

MINUTES OF THE REGULAR MEETING OF THE OHIO STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS

Tuesday May 27, 2014

Members Present:

Bert Dawson, P.E., P.S.	Vice Chair
Dean C. Ringle, P.E., P.S.	Secretary
David L. Cox, P.S.	Member
James D. Mawhorr, P.E., P.S.	Member

Staff Present

John F. Greenhalge	Executive Director
Amanda Ault	Assistant Executive Director
Jason P. McLean	Enforcement Supervisor
Carol Mosholder	Assistant Attorney General

CALL TO ORDER

The State Board of Registration for Professional Engineers and Surveyors held its regular meeting on Tuesday May 27, 2014 at 50 West Broad Street, Suite 1820, Columbus, Ohio 43215 in the Board conference room. Vice Chair Bert Dawson called the meeting to order at 9:30 a.m.

1. CONSENT AGENDA

A. Investigations Report- Consent Items

Motion by Mr. Ringle, second by Mr. Cox, to approve the consent agenda. Motion carried.

Professional Engineer Case No. 14-096

On April 23, 2014 the Board received a NCEES comity application from SUBJECT which alluded to the possibility SUBJECT had received previous disciplinary action. The Ohio specific application reflected SUBJECT checked "No", in reference to the question if he had ever been disciplined by any other state board. A review of the Pennsylvania Board licensure verification indicated SUBJECT had received a citation for practicing on a lapsed license or registration.

Board staff coordinated with the Pennsylvania Department of State, who provided a copy of the Commonwealth of Pennsylvania Department of State Citation Number: 51800. The citation reflected SUBJECT was fined \$500.00 for practicing on a lapsed license or registration on October 27, 2006.

On May 9, 2014 Board staff interviewed SUBJECT who stated he had in fact received the 2006 citation from the Pennsylvania Department of State when he failed to renew his professional engineer license and continued to provide engineering services in Pennsylvania. SUBJECT stated he did not intend on hiding the 2006 citation, but rather inadvertently forgot to report the offense on his Ohio Comity application.

On May 12, 2014 the Board received a signed settlement agreement wherein SUBJECT agreed to pay a \$250.00 fine, and receive a reprimand.

Move to open investigation, accept charges, accept settlement agreement, and close investigation.

ACTION: The motion passed as part of the consent agenda.

Engineering Firm Case No. 14-097

On April 28, 2014 the Board received a Certificate of Authorization reinstatement application and memo from SUBJECT FIRM reporting seven unlicensed engineering projects completed while the firm's Certificate of Authorization was expired.

An initial review of the Board's records found SUBJECT FIRM voluntarily complied with Ohio laws and rules (Case No. 2009-016) for operating without a Certificate of Authorization in 2009.

A search of the NCEES Enforcement Exchange found SUBJECT FIRM received a \$750.00 fine from the Oklahoma Board for unlicensed practice in 2008.

On May 5, 2014, the Board received a settlement agreement wherein SUBJECT FIRM agreed to pay a \$1,000.00 fine, and receive a reprimand.

Move to open investigation, accept charges, accept settlement agreement, and close investigation.

ACTION: The motion passed as part of the consent agenda.

2. APPROVAL OF MINUTES

The minutes of the April 29, 2014 Board meeting were presented for approval.

Motion by Mr. Mawhorr, second by Mr. Ringle, to approve the April 29, 2014 meeting minutes. Motion carried.

3. RECOGNITION OF GUESTS AND PUBLIC COMMENTS

Melinda Gilpin, Professional Land Surveyors of Ohio
Holly Ross, Ohio Society of Professional Engineers
Brad Rogers, P.E.

Brad Rogers, P.E. addressed the Board to give an overview of the U.S. EPA's option for self-certifying SPCC plans without the involvement of a professional engineer where the oil volume is below 10,000 gallons and no bulk storage greater than 5,000 gallons. The U.S. EPA allows self-certification provided the state does not require that the SPCC plans be prepared by a professional engineer. This option has been in effect since roughly 2005.

Mr. Greenhalge stated that the option to self-certify and whether or not the Board would allow self-certification has not come before the Board since 1998 and Board staff has not received inquiries about the practice.

Mr. Greenhalge will obtain additional information and Mr. Rogers will provide contact information for U.S. E.P.A.'s district 4 and 5 contact persons.

4. BOARD REVIEW OF APPLICATIONS

A. Adam T. Lantvit- PE Comity Applicant

Lantvit has a Bachelor's of Science in Architectural Studies from the University of Wisconsin-Milwaukee and completed an on-line Master's of Civil Engineering degree from Norwich University. In his letter to the Board Lantvit stated that he has passed the NCEES FE examination and the NCEES 16-hour structural examination. Lantvit also stated that he is a registered structural engineer in Illinois.

