

**MINUTES FOR BOARD MEETING OF THE NEVADA STATE BOARD OF ARCHITECTURE,  
INTERIOR DESIGN AND RESIDENTIAL DESIGN**

**January 11, 2017**

**The Gina Spaulding Boardroom**

**2080 East Flamingo Road, Suite 120, Las Vegas, NV 89119**

**Wednesday, January 11, 2017**

Chairman James Mickey called the meeting to order at 8:32 a.m.

Roll Call: James Mickey, Chairman; Kimberly Ciesynski, Secretary/Treasurer; Gregory Erny; Ann Fleming; George Garlock; John Klai; John Morelli; William Snyder; Nathaniel Waugh.

Also in attendance: Monica Harrison, Executive Director; Louis Ling, Legal Counsel; Laura Bach, Chief Investigator; Ana Goins, Executive Assistant; Ginger Hahn, Public Information Coordinator.

**AGENDA ITEM 1      Public Comment**

There was no public comment.

**AGENDA ITEM 2      Approval of Consent Agenda**

Consent agenda included the following:

- A. Approval of Agenda
- B. Approval of Minutes: October 26, 2016
- C. Secretary/Treasurer Report (reports and bank statements)
  - 1. Nevada Architect, Registered Interior Designer and Residential Designer Licensing Statistics
  - 2. Wells Fargo Bank Statements
- D. Ratification of Reciprocal Licenses (see attached list)
- E. Firm Name Approval Requests
  - 1. EZ PLANS
  - 2. Historical Concepts, PLLC
  - 3. Little Box Inc.
  - 4. M-A Design Inc.
  - 5. Macgregor Associates Architects, Inc.
- F. Firm Registration Approval Requests
  - 1. Discovery Design Nevada
  - 2. GDA & Associates Nevada LLC

**Architects: Registration by Reciprocity**

7550	Michael J. Palladino	7560	Aaron T. Daily
7551	Quinton J. Scott	7561	Pamela J. Loeffelman
7552	Lawal Mohammed	7562	Christopher S. Duckett
7553	Casey B. Huse	7563	Jeffrey A. Scott

7554	Miklos M. Ankhelyi	7564	Alejandro H. Garcia Jr.
7555	Herbert A. Heiserman	7565	Thomas McQuillen
7556	Kristie M. Nelsen	7566	Eric L. Styer
7557	Andrew C. Herdeg	7567	Wayne D. Anderson
7558	Glen C. Salcedo	7568	Victor J. Latavish
7559	Hoejun Kim	7569	Nicole L. Norton

**Motion:** Snyder moved to approve the consent agenda items 2A through 2D, 2E-2 through 2E-4, and 2F-2. Motion seconded by Garlock.

**Vote:** All in favor. Motion passes.

**Agenda Item 2E-1                      EZ PLANS**

**Motion:** Klai moved to approve the firm name approval request for “EZ Plans.” Motion seconded by Waugh.

Mickey said that EZ Plans is a franchise in California and questioned who would be in responsible control under a franchise agreement. The board was also concerned with the business structure of EZ Plans and what Mr. Salcedo, the applicant, intended to do in Nevada under the name. Goins was instructed to call Salcedo for clarification. Further clarification was still needed after a phone conversation with and an email from Salcedo.

**Motion:** Klai amended the motion to table Agenda Item 2E-1 until the next board meeting and request that Salcedo appear before the board for further clarification. Motion seconded by Waugh.

**Vote:** All in favor. Motion passes.

**Agenda Item 2E-5                      Macgregor Associates Architects, Inc.**

**Motion:** Erny moved to approve the firm name approval request for “Macgregor Associates Architects, Inc.” Motion seconded by Snyder.

Erny said that Macgregor is retired and wanted to make sure that the applicants know that it must be noted as such, including on the firm’s letterhead. Goins confirmed that the applicants are aware of this and that they had submitted a copy of the appropriate letterhead to the board office.

