up a gathering to present the newly licensed New Jersey architects with their wall certificates and have a panel discussion on the subject of the destruction of the World Trade Center. A tentative date has been scheduled for November 14, 2002 at the Newark Club, Newark, NJ.

## **V OLD BUSINESS**

### **A Correspondence**

1 On January 10th, the Board reviewed a January 2, 2002, letter from John J. Veisz, AIA, who inquired whether the use of an electronic signature on architectural tracings is legal and acceptable by the State Board of Architects. The Board requested DAG Passow research the issue of electronic signatures and whether the Board previously discussed the matter. Also determine if any legal issues surround this item.

1/24/02 DAG Passow to report. Mr. Veisz's letter is attached for information.

**DISCUSSION:** DAG Passow reported that she reviewed the electronic security act and she advised the Board that its not prohibited nor required in New Jersey.

**ACTION:** The Board directed Executive Director Hsu respond to Mr. Veisz that electronic signature for architectural tracings is acceptable in accordance with N.J.A.C. 13:27-6.5.

2 On December 13, 2001, the Board reviewed a letter dated December 5, 2001, from Alex Garcia, who is formally requesting a ruling in accordance with Section 45:4B. The Economic Development Authority (EDA) has advertised for professional services for 3 school health and safety projects in Paterson, NJ, and has informed Mr. Garcia's firm that if they "submit a proposal request as an architectural firm, the proposal will automatically be dismissed because EDA has advertised these 3 projects as requiring an engineering lead for the projects." DAG Passow advised the Board that she and Sandra Y. Dick, DAG, spoke with people from the Economic Development Authority (EDA), who seemed surprised there are rules that state Architects can do projects under the E-Use group classification as stated in N.J.A.C. 45:4B-7. Board office to acknowledge receipt of Mr. Garcia's letter and advise that the Board is looking into this matter. DAG Passow is to draft a letter to EDA advising the Board's position for Board review at next meeting.

1/24/02 Another copy of Mr. Garcia's letter is attached for information. Also attached is a copy of N.J.S.A. 45:4B-7, N.J.S.A. 4B-10 for board's information. Draft letter from DAG Passow addressed to the NJ Economic Development Authority is attached for Board review.

**ACTION:** The Board accept DAG Passow's draft letter addressed to NJ Economic Development Authority and requested that the Executive Director issue the letter on Board letterhead.

3 ITEM NO. 99-10-02

Respondent/s: AMELCHENKO, Paul - AI06187

Complainant: Charles & Rebecca Krikorian  
Complaint: Unprofessional Conduct  
Project: 208 First Avenue, Blk 1, Lot 5, Belmar NJ

Summary: On May 10, 2001, a Provisional Order of Discipline was filed in this matter for the suspension of Mr. Amelchenko's license for two years. A response, dated June 6, 2001, was received from Michael Wilbert, Esq., attorney for Paul Amelchenko. DAG Passow's response to Mr. Wilbert's letter requesting the Board consider dismissal or modification of the charges in the Provisional Order of Discipline issued against his client is attached. On November 8, 2001, the matter was submitted to the Board to consider finalization of the Provisional Order of Discipline (POD). The above mentioned documents are attached for Board review. DAG Sandra Dick, counseling attorney for the Board in this matter, was present for discussion. Two additional letters were received for review and consideration in this matter -- one is from Michael Wilbert, Esq., dated November 5, 2001 and the other letter is a handwritten letter from Mr. Amelchenko. The Board determined there is reason for further hearings in this matter, however, as there have been varying claims regarding the testimony as contained in the transcripts of the 1996 and 2000 investigative inquiries regarding Mr. Amelchenko. The Board has determined to give both parties an opportunity to review those transcripts and to present argument to the Board about whether the board's preliminary findings as detailed in the Provisional Order of Discipline (POD) should be upheld, modified or rejected. Therefore, the Board is forwarding a copy of the transcript of the investigative inquiries to the parties and permitting them to make whatever arguments they wish regarding the truthfulness of Mr. Amelchenko's testimony for a period of 10 days from receipt of the communication. Following which at the Board's next meeting those documents will be reviewed and a final determination will be made in this matter. The above was motioned by Ms. Lopez and seconded by Mr. Horii, the Board unanimously voted for the above action. In December the transcripts from the 1996 inquiries have been received and will be forwarded to DAG Passow and Mr. Amelchenko's attorney for a written response by the next meeting. On January 10, 2002, the Board reviewed response letters, dated December 27, 2001, from Michael E. Wilbert, Esq., attorney for Mr. Amelchenko and one dated January 7, 2002, from DAG Shirley Passow for Board review.