In the resume included with his letter Lantvit lists under the heading *Work Experience* that he is the founder and managing member of ATL Structural Design, LLC located in Richmond Heights, Ohio. ATL Structural Design, LLC does not have a certificate of authorization to offer engineering services in Ohio.

The Board directed the staff to advise Lantvit to have his degree evaluated by NCEES Credentials Evaluations.

B. Liel Naor Azrieli- FE Exam Applicant

Azrieli has a Bachelor's Science in Computer and Electrical Engineering from Ben-Gurion University, Beer-Sheva, Israel and a Master's of Science in Environmental Sciences from The Ohio State University. Azrieli had her undergraduate degree evaluated by NCEES Credentials Evaluations and the report identified a 14 semester hour deficiency in general education.

The Board directed the staff to approve the FE exam application. The application will be placed on the next exam CRC report.

C. Matthew Long- PE Exam Applicant

Long was previously approved to take the NCEES FE exam and received a passing score in July 2009. Long is requesting that the Board review his work experience to determine if he would be eligible for the October 2014 NCEES PE examination. He has provided the following work experience:

9/13 to 6/14- Product Engineer, Honeywell Aerospace	10 months
8/12 to 8/13- Technology Licensing Analyst, Ohio State University	13 months
10/10 to 7/12- Mechanical Engineer, Eastman Kodak	1 year 10 months
6/07 to 12/07- Co-op Engineer, SEA limited	6 months*

*Co-op was done after graduation from non-engineering curriculum and prior to entering MS program in Mechanical Engineering.

The Board reviewed the information and it appears that the experience listed, with the exception of the co-op experience, would be acceptable. Based on the information provide it appears that Long will be eligible for the April 2015 examination provided he continues to obtain acceptable engineering experience.

D. Joshua Carney- PE Comity Applicant

Carney failed to report a disciplinary action on his application. A settlement agreement was approved as part of the consent agenda.

E. Kowalski Engineering

Kowalski Engineering was disciplined by the OK Board for illegal practice. A settlement agreement was approved as part of the consent agenda.

Motion by Mr. Ringle, second by Mr. Cox, to approve the applications from Joshua Carney and Kowalski Engineering. Motion carried

5. APPROVAL OF CREDENTIALS REVIEW COMMITTEE REPORTS

The Credentials Review Committee (CRC) Report of May 23, 2014 was presented for approval.

Motion by Mr. Mawhorr, second by Mr. Cox, to approve the Credentials Review Committee Report of May 23, 2014. Motion carried.

6. RATIFICATION OF REGISTRATIONS ISSUED

The Board reviewed the registrations issued since the last Board meeting. The names and registration numbers of all approved applicants since the last meeting were presented on paper and electronic media.

Motion by Mr. Cox, second by Mr. Mawhorr, to approve the registrations issued since the last meeting. Motion carried.

7. EXAMINATIONS

A. April 2014 Exam

Mr. Greenhalge distributed the exam statistics for the April 2014 examination.

B. Ohio PS Examination

Mr. Greenhalge distributed the April 2014 Ohio PS summary report from Test, Inc. for Board review.

Mr. Greenhalge advised the Board that NCEES will be starting a committee to review surveying. Mr. Greenhalge discussed the possibility of forming a committee to review the license and education

requirements to become a professional surveyor in Ohio. In recent years the number of surveying programs has been shrinking as well as the number of surveying exam applicants.

8. REPORTS

A. Executive Director's Report

a) NCEES Central Zone Meeting

The NCEES Central Zone meeting was held May 15-17 in Lincoln, Nebraska. Mr. Ringle, Mr. Greenhalge and Ms. Ault attended the meeting and provided a brief report to the Board. Mr. Greenhalge reported that mobility appears to be the main issue among member boards. There appears to be concern over the Master's or equivalent requirement and how it will affect the Model Law Engineer designation since no states have introduced legislation to start implementing or requiring Master's or equivalent. The NCEES member boards also appear to be at odds over early testing for the PE examination. Some states have changed their policies to allow and many others will have to change their statutes.

The NCEES annual meeting will be held August 20-23, 2014 in Seattle WA. NCEES will fund two voting delegates from each board, as well as new board members appointed within the past 24 months that have never attended an annual meeting. Funded delegates must be designated by May 30, 2014. Mr. Ringle, Mr. Greenhalge and Ms. Ault will attend the meeting.

B. Legislative Report

Mr. Greenhalge reported that the Board's rules hearing will be held on June 11, 2014.

9. ENFORCEMENT

Motion by Mr. Ringle, second by Mr. Cox, to go into Executive Session pursuant to Ohio Revised Code, Section 121.22 (G) (1), to consider complaints against licensees or regulated individuals. Mr. Greenhalge recorded a roll call vote:

Roll call vote:

Mr. Dawson – Yes

Mr. Mawhorr- Yes

Mr. Cox- Yes

Mr. Ringle- Yes

Motion carried. The Board entered into executive session at 10:50 a.m.