**Vote:** All in favor. Motion passes.

**Agenda Item 2F-1                      Discovery Design Nevada**

**Motion:** Erny moved to approve the firm registration approval request for “Discovery Design Nevada.” Motion seconded by Garlock.

Erny said the addresses presented in the request for firm registration approval make it seem as if this is a firm based in Utah setting up an office in Nevada. He wants to make sure that the applicants are reminded of their obligation to have a person in responsible control in the Nevada office on the projects that they do in Nevada. Harrison reported that they had been made aware.

Mickey said that the applicant had not marked if the firm name "Denton House Nevada, LLC" was active or inactive. Harrison responded that she had confirmed with the applicants that it is an active firm name.

**Vote:** All in favor. Motion passes.

**Agenda Item 4**                      **Review and Possible Decision Regarding Application of Brian Fabo for Architectural Reciprocal Registration Pursuant to NRS 623.210**

**Motion:** Klai moved to approve the application of Brian Fabo for architectural reciprocal registration. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**Agenda Item 5**                      **Review and Possible Decision Regarding Application of Byung IL Yoo for Architectural Reciprocal Registration Pursuant to NRS 623.210**

**Motion:** Garlock moved to approve the application of Byung IL Yoo for architectural reciprocal registration. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**Agenda Item 8**                      **Review and Possible Decision Regarding Continuing Education Hardship Request**

The board reviewed Ann Marie Wikoff's request for exemption from 2016 continuing education requirements for 2017 registration renewal.

**Motion:** Waugh moved to approve registered interior designer #122-ID, Ann Marie Wikoff's request for exemption from the 2016 continuing education requirements for 2017 renewal. Erny seconded the motion.

**Vote:** All in favor. Motion passes.

**Agenda Item 14**

**Review and Possible Approval of the Master Calendar for FY 2017 - 2018**

**Motion:** Waugh moved to approve the master calendar for FY 2017-2018. Garlock seconded the motion.

**Vote:** All in favor. Motion passes.

**Agenda Item 3A**

**Deliberations/Action on Applications for Registration: Architect**

Ciesynski swore in the following individuals as architects:

- 1. Esther Garcia.....7570
- 2. Brian Glennon.....7571
- 3. Carson Nolan.....7572
- 4. Michael Schafer.....7573

**Motion:** Waugh moved to approve the registration of the above referenced individuals as architects. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**Agenda Item 3B**

**Deliberations/Action on Applications for Registration: Registered Interior Designer**

Ciesynski swore in the following individual as a registered interior designer:

- 1. Kelly Scherbenski.....232-ID

**Motion:** Waugh moved to approve the registration of the above referenced individual as a registered interior designer. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

Mickey introduced Randy Lavigne, executive director of AIA Nevada and AIA Las Vegas. Lavigne recognized the new registrants for their milestone accomplishments of becoming registered in the state of Nevada and presented them each with a Certificate of Recognition on behalf of the AIA. She gave the registrants a summary of what AIA does for its members and the design profession.

Mickey congratulated the new registrants and welcomed them to their professions.

Harrison extended congratulations to the new registrants on behalf of the board and staff. She encouraged them to reach out to the staff with any concerns they may have in the future and stressed the importance of researching laws and rules in other jurisdictions prior to beginning the pursuit of any projects in those jurisdictions. Harrison encouraged the registrants to become NCARB certified in order to facilitate licensure by reciprocity.

Mickey told the registrants that the Nevada board has a variety of representations among its board members such as one of the past presidents of CIDQ, the upcoming president of NCARB, and a lot of committee and board involvement at local and national levels. He invited the new registrants to give feedback concerning their paths to licensure so that their comments and concerns could be heard and appropriately delivered.

Kelly Sherbenski, registered interior designer, said that her only concern was that the NCIDQ Exam is only offered twice per year. She said that candidates study for months and then wait about two months to get exam results. If a candidate fails the exam they may not be able to retake it for a quite a long time due to it being offered only twice per year. Sherbenski expressed that it would be very beneficial to candidates if the exam were offered more often.

