



TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243  
615-741-3600

**Board Meeting Minutes for June 14, 2018**  
**First Floor Conference Room 1-A**  
**Davy Crockett Tower**

Tennessee Board of Architectural and Engineering Examiners met on June 14, 2018, in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Wagster called the meeting to order at 10:00 a.m. and the following business was transacted:

**BOARD MEMBERS PRESENT:** Frank Wagster, Robert Campbell, Jr., Blair Parker, Ricky Bursi, Rick Thompson, Brian Tibbs, Kathy Ware, Alton Hethcoat, Stephen King, Susan Ballard, Grant Minchew

**BOARD MEMBERS ABSENT:** None

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Liz Goldstein, Sara Page, Wanda Garner

**ROLL CALL / AGENDA**

Mr. Wagster provided the notice of meeting and Ms. Garner called roll.

**MINUTES**

Motion was made by Ms. Ballard and seconded by Mr. Campbell to adopt the minutes from the April 12, 2018 meeting as written. The motion passed unanimously.

**PROFESSIONAL SOCIETY REPORTS**

Kasey Anderson from Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN) provided a brief summary of the general activities of TSPE/ACEC-TN and of upcoming meetings.

Don Baltimore from Tennessee Interior Design through Education and Advocacy (TN IDEA) provided a brief summary of the general activities of TN IDEA.

**LEGAL CASE REPORT** (presented by Sara Page)

**1. 2018018181**

**First Licensed: N/A**

**Expiration: N/A**

**Type of License: N/A**

**History (5 yrs.): N/A**

**Reviewer: Rick Thompson**

Respondent is a draftsman that worked for an architect since 1981. Complainant is a partner and executor of the architect's estate. Complainant alleged Respondent continued to hold himself out as a representative of an architecture firm after the architect passed away. Complainant also alleged Respondent mishandled funds and would not produce CAD files for projects on which Respondent worked.

Respondent does not list his title as "architect," but rather, had the name of the firm he worked with in his signature block. Respondent indicated the architect suffered from brain cancer before passing away, and the illness dramatically changed the architect's personality. Prior to passing away, the architect started making allegations against Respondent regarding the mishandling of funds. Respondent indicated that while he worked under the architect, he also had his own business. Respondent provided proof of the two businesses, and communications reflected that the architect was well aware of that as well. Disputes with the architect started to arise regarding Respondent's own clients unrelated to the firm, and vice versa.

Ultimately, the dispute seems to mainly hang on what and who Respondent worked for and when, and whether funds between two entities were properly paid out. These allegations are not in the jurisdiction of this Board to determine, and therefore, are better handling in a court of law or another venue. There was also an allegation of possible plan stamping based on a change in the architect's handwriting, but Respondent accounts the change to the brain tumor. With the architect no longer with us, it would be difficult to determine who sealed old plans.

**Mitigating Factors:** (1) Civil issues main concern.  
(2) No title misuse found.  
(3) Death of main supervising architect complicates ability to prove any allegations related to supervision and sealing.

**Aggravating Factors:** None.

**Recommendation:** Close.

**Board Decision:** Concur.

## 2. 2018020281

**First Licensed: 02/24/1992**

**Expiration: 08/31/2019**

**Type of License: Professional Engineer**

**History (5 yrs.): 2014 – Complaint closed with no findings of violation.**

**Reviewer: Robert Campbell**

Complainant alleged that Respondent performed an inaccurate inspection of his foundation, and ultimately, the building experienced cracking and other issues. Respondent concluded in his report that the cracking was cosmetic and normal. Complainant also alleged Respondent is biased due to working for the builder in the past. This Complaint was sent to Robert Campbell for review. The following is an excerpt from Mr. Campbell's review:

Other reports are done, two by foundation repair firms, the other PE. All note cracks in some cases where cracks had been repaired. All of the reports noted that the floor sloped toward the right side of the house where a drainage ditch is located. [Respondent] noted in his report that the floor had a slight slope from ¼ inch to 3/8 inch. Later observations note the floor of the house is as much as 1 to 1 ½ inches from being level. The nature of the cracks (horizontal ones in the sheetrock seams) would indicate the house is actively moving and is basically being torqued to the right rear of the house.