The Board convened in closed session to deliberate in this matter. Mr. Kniesler requested that DAG Sandra Y. Dick read the motion of the Board after deliberating in this matter. The following motion was passed unanimously:

The Board, having considered all submissions of parties as determined to modify the Provisional Order of Discipline (POD) via the issuance of a Final Order of Discipline (FOD) as follows:

As to the FINDINGS OF FACT:

Paragraph 5 Page 2 eliminate "and failing to testify truthfully as to the non-existence of a Certificate of Authorization."

Paragraph 8 Page 3 eliminate "but failed to produce plans in a timely fashion."

Paragraph 9 Page 3 eliminate "two separate" and "April 25, 1996 and"

As to the CONCLUSIONS OF LAW:

Paragraph 3 Page 4 eliminate "This was also a second offense."

As to the Ordered Provisions:

Page 4 Paragraph 1 modify to provide for a two year period of suspension with one year active and one year stayed. Clarify that respondent may not engage in the profession until 1 year active suspension is served and respondent complies with paragraph 2 regarding the appearance before the Board.

Paragraph 3 modify to clarify that this entire matter is a second offense.

A Final Order of Discipline will more fully explain the Board's rationale in this matter.

**ACTION:** The Board convened in closed session to reconsider the final order in this matter. In further consideration

in the Amelchenko matter the Board has determined to issue a final order which modifies the POD on Page 2 paragraph 3 to eliminate "has never applied for" and insert "has never completed an application for" prior to "nor possessed the requisite Certificate of Authorization, etc." Ms. Lopez motioned that the Board accept the motion as read by DAG Dick. Ms. Perantoni seconded the motion. It passed unanimously.

## **VI NEW BUSINESS**

### **A. Legislation**

1 A-565 - Designated the "Interior Designers Certification Act"

**ACTION:** After some discussion, Mr. Whang motioned to have Executive Director Hsu advise the Director's office of changes to the Bill. Ms. Lopez seconded the motion. It passed unanimously.

### **B Correspondence**

1 Letter, dated January 16, 2002, from Scott J. Burnley requesting the Board to review a disclosure form that will be included in his marketing documentation. Mr. Burnley's firm, AUS/Key of B Architecture, was approved by the Board for a certification of authorization at the January 10, 2002, meeting.

**ACTION:** After much discussion, Ms. Brandon motioned that the Board authorize DAG Passow to advise Mr. Burnley that each of the pictures of projects used in the brochure should attribute the firm he was working for at the time. Mr. Whang seconded the motion. Mr. Kellenyi opposed the motion as he felt it should not be allowed at all.

## **VII REVIEW OF APPLICATIONS**

No business was discussed

## **VIII CLOSED CASES**

1 ITEM NO. 99-06-02

Respondent/s: HAWK, Frank C. - NJ Lic. AI05771

Complainant: S.S. Construction Corps.

Project: Proposed Shelter Building for Monmouth County Parks System, Lincroft, NJ