Ciesynski responded by saying that the challenge in offering the exam more than twice per year is that writing and grading the exams is very labor intensive. She said that the tests are being offered for the entire months of April and October beginning this year making the window of opportunity for candidates much larger.

Erny expanded by saying that the more a test is administered, the more exposure there is to the test items which is not conducive to protecting the integrity of the exam.

Klai told the registrants that their choice to make Nevada their base state was a wise one because the reciprocity process will be much easier for them in several jurisdictions due to Nevada's high licensing standards.

Garlock congratulated the new registrants and said that the Nevada board is proud of them. He encouraged them to call the board office anytime they are uncertain of what they can or cannot do in order to avoid facing disciplinary action.

### **Agenda Item 9**

### **Continuing Education Committee Report and Possible Decision Regarding Increasing the Registration Fee for Future NSBAIDRD/AIA Continuing Education Events**

Harrison reported that the Continuing Education Committee met the day prior and it was confirmed that the Las Vegas seminar would be held on Thursday, May 25 and the Reno event on Thursday, December 7.

Speakers for both seminar locations will include Kay Sargent (interior designer), a representative from NCARB, and Ronald Lynn (director of operations with Nevada State Contractors Board). The Las Vegas seminar will include Samuel D. Palmer (acting director with Clark County Department of Building and Fire Prevention) and the Reno event will include Dan Holly (building and safety manager for City of Reno Community Development).

The board discussed raising the cost of the registration fee for the seminar in order that the board and AIA Nevada can continue to provide convenient, quality continuing education to its registrants in future years.

**Motion:** Erny moved to increase the price of the registration fee to \$45 beginning with the 2017 seminar. Motion seconded by Klai.

**Vote:** All in favor. Motion passes.

**AGENDA ITEM 10A-1**

**Case No. 16-030R - In the Matter of Michael Livingston and AeCP Architecture, Inc.**

The respondents are alleged to have violated NRS 623.270.1(c) and (f), and Rules of Conduct 1.1 by being negligent and not acting with reasonable care and competence.

Staff received a complaint from Gwen Braimoh stating that the respondents were negligent in responding to building department correction notices and ultimately not providing a full set of construction drawings including architectural, structural, mechanical, plumbing, and electrical. Further investigation including an enforcement advisory member review of the respondents' drawings revealed that the drawings, specifically the structural drawings, were extremely below the minimum standard and not competently prepared.

The respondents were sent a Notice of Charges concerning this project. The respondents' case was discussed with Executive Director Harrison and the decision was made to offer the respondents an opportunity to settle this matter informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated incorporating a one year period of probation during which time the respondents' license is restricted and they are not allowed to prepare any structural drawings; other drawings must meet the minimum standard. Also, they must satisfactorily complete three ICC classes on structural, mechanical and plumbing. Additionally, it incorporates a Guilt Clause and an Administrative Penalty of \$10,000 of which \$5,000 is stayed subject to the respondents' compliance with all terms and conditions imposed in the Settlement Agreement plus Investigative Costs in the amount of \$2,500.

Staff recommended approval of the settlement agreement.

**Motion:** Waugh moved to approve the settlement agreement. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**AGENDA ITEM 10A-2**

**Case No. 17-005N - In the Matter of Robert J. Hanlon and Hanlon Engineering and Architecture**

The respondents are alleged to have violated NRS 623.360.1(a) and (b) and NRS 623.350.1 by holding themselves out as being qualified to provide architectural services in Nevada and advertising architectural services on the website [www.hanlonengineering.com](http://www.hanlonengineering.com) without having any Nevada registered architects. Additionally, the respondents operated an office in Elko, Nevada advertising architectural services without having a resident registrant regularly working at the office.

Staff received anonymous information that the respondents were advertising their company Hanlon Engineering & Architecture on the Elko Chamber of Commerce website. Further

investigation revealed that although neither the respondents nor their firm had provided architectural services in Nevada, they were still advertising that they provided architectural services at their Elko Nevada office.

