

FLORIDA BUILDING COMMISSION

PRODUCT APPROVAL POC

APRIL 2, 2015 TELECONFERENCE MEETING SUMMARY REPORT

THURSDAY, APRIL 2, 2015

MEETING SUMMARY AND OVERVIEW

At the Thursday, April 2, 2015 teleconference meeting the POC considered regular procedural issues including product approval and entities statistics reports; a status report on conditional approvals from the February 2015 meeting (with one exception all were resolved); review and approval of product and entity applications; and a review of DBPR approved product approval applications. In addition, the POC discussed the continued complaint against Zion Tile Corporation of Miami regarding FL #16057-R1 voting to defer any formal action regarding the matter to the June 2015 meeting, and to require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami. Specific actions include recommendations to the Commission regarding declaratory statements DS 2015-022 and DS 2015-007; and recommending the Commission not ratify the approval of FL #12875 submitted for DBPR approval, on the basis that the application needs to be revised to remove all references to OSB from the evaluation report (not substantiated by testing), and product .2 be removed from the application and submitted for approval using compliance Method 1 (d), an evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer.

Background and Supporting Documents

Relevant background and supporting documents are linked to each agenda item. The Agenda URL for the April 2, 2015 meeting is as follows:

http://www.floridabuilding.org/fbc/commission/FBC_0415/Product_Approval/Product_Approval_Agenda.htm

AGENDA ITEM OUTCOMES

A.1. OPENING AND MEETING PARTICIPATION

The meeting was opened at 10:00 AM once a quorum was established, and the following POC members participated (5 of 7 members):

Jeff Stone (Chair), Jay Carlson, David Compton, Nan Dean, and Brian Swope.

Members Not Participating:

Robert Hamberger and Tim Tolbert.

A.2. DBPR STAFF PRESENT

Norman Bellamy, Robert Benbow, Joe Bigelow, Zubeyde Binici, Jim Hammers, April Hammonds, and Mo Madani.

Meeting Facilitation and Reporting

Product Approval POC meetings are facilitated and meeting reports drafted by Jeff Blair from the FCRC Consensus center at Florida State University. Information at: <http://consensus.fsu.edu/>



CONSENSUS CENTER

A.3. AGENDA REVIEW

The POC voted unanimously, 5 - 0 in favor, to approve the agenda for the April 2, 2015 meeting as amended. Following are the key agenda items approved for consideration:

- To Consider/Discuss Product Approval Program Issues
- To Consider/Decide on Petitions for Declaratory Statements
- To Consider/Decide on Approval of Products and Product Approval Entities

Amendment:

The agenda was reordered to discuss agenda item C.3. following agenda items C.4. and C.5.

The complete Agenda is included as “*Attachment 1*”.

(See Attachment 1—Agenda)

A.4. STATEMENT OF TELECONFERENCE PARTICIPATION PROCESS

Jeff Blair reviewed the teleconference participation process with participants reminding them that it is important to keep their phones on mute to minimize background noise, not to put their phones on hold, and to wait until invited to speak to avoid confusion and chaos. Jeff emphasized that all participants will have ample time to speak on all agenda items. Participants were reminded to state their names each time they speak.

B. REVIEW AND APPROVAL OF THE FEBRUARY 5, 2015 MINUTES

MOTION—The POC voted unanimously, 5 - 0 in favor, to approve the February 5, 2015 meeting minutes as amended.

Amendments:

Agenda Item C.3 (Declaratory Statement DS 2014-152): revise the Report to reflect the vote was 4 - 1 in favor, not 5-0.

C. 1. PRODUCT APPROVAL AND ENTITIES STATISTICS REPORT

Zubeyde Binici reviewed the product and entities statistics reports with participants and answered members’ questions. Zubeyde reported that the total number of product approval applications submitted for approval to the 2010 Code is 6,938 and to the 2014 Code is 779; the total number of products submitted for approval to the 2010 Code is 31,920 and the 2014 Code is 4146; and the

total number of entities submitted for approval to the 2010 Code is 378 and the 2014 Code is 378. The report is linked to the Product Approval POC's agenda.

C.2. REPORT ON CONDITIONAL APPROVALS FROM THE FEBRUARY 5, 2015 MEETING

Commissioner Stone noted that with one exception (FL# 17220) all of the conditions were met for the conditional approvals reported at the February 5, 2015 meetings. DBPR staff received an email request from Bob Rozell representing FL# 17220 requesting an extension of the conditional approval to provide time for the company to finalize the quality assurance program in order to resolve the condition required for approval of the product. Mo Madani reported that DBPR staff is working with the applicant, who consented to the delay, to resolve the matter.