It seems that **all** are in agreement that there has been some movement on the right side of the house (where the drainage ditch is located). The issue is whether it is something that requires repair to the foundation. [Respondent] should have stated something like “...*at the present time there is no immediate danger to the structure however it should be monitored to determine if structural repairs should be made in the future...*”

Based on Mr. Campbell’s review, Respondent should have investigated further, or at a minimum, suggested it may be something worthy of examination in the future rather than concluding the cracking was benign. Additionally, Respondent did not properly sign his seal on two pages.

Mitigating Factors: None.

Aggravating Factors: None.

**Recommendation: For the sealing mistake, issue a letter of caution regarding proper sealing procedures/signature placement. As to the lack of identification of potential issue, authorize a civil penalty in the amount of \$750.00 for incompetence under Rule 0120-02-.03. Respondent shall also take and pass the Board’s Laws and Rules Examination**

**Board Decision: Concur.**

**3. 2018022381**

**First Licensed: 08/10/2011**

**Expiration: 08/31/2017 (APPLICATION PENDING)**

**Type of License: Professional Engineer**

**History (5 yrs.): None.**

**Reviewer: None.**

Respondent self-reported the practice of engineering while his registration was expired. Respondent states that in March 2018, while in the process of creating a website, he looked up his license information with the Board. He discovered that his license had expired in August. Respondent states that he believes he confused paying his privilege tax with his license renewal. Respondent immediately took steps to reactivate his license and self-reported the lapse.

Mitigating Factors: (1) Immediate action upon discovery of lapse.  
(2) Self-Reported.

Aggravating Factors: None.

**Recommendation: Authorize a civil penalty in the amount of \$500 for practicing on an expired registration. Respondent is also to take and pass the laws and rules examination.**

**Board Decision: Concur.**

**4. 2018026571**

**First Licensed: 07/01/1987**

**Expiration: 01/31/2019 (SUSPENDED UNTIL AUGUST 2018)**

**Type of License: Professional Engineer**

**History (5 yrs.): 2009 – Letter of Caution related to reciprocal discipline; 2013 – Consent Order for probation due to reciprocal discipline; 2015 – Agreed Order for \$700 civil penalty and two-year suspension for reciprocal discipline/violation of probation.**

**Reviewer: None.**

In 2009, Missouri disciplined Respondent with five years of probationary status due to practicing architecture beyond that which is considered incidental and necessary to the engineering Respondent performed. In 2013 in Missouri, Respondent failed to timely renew his license, which was a condition of his probation, resulting in the probation being extended. In 2014, Kansas disciplined Respondent with a probationary period after finding Respondent sealed fire drawings with deficiencies rising to the level of incompetence/misconduct. Due to the discipline in Kansas, Missouri revoked Respondent's license.

As a result of all of the above, Tennessee first placed Respondent in probation in 2013. Upon the violation of probation in Missouri, and the probation in Kansas, Tennessee suspended Respondent's license. It is suspended until August 2018.

In March 2018, Respondent was disciplined in Oklahoma. Respondent had been suspended in Oklahoma due to the misconduct in Missouri, but the Oklahoma Board ultimately denied Respondent's attempt to reapply for an active license due to the finding by Kansas of deficient fire drawings. After that, Oklahoma learned that Respondent and his firm were reviewing plans and having an employee with an Oklahoma engineering registration seal the plans. Additionally, Respondent's firm's Certificate of Authorization was inactive due to non-renewal in Oklahoma. The firm and Respondent were each assessed a \$10,000 civil penalty, and a five-year suspension.

Mitigating Factors: None.