The respondents were sent a Notice of Charges concerning this matter. The respondents' case was discussed with Executive Director Harrison and the decision was made to offer the respondents an opportunity to settle this matter informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated. The settlement agreement incorporates a Guilt Clause with an Administrative Penalty of \$5,000 plus Investigative Costs in the amount of \$1,200. The Administrative Penalty was stayed contingent with the corrective measures the respondents made.

Staff recommended approval of the settlement agreement.

**Motion:** Waugh moved to approve the settlement agreement. Motion seconded by Klai.

**Vote:** All in favor. Motion passes.

### **AGENDA ITEM 10A-3**

### **Case No. 17-007N - In the Matter of Henry Schein Inc.**

The respondent is alleged to have violated NRS 623.360.1(c) by engaging in the practice of architecture and registered interior design for a Nevada project without having a certificate of registration with this board.

Staff received an anonymous complaint stating that the respondent had prepared renderings and drawings for Reno Dental Associates in Nevada. The respondent is a nationwide distributor of health care products and services for office-based dental, animal health, and medical practitioners. One of the two drawings showed space planning and changes in design. The respondent was educated on how to work with a Nevada registrant in order to provide design services in Nevada.

The respondent was sent a Notice of Charges concerning this project. The respondent's case was discussed with Executive Director Harrison and the decision was made to offer the respondent an opportunity to settle this matter informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Non-Admission of Guilt Clause and an Administrative Penalty of \$1,000 plus Investigative Costs in the amount of \$1,500.

Staff recommended approval of the settlement agreement.

**Motion:** Klai moved to approve the settlement agreement. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**AGENDA ITEM 10A-4**

**Case No. 17-016N - In the Matter of Ken Brown and Ken Brown Designs, LLC**

The respondents are alleged to have violated NRS 623.360.1 (c) by engaging in the practice of architecture and residential design without having a certificate of registration with this board.

Staff received a complaint from RD Wayne Ford regarding an unlicensed designer providing drawings for a variance and making a presentation at the local Incline Village Citizen's Advisory Board (CAB) meeting in order to obtain the variance. A notice of investigation was sent out and the respondents' response was that they did not know they had to be licensed in order to design a residential project since they had done it in Arizona, California, and Utah (all of which do not require professional registration for residential drawings).

The respondent was sent a Notice of Charges concerning this project. The respondents' case was discussed with Executive Director Harrison and the decision was made to offer the respondent an opportunity to settle this matter informally rather than face a disciplinary hearing before the Board. A settlement agreement was negotiated incorporating a Guilt Clause and an Administrative Penalty of \$5,000 plus Investigative Costs in the amount of \$1,500.

Staff recommended approval of the settlement agreement.

**Motion:** Waugh moved to approve the settlement agreement. Motion seconded by Garlock.

**Vote:** All in favor. Motion passes.

**AGENDA ITEM 10A-5**

**Case No. 17-025N - In the Matter of Philip Stewart and PSA Inc.**

The respondents are alleged to have violated NRS 623.360.1 (c) by holding themselves out and engaging in the practice of architecture prior to having certificates of registration with this board.

During a reciprocity interview staff asked the respondents if they had issued a proposal or prepared any drawings for his Nevada project. The respondents stated that they had issued a proposal for full architectural services and some drawings had been prepared. Copies of the drawings and proposal were obtained and it was discovered that the drawings were prepared by a Nevada registered engineer. Staff asked the respondents if they had only prepared the one sheet of elevation drawings and they indicated that was correct.

The respondents were sent a Notice of Investigation/Charges concerning this project. The respondents' case was discussed with Executive Director Harrison and the decision was made to offer the respondents an opportunity to settle this matter informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated incorporating a Non-Admission of Guilt Clause, an Effect on Licensure Clause and an Administrative Penalty of \$4,000 plus Investigative Costs in the amount of \$1,000.