C.3. COMPLAINT AGAINST ZION TILE CORP. FL #16057

Background:

A complaint was made by Dan Arguelles regarding roof tile products made by Zion Tile Corp. Mr. Arguelles alleged that the Zion Tile Corp. was distributing non-compliant roof tiles in Miami-Dade County based on the approval of product #FL 16057 and the issue was discussed at the August 2013, October 2013, and again at the December 4, 2013 meetings (see related meeting reports for details). Legal staff April Hammonds advised that the Product Approval Rule requirements pertaining to alleged product deficiencies provides that product approval suspensions or revocations shall be initiated for a failure to correct manufacturing deficiencies required to bring the product within specifications of the originally approved product, and that according to their Quality Assurance Entity, Keystone Certifications, Inc., the manufacturer was in process of making the changes prescribed by Keystone to correct identified issues. Following extensive public comment and discussion on both sides of the issue April advised that the Rule requires that the Commission shall initiate an investigation based on a written complaint containing substantial material evidence by any "substantially affected party", and this is a high threshold to achieve, and typically a "substantially affected party" is determined to be a homeowner impacted by the matter or a building official acting in their official capacity.

In addition, during the discussions it came to light that Zion Tile and Artezanos, Inc. were currently in litigation. On this basis April Hammonds strongly recommended that the proper course of action would be a recommendation to the Commission to close the matter and defer any action pending resolution of the civil litigation. April advised it is inappropriate for the Commission to render recommendations on a matter that has civil litigation pending.

At the December 4, 2013 Product Approval POC meeting the POC voted to recommend the Commission initiate an investigation regarding FL#16057 in accordance with the provisions of Rule 61G20-3.013 (Revocation or Modification of Product Approvals and Entity Certifications) and 61G20-3.014 (Investigations). At the December 13, 2013 Commission meeting the Commission voted to defer any action pertaining to this matter pending resolution of civil litigation between the parties, and to instruct Keystone Certifications, Inc. to remain involved in monitoring and reporting to the Commission on the resolution of quality assurance issues.

Overview of the April 2, 2015 Meeting Discussion on the Issue:

On February 17, 2015 DBPR staff received a letter from Dan Arguelles, Artezanos, Inc., formally requesting the continuation of his original complaint against Zion Tile Corporation of Miami's

“Alhambra Homemade Clay Roof Tile” FL #16057 product approval. Mr. Arguelles alleged that the product is non-compliant with the thickness requirements on which the product approval is based.

On March 4, 2015 DBPR staff received an email from Mario Garcia representing Zion Tile Corporation of Miami (Zion Tile) responding to the complaint. Mr. Garcia noted that the Venetian Pool project site where the tile is alleged to be deficient is relying on Miami-Dade County NOA# 13-1113.07 for local product approval, and not FL# 16057 which is for State product approval. Mr. Garcia indicated that Zion Tile is working with the City of Coral Gables and Miami-Dade County officials to resolve any issues related to the Venetian Pool project in question, and noted that the complaint is being made by a direct competitor (Artenzanos, Inc.) and not from an owner, architect, contractor, roofer or anyone associated with the purchase of Alhambra tiles. Mr. Garcia further stated that the tile samples acquired by Mr. Arguelles were obtained “illegally” from job sites.

Jamie Gascon representing Miami-Dade County indicated during the meeting that Zion Tile and Miami-Dade County are working to address issues to ensure compliance with the product approval requirements associated with Miami-Dade County NOA# 13-1113.07 for the Venetian Pool project in question.

At the April 2, 2015 meeting DBPR staff Mo Madani and April Hammonds provided the POC with an overview of key technical and legal issues respectively. Mo noted that the complaint to DBPR is for FL #16057 a State product approval. Staff noted that the complaint letter submitted by Mr. Arguelles and all of the supporting documentation recently submitted reference Miami-Dade County NOA# 13-1113.07, which is not the basis for the approval of FL #16057 which was submitted for State product approval through the evaluation report from a licensed Florida Professional Engineer compliance method. Mo and April both noted that the *5th Edition of the Florida Building Code (2014)* would be effective on June 30, 2015, and all product approvals will have to be revised to demonstrate compliance with the 2014 Code. This would provide the POC with an opportunity to evaluate whether to approve the product in questions based on the documentation submitted to demonstrate compliance with the Code and the requirements of the Product Approval Rule including licensure with a Quality Assurance program.

Staff asked whether Mr. Arguelles (complainant) was on the call and received no response. April Hammonds also reported that she received medical documentation that the representative from Zion Tile (respondent) was in the hospital, and as a result would not be participating on the call. April noted that due process requires the respondent to be available to respond to a complaint against them.