Aggravating Factors: (1) License currently suspended in Tennessee after violating probation.  
(2) Multiple disciplined actions in other states since 2013 not related to reciprocal discipline.  
(3) Respondent did not self-report the 2018 discipline. It was discovered by staff.

**Recommendation: Authorize the voluntary revocation of Respondent's Professional Engineering Registration.**

**Board Decision: Concur.**

**5. 2018029271**

**First Licensed: 01/30/1997**

**Expiration: 08/31/2017 (EXPIRED – Renewal Pending)**

**Type of License: Professional Engineer**

**History (5 yrs.): None.**

**Reviewer: None.**

Respondent self-reported practice on an expired registration. Respondent's license expired in August 2017. Respondent apologized for the lapse, and although he emphasizes it is not an excuse, he indicated his business partner and brother-in-law battled and ultimately succumbed to leukemia during the lapse in registration.

Mitigating Factors: (1) Self-reported.  
(2) Extraordinary business/personal factor

Aggravating Factors: None

**Recommendation:** Authorize a civil penalty in the amount of \$500 for practicing on an expired registration. Respondent shall also be required to take and pass the laws and rules examination.

**Board Decision:** Concur.

6. 2018020581

**First Licensed:** N/A

**Expiration:** N/A

**Type of License:** N/A

**History (5 yrs.):** None.

**Reviewer:** None.

Complainant filed a complaint alleging Respondent may be exceeding the scope of her practice into an area requiring licensure. Respondent is a designer and a graduate of an Architecture and Design program. Respondent started her own business that works in residential design and home interiors. Complainant is a licensee who had a client state to him that Respondent had to end work for the client due to plans not being approved due to a lack of licensure. Based on the client's version of the events, Complainant felt compelled to notify the Board after consulting with others in the industry. Legal requested an investigation in order to determine the scope of work Respondent has conducted and to inquire into the details around the client that sparked Complainant to file the complaint.

During the investigation, Complainant explained that an investigation and inquiry was beyond what was intended when the complaint was filed, and Complainant does not wish to participate further. Despite this, Complainant was polite and cooperative with the investigator and legal counsel. The investigation revealed that the client that complained to Complainant did not have plans rejected, but rather, the client tried to greatly increase the scope of the project. The original project was a design and renovation of a home. The client eventually purchased the adjacent lot and requested an expansion of the existing property. As a result, Respondent explained that a licensed firm would have to be hired to work the project and draft any plans. Respondent quoted a price of what she believed her services and a licensed architect supervising would cost to the client. The client ended up seeking quotes elsewhere and found Complainant's firm to have a more competitive price.

All of Respondent's work is residential and fits within the exceptions from licensure. Only one place on Respondent's website used the phrase, "Architect." It appears in a graphic banner and not as a title, but it could potentially be misleading to a consumer. When shown to Respondent, Respondent quickly contacted her website designer and requested the banner be changed. Respondent stated in a sworn statement that she is aware of the licensure requirements and that she works carefully to ensure she does not violate the law. Respondent refers clients to Complainant's firm and other local architects if work is outside her legal bounds.

**Mitigating Factors:** (1) Complainant no longer cooperating fully/interested.  
(2) Respondent quickly remedied possible misleading use of Architect in graphic banner on website.  
(3) Projects identified as belonging to Respondent were all small residential projects, and projects falling under the exemptions set out by statute.

**Aggravating Factors:** None

**Recommendation:** Close.

**Board Decision:** Concur.

7. 2018024871

2018024901

2018024921

**2018024941**

**2018024961**

**2018024981**

**First Licensed: N/A**

**Expiration: N/A**

**Type of License: N/A**

**History (5 yrs.): None.**

**Reviewer: Ricky Bursi**

Complainant is a licensee alleging Respondents' employer allows them to call themselves engineers without a license. Each complaint number above represents a different Respondent. All Respondents are employees of the Tennessee branch of a professional services and investment management company, specializing in real estate. Each Respondent holds a title such as "Chief Engineer," "Chief Building Engineer," "Mobile Engineer," and "Assistant Chief Engineer."