Staff recommended approval of the settlement agreement.

**Motion:** Waugh moved to approve the settlement agreement. Motion seconded by Garlock.

**Vote:** All in favor. Motion passes.

**AGENDA ITEM 10B**                      **Discussion and Possible Decision Regarding Closure of Enforcement Cases**

Bach recommended the following cases for closure without disciplinary action:

15-006N    15-019N    17-003R    17-009N    17-024N

**Motion:** Waugh moved to close the above-referenced case. Motion seconded by Erny.

**Vote:** Garlock recused himself. All others in favor. Motion passes.

**AGENDA ITEM 10C**                      **Enforcement Report**

Bach reported that she sent out emails to the building departments regarding rather or not drawings prepared by specialty designers must be stamped. She said she would have a report of responses prepared for the next board meeting.

Erny suggested sending the same type of letter to planning departments and/or those hiring non-registrants.

Bach said that she agreed and wanted to present the issue as something to be addressed in the next edition of The Blue Book as well.

**Agenda Item 11A**                      **Discussion and Decision Regarding which Board Members and Staff will Attend the Regional Summit in Jersey City, NY on March 10 – 11, 2017**

Harrison said she and Erny would be funded through NCARB, Mickey through WCARB, and that Garlock and Snyder would be the other two funded delegates by NCARB.

Waugh said he would be funded through NCARB due to his service on the NCARB Professional Conduct Committee.

Ciesynski, Fleming, Klai, and Morelli said they would attend.

**Agenda Item 11B**                      **FYI: NCARB Update October & November 2016**

Mickey said this information was provided for board members' information.

## **Agenda Item 12**

## **Residential Design Issues**

There was no report.

## **Agenda Item 13A**

## **Review and Possible Decision Regarding the Approval of Funding Two Candidates for the Nevada Alternative Application Review Program (NAARP)**

Harrison said that the regulation concerning NAARP had been approved by the Nevada Secretary of State. She said that there are two candidates for interior design that would like to pilot the program and asked the board if they were willing to fund them.

Ciesynski said that in the long run NSBAIDRD would save money when candidates choose to use the NAARP versus NSBAIDRD's Interior Design Program Review. She said it would also save the NSBAIDRD board and staff time.

**Motion:** Waugh moved to approve that NSBAIDRD fund two applicants for the Nevada Alternative Application Review Program with the condition that the candidates agree to have regular contact with NSBAIDRD concerning the process. Motion seconded by Ciesynski.

**Vote:** All in favor. Motion passes.

## **Agenda Item 15**

## **Public Member Report**

Waugh said he knows that Ling and Jim Wadhams, lobbyist have been monitoring the 79<sup>th</sup> session of the Nevada Legislature and that he was also watching the session. He said he noticed that senate bill 69 would affect NSBAIDRD and that he would let Ling expand on that later.

## **Agenda Item 16**

## **Executive Director Report**

Harrison said the board financial investment strategy did not appear on this agenda because there was nothing to be discussed at the time and that it would be discussed at the June board meeting.

She reported that 2,483 registrants out of 3,100 had renewed registration for 2017 and she is expecting to receive 200 – 300 more renewals within the next two weeks. She added that 2,300 of the 2,483 registrants renewed online which is a larger percentage than last year.

Harrison said that she Mickey and she attended NCARB's Member Board Member Chair Executive Summit in Ohio. The agenda at the meeting included a discussion of the challenges

faced by single discipline boards versus multi-discipline boards, ARE 5.0, and building the national disciplinary base.

Erny asked how board staff handles reporting disciplinary actions to NCARB. Bach said that she fills out a form on NCARB's website and uploads a copy of the settlement agreement. She said that it is a simple process and takes about five minutes to complete.

### **Agenda Item 17**

### **Board Counsel Report**

Ling said that he had nothing more to report other than what Waugh had mentioned concerning the legislative session. He said he was impressed that Waugh had been looking at the list.