Summary: A complaint was received from Steven Cottrell, President, S.S. Construction Corps., pertaining to the above individual. Mr. Kniesler recused himself from this case. In September 1999, after review of the file by a Board member the Board voted to invite the licensee and complainant to an investigative inquiry. On October 28, 1999, an investigative inquiry was held with Steven Cottrell, President of S.S. Construction Corp. Mr. Hawk failed to appear but sent a letter dated October 12, 1999. In November 1999, the Board reviewed copies of the inquiry transcripts from the inquiry. On March 23, 2000, the Board met with John Colannino, Esq., who discussed questions to relay to his out-of-state client for responses. In September 2000, the Board reviewed a letter concerning questions raised at the investigative inquiry held in March 2000, and a September 12, 2000, memo from DAG Passow outlining this case. After some discussion, the Board unanimously voted to accept DAG Passow's recommendation and have her draft a consent order with the options she presented to the Board in her memo. In January 2001, the Board reviewed a memo from DAG Passow advising that Mr. Colannino told her that he wished to amend the material submitted to the Board. After review of a letter dated March 21, 2001, from Mr. Colannino, Esq., the Board unanimously voted to table this matter and invite Mr. Hawk to appear before the Board on April 26, 2001. Mr. Hawk testified under oath at the April 26, 2001 investigative inquiry. Following review of transcripts and an April 30 letter from the respondent, the Board voted to have DAG Passow prepare a Consent Order for Mr. Hawk assessing a penalty of \$7,500 plus costs for the following violations: N.J.S.A. 45:1-21(e) has engaged in professional or occupational misconduct as may be determined by the Board; N.J.A.C. 13:27-5.3(c) which states in part, "an architect shall not accept compensation from material suppliers in return for specifying or endorsing their products"; N.J.A.C. 13:27-5.3(d) which states in part,

"When acting as the interpreter of construction contract documents...an architect shall render decisions impartially, favoring neither party to the contract."; N.J.A.C. 13:27-5.5(c) which states, "An architect shall not aid nor abet an unlicensed individual or entity in the practice of architecture by permitting his or her name to be used in connection with an individual or firm not authorized to practice architecture."; and, N.J.A.C. 13:45C-1.3(a)1 for failure to cooperate with the Board by not providing the plan requested at the April 26th inquiry. Mr. Hawk did not enter into the consent order. In June 2001 the Board directed DAG Passow to prepare a uniform penalty letter for Mr. Hawk. In July 2001, the Board reviewed the draft Uniform Penalty Letter. After some discussion, the Board unanimously voted to sustain its initial determination, and add an additional violation of N.J.A.C. 13:27-5.3(d) to this UPL. The transcript was delayed until November 2001 due to personnel problems at the firm. In September 2001, the Board reviewed an August 20, 2001, letter from the respondent advising the Board that he is retiring his license effective August 31, 2001. After some discussion, the Board requested DAG Passow send a letter requesting Mr. Hawk return his seal press within 15 days of receipt of the letter. In October 2001, the Board reviewed the Uniform Penalty Letter (UPL) which was mailed to Mr. Hawk. In November 2001, transcripts were received in this matter at no cost to the Board. The Board requested DAG Passow prepare a default judgment order inasmuch as there has been no response received from Mr. Hawk. On December 13, 2001, Executive Director Hsu advised the Board that Mr. Hawk returned his seal press. DAG Passow will prepare a final order in this matter. On January 10, 2002, DAG Passow distributed a copy of the Final Order letter.

**ACTION:** Ms. Lopez motioned that the Board accept DAG Passow's Final Order letter for Mr. Hawk as presented and close this case. Mr. Whang seconded the motion. It passed unanimously. CASE CLOSED.

2 ITEM NO. 01-02-02

Public bids for school roofing projects - Mitchell Abramowitz

In December 1999, Executive Director Hsu advised the Board that the State Commission of Investigation held a public hearing concerning their investigation into the roofing industry specifically public bids for school roofing projects in the State of New Jersey. Executive Director Hsu as well as Arthur Russo, Executive Director for the Board of Professional Engineers and Land Surveyors, were invited by the Commission to testify to the licensing aspect of roofing projects. Also present at the public hearing were DAG Olga Bradford, attorney for the Board of Professional Engineers and Anthony Miragliotta, Deputy Director, Division of Consumer Affairs. In October 2000, the Board reviewed copies of Page 15 through 56 of the Commission's report entitled, "Waste and Abuse: Public School Roofing Projects." The Board unanimously voted to call Mitchel Abramowitz in for an inquiry before the Board to discuss his involvement in the Edison Twp Schools as documented in the State Commission of Investigation Report, prior to schedule the date of the Investigative Inquiry, the Board requested Executive Director Hsu to obtain the transcripts from Mr. Abramowitz's testimony before the Commission for Board's review. In November 2000, transcripts from the Executive Session Hearings before the SCI were distributed to all members at the last meeting for review and discussion.