Mr. Dawson invited Mr. Greenhalge, Ms. Ault, Ms. Mosholder, and Mr. McLean to attend the executive session.

The executive session ended at 11:14 p.m.

ACTIONS TAKEN AS A RESULT OF EXECUTIVE SESSION

A. Review of investigation report- non consent agenda items

Professional Engineer Case No. 14-076

On February 12, 2014 the Board received a complaint alleging SUBJECT had violated the Code of Ethics by purposely submitting nearly the same manuscript to different peer-reviewed academic journals. The complainant stated he had also filed complaints with the academic journals who published the articles.

On April 28, 2014 the Board received SUBJECT's written response which stated that any sort of similar use of content in articles submitted for publishing was inadvertent and not unethical in nature. Additionally, SUBJECT stated that after coordination with the specific academic journals, SUBJECT submitted the studies to the journals, and the journals did not anticipate printing retractions or preventing the SUBJECT from submitting articles in the future.

The Board reviewed the complaint and directed the staff to close the complaint due to no apparent violation of the Board's laws and rules.

Profesional Engineer Case No. 14-091

On March 27, 2014 the Board received a complaint alleging SUBJECT had engaged in a pattern of unprofessional conduct as a professional engineer that may have resulted in his termination from multiple employers. The complaint included news articles and court documents related to SUBJECT's employment.

In response to the complaint SUBJECT explained that he has been a professional engineer for approximately thirty-four (34) years, and in that time period, he has not received any complaints regarding his conduct, ethics, morals or competency as a professional engineer.

The Board reviewed the complaint and directed the staff to close the complaint due to no apparent violation of the Board's laws and rules.

Registered Firm Case No. 14-099

On May 6, 2014 the Board received a complaint alleging SUBJECT FIRM was offering and providing engineering services without a Certificate of Authorization. According to the complainant, SUBJECT FIRM was utilizing the subject associated with investigative cases 2014-073 and 2014-100 to affix his professional engineering seal, signature and date, to engineering plans prepared by employees of SUBJECT FIRM. The engineering plans were prepared by unlicensed individuals employed by SUBJECT FIRM.

Since the onset of the investigation multiple reliable witnesses have reported the owners of SUBJECT FIRM have operated in this manner with impunity for years and were aware that the practice was illegal based on Ohio's laws and rules governing the practice of engineering.

A review of SUBJECT FIRM's website reflected that SUBJECT FIRM was continuing to advertise the engineering services of licensed engineers as part of the building packages.

Motion by Mr. Ringle, second by Mr. Cox, to open an investigation and pursue an injunction. Motion carried.

Professional Engineer Case No. 14-059

On January 2, 2014, during a routine NCEES Enforcement Exchange check, SUBJECT was found to have been suspended in South Carolina. Further investigation found that the South Carolina Board of Professional Engineers and Surveyors suspended SUBJECT for failing to report a Minnesota disciplinary action on his 2012 renewal. The South Carolina Final Order alluded to SUBJECT failing to respond during their investigation, and required SUBJECT to appear before the Board prior to being reinstated in South Carolina.

During the course of this Board's investigation SUBJECT failed to respond to multiple requests from Board staff. Board staff confirmed correspondence was received through the U.S. Postal Service by SUBJECT, and coordination with SUBJECT's employer of record found SUBJECT had left that company over a year ago.

Motion by Mr. Ringle, second by Mr. Cox, to open an investigation, accept the charges and issue notice of opportunity for hearing. Motion carried.

Professional Engineer and Registered Firm Case No. 14-073 & 14-100

On January 23, 2014 the Board obtained information that SUBJECT FIRM had been providing engineering services with an expired Certificate of Authorization.

On March 6, 2014 the SUBJECT and owner of SUBJECT FIRM, provided a project list which reflected SUBJECT FIRM provided engineering services on thirty-five (35) projects at a time the firm did not possess an active COA with this Board, EXHIBIT 1. In 2009, this Board fined SUBJECT's professional engineering registration \$4,700.00 for unlicensed practice.

On May 6, 2014 the Board obtained evidence indicating SUBJECT regularly affixed his professional engineering seal, signature and date to engineering plans for which he had no personal professional knowledge, direct supervisory control, or responsibility thereof, for unlicensed contractors. The information was developed from multiple reliable sources who either currently or formerly worked for a contractor offering to provide and providing engineering services in the greater Columbus area. The unlicensed contractor systematically utilized SUBJECT to arbitrarily affix his professional engineer seal, signature and date to engineering plans SUBJECT had no professional knowledge of. One witness reported observing the SUBJECT affix his professional engineering seal, signature, and date to anywhere from 50-100 plans the SUBJECT had no professional knowledge of. The witness stated SUBJECT would charge approximately \$500 to \$1,000 per project over a two year period.