He reported that there was a large list of pre-filed bills this year and that the governor has been very active this session. He said that there are approximately twelve bills out that address occupational boards but none thus far that specifically mention professions regulated by NSBAIDRD.

Ling said Senate Bill 69 will place a cap on how many terms a board member may serve on a board and language concerning disciplinary action. He assured the board that he will be watching this bill and all others that may affect NSBAIDRD.

Harrison mentioned that one section of Senate Bill 69 mentions endorsement by reciprocity. She said the board currently only has a process in place for architecture and that it will need to adopt a process for registered interior design. Ling agreed.

### **Agenda Item 18**

### **Public Information Report**

Hahn reported that she was invited to attend a partnership advisory board meeting at Southwest Career and Technical Academy the on January 19<sup>th</sup>. She said that she would be meeting with the school's community partnership coordinator and program leader for the Interior Design Program to schedule a time to meet with students.

Hahn said she will also be meeting with students in the Architectural Drafting and Design Program at Advanced Technologies Academy in February.

Board members had requested that Hahn look into schools advertising degrees in the professions that NSBAIDRD regulates without having the proper accreditation to do so. Hahn reported that she had done this and found none. She said the International Academy of Design

& Technology (IADT) is now called Sanford Brown College and no longer has an interior design program.

Erny mentioned that UNLV has had an "Interior Architecture Program" for many years. The program is CIDA accredited which would allow graduates to seek registration as registered interior designers but not as architects. The board feels that the name of the program is misleading. They discussed drafting a letter to the dean of UNLV College of Fine Arts inviting her to discuss the matter with the board. Ciesynski recommended that Hahn make the topic first priority when speaking to students enrolled in that program so that they understand what their opportunities will be upon graduation.

Hahn reported that she spoke with Ronald Lynn concerning the next edition of The Blue Book. He would like to assist in coordinating meetings leading up to publication. She said they discussed publishing it by mid-2018.

Hahn said she was also watching the 79<sup>th</sup> Session of the Nevada Legislature. She was currently tracking 139 of the 793 bill draft requests.

She told board members that the most recent copy of Focus was in their board books and that the next edition would be out at the end of February.

### **Agenda Item 19**

### **Items for Future Agenda**

- Firm Name Approval Request for EZ PLANS
- a report from lobbyist Jim Wadhams concerning the legislative session

### **AGENDA ITEM 6**

### **Review, Discussion, and Possible Action Regarding Dennis Eugene Rusk's Motion to Lift Stay on the Petitioner's Petition/Motion Requesting that the Final Decision of the Board be Vacated or Modified, etc. and Request for Evidentiary Hearing in Case Numbers 08-080R and 11-019R**

In attendance:

Petitioner Dennis Eugene Rusk

Robert A. Nersesian, Esq. on behalf of Petitioner Rusk

Louis Ling, Esq. on behalf of the NSBAIDRD

Sophia Long, Deputy Attorney General, Acting as Board Counsel

Mickey gave background information.

On August 16, 2011 and September 11, 2011 the board held a hearing on complaints (cases 080-08R and 11-019R) against Rusk. Ling prosecuted on behalf of the board and Rusk chose to represent himself. The hearing resulted in disciplinary action against Rusk and the board issued its final order on September 27, 2011.

On or about January 7, 2016, by way of his attorney Mr. Robert A. Nersesian, Rusk filed with the board the original Petition/Motion Of Dennis Eugene Rusk Requesting That The Final Decision Of The Board Be Vacated Or Modified, Brought In The Nature Of A Petition For Writ Of Coram Nobis Or Other Relief To Set Aside Order Of Discipline Or Alternatively, Remit Discipline, And Request/Motion For Appointment Of Independent Counsel ("Motion to Vacate").

Rusk's Motion to Vacate requested that the board vacate its order alleging prosecutorial misconduct during Rusk's hearing, specifically that Louis Ling, Esq., the board's prosecuting attorney, withheld material facts and made affirmative misrepresentations to the board resulting in "gaining a conviction of petitioner."