In January 2001, the Board scheduled an investigative inquiry for Mitchell Abramowitz before the Board of Architects. In March 2001, the Committee of the Board held an investigative inquiry with Mr. Abramowitz. The committee of the Board unanimously voted to recommend putting this matter on hold until the transcripts are received and reviewed by the Board. In April 2001, the Board received the transcript from the Mitchell Abramowitz inquiry. Executive Director Hsu advised the Board that the Joint Committee of Architects & Engineers scheduled a special meeting in May 2001, for inquiries with representatives from Tremco. Executive Director Hsu has requested the Board of Architects delay taking action against Mr. Abramowitz until after the Joint Committee's May meeting. In May 2001, following a discussion of two inquiries by the Joint Committee, where Tremco representatives testified, the board unanimously voted to have DAG Passow draft a consent order for Mitchell Abramowitz. The assessed penalty of \$5,000 per offense (totaling \$25,000) for: 1. plan stamping in violation of N.J.A.C. 13:27-5.5(b), 2. aiding and abetting the unlicensed practice in violation of N.J.A.C. 13:27-5.5(c), 3. title block removal in violation of N.J.A.C. 13:27-6.6(e), and 4. incompetence in violation of N.J.A.C. 13:27-5.1 and 5. using another architect's drawings without permission in violation of N.J.A.C. 13:27- 5.4(b). The Board proposed the suspension of Mr. Abramowitz's license for five (5) years. In May 2001, the Board reviewed a memo from DAG Passow pertaining to possible action to be taken against Thomas Saltzgueber. The Board reviewed DAG Passow's memo determined that there was insufficient information, at this time, to pursue Mr. Saltzgueber. In June 2001, the Board reviewed a copy of the Consent Order for Mitchell Abramowitz

and called for a minor correction to be forwarded to Mr. Abramowitz and his attorney. In July 2001, the board unanimously voted to sustain the consent order and reject the offer from Mr. Abramowitz. In September 2001, the Board unanimously voted for DAG Passow to negotiate a settlement with Mr. Abramowitz's attorney, with the following terms: If Mr. Abramowitz accepts the five-year suspension of his license, the penalty is \$25,000; OR If Mr. Abramowitz surrenders his license, agrees not to attempt to reinstate his license, the penalty is \$10,000. In October 2001, the Board reviewed the October 10, 2001, letter from Mr. McBride, attorney for Mr. Abramowitz, confirming terms of a settlement offer. There was a consensus of the members to accept the offer. Mr. Abramowitz did return his seal press to the Board. The Board vote to accept the terms and directed DAG Passow to send a settlement order for Mr. Abramowitz's signature and payment of penalty. In November 2001, the Board reviewed a copy of the Offer of Settlement letter sent to Mr. Abramowitz. In January 2002 the Board received a signed "Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint" from Mitchell Abramowitz, along with a check in the amount of \$7,500. The Board accepted the signed Offer of Settlement.

**ACTION:** Ms. Lopez motioned that the Board accept the "Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint" signed by Mitchell Abramowitz. Ms. Perantoni seconded the motion. It passed unanimously. CASE CLOSED.

## **IX PUBLIC COMMENTS**

Ray Springberg, Esq. and Shawn Mowery, Owner of M&K Contracting LLC, met with the Board to obtain information pertaining to Frank Hawk. DAG Passow advised them that the Hawk matter before the Board is still in Executive Session. However, this matter is before the Board today for consideration and action. Executive Director Hsu presented Mr. Springberg and Mr. Mowery with a complaint form that should be completed and submitted to the Board. DAG Passow assured the gentlemen that the Board would consider their complaint in full once it is received.

## **IX EXECUTIVE SESSION**

At 10:25 am, Ms. Lopez motioned that the Board go into Executive Session for the purposes of consideration to modify the final order in the Amelchenko matter. Mr. Kellenyi seconded the motion. It passed unanimously.

At 11:45 am, Ms. Lopez motioned that the Board go back into Executive Session for the purposes of reviewing disciplinary matters on the agenda. Ms. Brandon seconded the motion. It passed unanimously.

## **X NEXT MEETINGS**

February 14, 2002 Regular Meeting Union Conference Room

February 28, 2002 Regular Meeting Union Conference Room

## **XI ADJOURNMENT**

At 1:30 pm, Mr. Whang motioned that the Board adjourn the meeting. Ms. Brandon seconded the motion. It passed unanimously.