Mo noted that as a result of his contacting Keystone Certifications, Inc. regarding the status of Zion Tile’s Quality Assurance Program he received an email on February 17, 2015 from Jon Hill stating that Keystone Certifications, Inc. suspended the Keystone Quality Assurance Licensure for Zion Tile Corporation of Miami for non-compliance with Program requirements, affecting FL #16057-R1. Mo noted that Zion Tile indicated to him that they are in the process of resolving quality assurance issues, and Mo reported it is normal and customary for DBPR to work with product approval holders to resolve issues such as compliance with the quality assurance program requirements of the Product Approval Rule. Mo noted that once he received the suspension notice from Keystone Certifications, Inc. he asked Jon Hill to provide the reasons for the suspension, and Jon indicated that he could not provide the reasons.

During the meeting Jon Hill was asked for details regarding the suspension, and reported that due to confidentiality requirements he could not provide the POC with details on the suspension of the

Keystone Quality Assurance Licensure for Zion Tile Corporation of Miami beyond the general statement that the licensure was suspended for non-compliance with Program requirements.

April Hammonds advised that the Product Approval Rule requirements pertaining to alleged product deficiencies provides that product approval suspensions or revocations shall be initiated for a failure to correct manufacturing deficiencies required to bring the product within specifications of the originally approved product, and Zion Tile represent they are working to resolve outstanding issues. April further noted that there was no documentation presented by the claimant (Mr. Arguelles) to establish a chain of custody for the tile samples alleged to be deficient relevant to FL #16057. April reminded the POC that the Product Approval Rule (Rules 61G20-3.013 and 61G20-3.014) provides that the Commission is authorized to initiate an investigation based on a written complaint containing substantial material evidence by any “substantially affected party”, and this is a high threshold to achieve, and typically a “substantially affected party” is determined to be a homeowner impacted by the matter or a building official acting in their official capacity. April recommended that the POC wait until the June meeting to decide whether to take any formal action pending resolution of the quality assurance issue, and to determine whether the product is submitted for approval to the 2014 Code, at which time the POC will have an opportunity to evaluate the submittal documentation. The POC was reminded that issues related to the Venetial Pool project are based on Miami-Dade County NOA# 13-1113.07, and are a local product approval matter to be resolved at the local level.

The POC discussed the issue at length expressing concern that the Commission should be able to initiate an investigation and if necessary revoke a product approval in an expeditious manner, and that although investigations and revocations are allowed in the Rule, the threshold required to do so is time consuming as a result of the administrative appeal rights requirements of Florida law (Chapter 120, F.S.). The POC discussed the fact that they did not have any specifics on why Keystone Certifications suspended the quality assurance program licensure for Zion Tile Corp., and without detail it is not possible to objectively evaluate what the correct course of action should be regarding the product approval for FL #16057. On this basis, the POC agreed that they would require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami, and they would defer any formal action on the complaint until the June 2015 POC meeting.

Following questions and answers, and an opportunity for public comment and POC discussion, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 – 0 in favor, to recommend the Commission require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami.

MOTION—The POC voted unanimously, 5 – 0 in favor, to defer any formal action on the complaint until the June meeting.

All documentation referenced in this summary are linked to agenda item. C.3. at the following URL: http://www.floridabuilding.org/fbc/commission/FBC_0415/Product_Approval/Product_Approval_Agenda.htm.

C.4. CONSIDERATION OF DS 2015-022 BY SCOTT KNOBLOCK OF NOVUM STRUCTURES, LLC

Novum Structures submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the April 2, 2015 Product Approval POC agenda found on-line. There was no one representing the petitioner during the teleconference meeting, so Mo Madani reviewed the petition and provided staff's analysis. Following questions and answers and an opportunity for public comment, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the POC's recommendation on the Petition (to approve staff's recommended "Option 2" as amended*).

* *Amendment:* to revise the recommendation as follows:

Answer: No, as long as the applications/limits of use of the product in question are limited to those applications where the said product is directly attached or applied to the building envelop, then the product would fall within the scope of Rule 61G20-3.001. Standalone (open structure) applications of the product in question fall outside the scope of the state product approval program. However, Standalone (open structure) applications must meet the requirements of the Florida Building Code and are subject to approval by the local authority having jurisdiction.

Overview:

Petitioner seeks a Declaratory Statement on status of state rejected Novum Point Supported Glass canopy panels product approval application # 17478 which is deemed by staff to be outside scope of Rule 61G20-3.001. The Petitioner requests clarification to the following question:

Is a skylight product ineligible for a Florida Product Approval solely because it is not part of the building envelope?