On May 12, 2014 the Board obtained evidence which reflected SUBJECT affixed his professional engineering seal, signature, and date to engineering disciplines outside SUBJECT's area of expertise. Subsequently, during an interview with Board Enforcement staff, SUBJECT made statements he knew to

be false when he stated he only provides structural and civil engineering services. Evidence in the Board's possession reflected SUBJECT affixed his seal to plans utilizing a multitude of other disciplines.

Motion by Mr. Ringle, second by Mr. Mawhorr, to open an investigation, accept the charges, and issue notice of opportunity for hearing. Motion carried.

Professional Engineer Case No. 14-046

On November 22, 2013 Board staff received SUBJECT's 2014-2015 Professional Engineer license renewal application, wherein SUBJECT self-reported he had plead guilty to a Federal felony charge of Conspiracy to Commit Bank Fraud. Upon investigation by Board staff it was determined SUBJECT was indicted for his involvement in a 2007 Mortgage fraud scheme with several other co-conspirators by the United States District Court for the Eastern District of Michigan on February 5, 2013. On May 14, 2013, SUBJECT plead guilty to one count of Conspiracy to Commit Bank Fraud, that resulted in a \$1,975,000.00 loss to the Federal Deposit Insurance Company. The indictment stated SUBJECT received \$40,000.00 from one of the co-conspirators for his part in the fraud.

Additionally, SUBJECT reported pleading guilty to the felony on the renewal application he dated, November 18, 2013. The actual date SUBJECT plead guilty according to court documents was May 14, 2013; one hundred and twenty-eight days over the allotted sixty days prescribed by this Board in Ohio R.C 4733.20(A)(4) and Ohio A.C 4733-35-7.

On January 21, 2014, the Board recommended the staff seek a settlement agreement with SUBJECT. Since that Board direction was given, the offer for settlement was rejected by SUBJECT and has been withdrawn.

On April 21, 2014, staff received the certified copy of the final sentencing judgment which sentenced SUBJECT to 24 months federal custody and restitution of \$1,975,000.00.

Motion by Mr. Ringle, second by Mr. Mawhorr, to accept the charges and issue notice of opportunity for hearing. Motion carried.

Registered Engineering Firm Case No. 14-075

On December 13, 2013 a professional surveyor employed by Michael Baker Jr., Inc. (MBJ) attended a conference wherein Executive Director John Greenhalge gave a presentation on the Board's laws and rules. On December 14, 2013 the Board staff received a telephone call from Mick Barber, Vice President of MBJ in which he explained that MBJ's Certificate of Authorization (COA) was granted for engineering services in 2003; however, MBJ does not have a COA for surveying services. Despite not having a COA to offer surveying services they have been offering surveying in Ohio for some time. The Board staff requested a COA application to add surveying services, a letter of explanation, and a list of surveying projects completed while unlicensed. The Board's records show that MBJ's COA for engineering services is current through June 30, 2014.

On December 20, 2013 the Board received the COA application and a letter of explanation. MBJ also requested a temporary permit to offer surveying services. The temporary was granted by the Board on December 30, 2013. Mr. Barber stated the reason the firm did not have a COA for surveying services was

their belief that they are exempt as set forth in R.C. 4733.16 (B). The Ohio Secretary of State's website shows that MBJ's original filing date was December 29, 1972.

The Board requested an opinion from its legal counsel as to whether or not MBJ was exempt. On January 10, 2014 the Board received an opinion from its legal counsel advising that RC 4733.16 does not exempt surveying services unless the firm has been providing those services since 1943.

Motion by Mr. Ringle, second by Mr. Mawhorr, to open an investigation. Motion carried.

10. CORRESPONDENCE

- A. Letter from William Kearns requesting Board approval for additional CPD credit for volunteering on the National Fire Protection Association (NFPA) Technical Committee that maintains NFPA 61 "Standards for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities. The Board reviewed this request in 2011 and based on R.C. 4733.151 determined that 2 hours could be awarded for serving on the committee.

The Board reviewed the request and determined that 2 hours is the appropriate credit.

11. NEW BUSINESS

None discussed.

12. UNFINISHED BUSINESS

None discussed.

13. PUBLIC RELATIONS

None discussed.

14. UPCOMING BOARD MEETINGS

The next meeting is scheduled for Tuesday July 15, 2014.

15. ADJOURNMENT

The Board adjourned at 11:21 a.m.

These minutes were written on May 27, 2014 and approved by the Board on July 15, 2014.

Bert Dawson, P.E., P.S.
Board Vice Chair

Dean C. Ringle, P.E., P.S.
Board Secretary

John F. Greenhalge
Executive Director