Rusk's Motion to Vacate further requested that the board appoint independent counsel to review the Motion to Vacate, address the Motion to Vacate and to investigate prosecutor, Louis Ling's actions.

On January 22, 2016, the board issued an order staying the motion because Rusk alleged prosecutorial misconduct against the board's prosecuting attorney, Louis Ling, Esq., and in doing so, he also filed a Nevada state bar complaint against Louis Ling, in this matter and involving this matter, therefore, the board stayed the hearing of respondent's motion until the state bar complaint had been concluded.

On September 26, 2016, Rusk filed with the board his Motion to Lift Stay of Petitioner/Motion Requesting that the Final Decision of the Board be Vacated Or Modified, Etc., and Request For An Evidentiary Hearing ("Motion to Lift Stay").

The state bar complaint against Ling has been completed.

**Motion:** Erny moved to lift stay on petitioner's petition/motion. Motion seconded by Waugh.

**Vote:** Garlock and Snyder recused themselves. All others in favor. Motion passes.

## **Agenda ITEM 7**

**Review, Discussion, and Possible Action Regarding Dennis Eugene Rusk's Motion Requesting that the Final Decision of the Board be Vacated or Modified, Brought in the Nature of a Petition for Writ of Coram Nobis or the Relief to Set Aside Order of Discipline or Alternatively, Remit Discipline & Request/Motion for Appointment of Independent Counsel in Case Numbers 08-080R and 11-019R**

In attendance:

Petitioner Dennis Eugene Rusk

Robert A. Nersesian, Esq. on behalf of Petitioner Rusk

Louis Ling, Esq. on behalf of the NSBAIDRD

Sophia Long, Deputy Attorney General, Acting as Board Counsel

Mickey said the board will treat Rusk's Motion to Vacate as a Motion for Rehearing pursuant to NRS 622A.390(1)(a) since that is the ultimate relief sought by Rusk.

He pointed out that Rusk's Motion included that it was "BROUGHT IN THE NATURE OF A PETITION FOR WRIT OF CORAM NOBIS" which is not appropriate because an administrative body is not an appeals court and the matter was not a criminal proceeding.

Mickey said that the January 11, 2017 board book contained content from the original cases and he wanted to make sure that the board members had reviewed the documents. Board members confirmed that they had.

Rusk's motion to vacate was brought pursuant to NRS 622A.390(1)(c) which states: "After the close of the hearing, a party may file only the following motions: (c) A motion requesting that the final decision of the regulatory body be vacated or modified."

Mickey said that if the board decided to vacate the order, a new hearing would be necessary. He said there would be no reason to modify the order because Rusk had not asked for modification.

Pursuant to NRS 622A.390(1)(a), which states "After the close of the hearing, a party may file only the following motions: (a) A motion requesting rehearing." Further, pursuant to NRS 622A.390(2)(b) states: "A motion requesting rehearing or reconsideration must be filed with: the regulatory body not later than 15 days after the date of service of the final decision of the regulatory body."

Rusk filed his Motion approximately five years after the final decision of the board.

Mickey continued that under NRS 623, the board is not given the authority to investigate an attorney and therefore cannot appoint independent counsel to investigate Ling. The board does not have the authority to use evidentiary hearings to investigate the conduct of its board counsel.

Long added, for further clarification, that the board does not have jurisdiction to grant any of the motions requested by Rusk.

Mickey called for discussion. There was none.

**Motion:** Waugh moved to deny Petitioner Dennis Rusk's Motion to Vacate. Motion seconded by Erny.

**Vote:** Garlock and Snyder recused themselves. All others in favor. Motion passes.

**AGENDA ITEM 20**

**Public Comment**

There was no public comment.

Chairman Mickey adjourned the meeting at 12:47 p.m.

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Monica Harrison, Executive Director

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Kimberly Ciesynski, Secretary/Treasurer