Staff Analysis:

Question: Is a skylight product ineligible for a Florida Product Approval solely because it is not part of the building envelope?

Answer/Option #. 1: Yes, as per Rule 61G20-3.001, the product in question would fall outside the scope of the state product approval program. However, the said product must meet the requirements of the Florida Building Code and is subject to approval by the local authority having jurisdiction.

Note: This option was not selected by the POC.

Answer/Option #2: No, as long as the applications/limits of use of the product in question are limited to those applications where the said product is directly attached or applied to the building envelop, then the product would fall within the scope of Rule 61G20-3.001. Standalone (open structure) applications of the product in question fall outside the scope of the state product approval program. However, Standalone (open structure) applications must meet the requirements of the Florida Building Code and are subject to approval by the local authority having jurisdiction.

Note: This option was selected as amended by the POC.

C.5. CONSIDERATION OF DS 2015-007 BY GARY KAUFFMAN OF DIGGER SPECIALTIES, INC.

Dugger Specialties submitted a petition for a declaratory statement for review by the Product Approval POC. All of the relevant documentation is linked to the April 2, 2015 Product Approval POC agenda found on-line. There was no one representing the petitioner during the teleconference meeting, so Mo Madani reviewed the petition and provided staff's analysis. Following questions and answers and an opportunity for public comment, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the POC's recommendation on the Petition (to approve staff's recommendations as amended*).

* *Amendment:* to revise the recommendation as follows:

The POC decided not to provide an answer to Question #2 since the answer to Question #1 rendered moot the need to respond to Question #2.

Question #. 2: Whether railing products used in Florida have to have a Florida Product Approval number before they can be sold?

Answer: ~~See answer to question #1.~~ No answer is needed.

Overview:

Petitioner requests a declaratory statement concerning Rule 61G20-3 State Product Approval. Specifically, the Petitioner is requesting clarification with regard to whether aluminum and vinyl railings fall within the scope of Rule 61G20-3.

Question #. 1: Do the aluminum and vinyl railings in question fall within the scope of 61G20-3?

Question #. 2: Whether railing products used in Florida have to have a Florida Product Approval number before they can be sold?

Staff Analysis:

Question#. 1: Do the aluminum and vinyl railings in question fall within the scope of 61G20-3?

Answer: No, as per the definition of "structural component" (see Rule 61G20-3.002) and Rule 61G20-3.001, the products in question fall outside the scope of the state product approval program. However, these products must meet the requirements of the Florida Building Code and are subject to approval by the local authority having jurisdiction.

Question #. 2: Whether railing products used in Florida have to have a Florida Product Approval number before they can be sold?

Answer: See answer to question #1.

Note: Question 2 was not answered by the POC since the answer to Question 1 made an answer to Question 2 unnecessary.

D.1. PRODUCT AND ENTITY APPLICATIONS CONSENT AGENDA

Commissioner Stone presented the consent agenda for entities by asking if any participants' wished to have any entity applications pulled from the consent agenda for individual consideration. There were no entity applications pulled for individual consideration.

Commissioner Stone presented the consent agenda for approval of products by asking if any participants' wished to have any applications pulled from the consent agenda for individual consideration. There were no product applications pulled for individual consideration.

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of product approval entities recommended for approval as posted.

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval to the 2010 Code as posted.

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval to the 2014 Code as posted.

D.2. PRODUCT APPROVAL APPLICATIONS WITH DISCUSSION OR COMMENTS

Jeff Blair presented the products with discussion and public comment. Following are the POC's recommendations on the four product approval applications submitted for approval to the 2014 Code with public comment(s):

- The POC recommends the Commission conditionally approve product #12549 R5 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product #17538 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product #17539 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product #17561 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);

The complete report of POC recommendations on product and entity applications is available linked to the Commission's April 2, 2015 agenda.

D.3. DBPR APPLICATIONS

Staff noted that the recommendations for the DBPR applications are linked to the April 2, 2015 Product Approval POC agenda found on-line. Commissioner Stone noted that there were no public comments provided for products submitted for approval to the 2014 Code, but there was public comment on two applications submitted to the 2010 Code (#17472 and #12875 R2). Mo reported that issues related to #17472 are in the process of being resolved in accordance with the requirements of the Rule. However, FL #12875-R2 has technical deficiencies that must be addressed.

Following questions and answers and an opportunity for public comment, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission not ratify the approval of FL #12875 submitted for DBPR approval, on the basis that the application needs to be revised to remove all references to OSB from the evaluation report (not substantiated by testing), and product .2 be removed from the application and submitted for approval using compliance Method 1 (d), an evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer.

E.1. PUBLIC COMMENT

Commissioner Stone invited members of the public to address the Commission on any issues under the Commission's purview.

There were no public comments offered.

E.2. POC MEMBER COMMENT

Commissioner Stone invited POC members to offer any general comments to the POC.

POC Member Comments:

Commissioner Compton apologized if staff felt he was frustrated with them regarding the discussion on the Zion tile complaint agenda item. He clarified he was frustrated with the situation and the process for how the Commission can address product complaints, and not with staff.

E.3. STAFF MEMBER COMMENT

Commissioner Stone invited DBPR staff members to offer any general comments to the POC.

Staff member comments:

April Hammonds responded to Commissioner Compton that she understood his frustration with the situation and understood his concerns.

POC RECOMMENDATIONS FOR COMMISSION ACTION

The POC recommends the following actions to the Florida Building Commission:

- 1.) The POC recommends the Commission take action on product and entity applications as recommended by the POC and reflected in DBPR staffs' product and entity approval report.
- 2.) The POC recommends that the Commission not ratify the approval of FL #12875 submitted for DBPR approval, on the basis that the application needs to be revised to remove all references to OSB from the evaluation report (not substantiated by testing), and product .2 be removed from the application and submitted for approval using compliance Method 1 (d), an evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer.
- 3.) The POC recommends the Commission approve the POC's amended recommendations regarding declaratory statements DS 2015-022 and DS 2015-007.
- 4.) The POC recommends that the Commission require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami.

AGENDA ITEM FOR JUNE 4, 2015 MEETING

- Overview of the Product Approval Rule complaint process, and the Chapter 120 administrative appeal process.

NEXT STEPS

The POC will meet June 4, 2015 to provide recommendations to the Commission on Product Approval System relevant issues for the June 19, 2015 Commission meeting.

F. ADJOURN

Commissioner Stone, POC Chair, thanked POC members, staff and the public for their attendance and participation, and adjourned the meeting at 11:35 AM on Thursday, April 2, 2015.

ATTACHMENT I
MEETING AGENDA

FLORIDA BUILDING COMMISSION
PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE (POC)
THURSDAY, APRIL 2, 2015—10:00 AM
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
1940 NORTH MONROE STREER—TALLAHASSEE, FLORIDA 32399

WEB URL: <https://global.gotomeeting.com/join/788020021>

AUDIO: DIAL-IN NUMBER +1 (626) 521-0016
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CONFERENCE CODE/MEETING ID: 788-020-021

MEETING OBJECTIVES

- Ø To Consider/Discuss Product Approval Program Issues
- Ø To Consider/Discuss Declaratory Statements
- Ø To Consider/Decide on Approval of Products and Product Approval Entities

PRODUCT APPROVAL POC MEMBERS

Jeffrey Stone-Chair, E.J. Carlson, David Compton, Nanette Dean, Robert Hamberger, Brian Swope, and Tim Tolbert.

MEETING AGENDA—APRIL 2, 2015

All Agenda Times—including Adjournment—are Approximate and Subject to Change

10:00AM	A)	<p>Call to Order</p> <ol style="list-style-type: none"> 1. Roll call of POC Members 2. Identification of Staff/Attendees 3. Review and Approval of Agenda 4. Statement on Teleconference Participation Process
	B)	Review & Approve Agenda & February 2015 Minutes
	C)	<p>Product Approval Program Issues:</p> <ol style="list-style-type: none"> 1. Product Approval & Entities Statistics Report 2. Report on conditional approvals from the <i>February 2015</i> meeting (All Conditional Approval Requirements were met and completed from the February Reports except FL 17220) 3. To consider and discuss continuation of complaint against Zion Tile Corp. FL #16057 by Dan Arguelles of Artezanos Inc. 4. To consider and discuss DS 2015-022 by Scott Knoblock of Novum

		Structures, LLC. Staff Analysis. 5. To consider and discuss DS 2015-007 by Gary Kauffman of Digger Specialties, Inc. Staff Analysis.
	D)	Department of Business and Professional Regulation Reports: 1. Review of Product Approval & Entity Applications 2. Product Approval Applications with Comments 3. DBPR Applications
	E)	Public/POC/Staff Comments
	F)	<i>Adjourn</i>

STAFF CONTACTS:

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Mo Madani, Manager

Teleconference Process/Etiquette:

[URL:http://www.floridabuilding.org/fbc/meetings/1_meetings.htm](http://www.floridabuilding.org/fbc/meetings/1_meetings.htm)

Note: This document is available to any person requiring materials in alternate format upon request. Contact the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2100 or call 850-487-1824.