General Counsel for the Respondents' employer responded. General Counsel explained that the positions held by the Respondents are maintenance and facilities operations positions. General Counsel stated that the use of the title, "engineer" for that position is widely used in the property management industry. Respondents do not perform traditional engineering work.

Legal counsel for the Department investigated the use of the term, "engineer" in the context of facilities management, and confirmed multiple large companies similar to Respondents' employer use the title. Additionally, legal counsel pulled job descriptions from Respondents' employer's website, and confirmed that the scope of job duties encompass a building manager/facilities manager role, such as HVAC maintenance, repairs, and upgrades.

Mitigating Factors: (1) Largely used in industry.

Aggravating Factors: None.

Recommendation: Discussion.

Board Decision: Close upon issuance of a letter of caution.

### **REPRESENT**

8. **2017024021**

**First Licensed: 01/01/1993**

**Expiration: 08/31/2018**

**Type of License: Professional Architect**

**History (5 yrs.): May 2017 - Letter of Caution issued because Respondent was disciplined by the Alabama Board for Registration of Architects.**

*This complaint was opened as a result of Mississippi suspending Respondent's right to practice. Respondent's Mississippi license was suspended for two years, and Respondent was ordered to pay \$7,500 in penalties.*

*The Mississippi State Board of Architecture brought charges against Respondent for plan stamping three separate projects. The first project was an update/renovation of an automobile dealership. Respondent was contacted by an architect that was not licensed in Mississippi. The unlicensed architect asked Respondent to stamp plans for the architect. The Board concluded Respondent was aware that the unlicensed architect was unlicensed, and that the Board had sent that unlicensed architect a cease and desist letter. Respondent claimed Respondent acted as the architect of record, but the Board found that Respondent provided the unlicensed architect's phone number to building officials instead of Respondent's number. Respondent never met with the owner or the contractor, and in fact Respondent was unaware who the owner of the property was. Respondent did not maintain any records to show Respondent independently reviewed the plans.*

*The second project was for the adaptation of prototypical drawings of a donut shop to fit site conditions and codes. Respondent was contacted for the project by an unlicensed architect. Respondent knew the unlicensed*

architect was unlicensed in Mississippi, but believed the unlicensed architect was licensed in Tennessee. That architect is not licensed in Tennessee. Respondent did not prepare the plans, and after two meetings with the unlicensed architect, stamped the plans. Respondent never met the owner of the property, and no records of the reviews were produced.

The third project was for the same unlicensed architect from the donut shop project. Respondent claims Respondent conducted a technical review of plans for a dentist's office. The unlicensed architect was recorded as the "designer" of the project. Respondent stated Respondent merely reviewed the plans for health, safety, and welfare, because drafting was labor intensive. Respondent sealed the plans.

Respondent argued at the hearing that the Board lacked jurisdiction over two of the three projects due to Mississippi law exempting certain buildings under a certain size from Board oversight. The Board made arguments as to why that would not apply to Respondent in its Order, but ultimately decided it would assess discipline and find violations based on the first project without going into the other two projects.

While Tennessee has similar language that exempts certain buildings from requiring a licensed architect, our law does not remove the Board's jurisdiction if a licensed architect does choose to take on those projects.

**NEW INFORMATION:**

Since receiving the Consent Order, Respondent contacted legal staff. Respondent has paid the full civil penalty to Mississippi, and requested the suspension be reduced. Mississippi refused. Respondent asks this Board to reconsider the suspension period in Tennessee. Respondent's full-time employment is in a large corporation in Tennessee, and his more than decade-long career would likely be heavily impacted if not ended if Respondent could not work for up to two years. Respondent notes that due to their work location, Tennessee's punishment is harsher than the State in which the actual violation occurred.

Mitigating Factors: (1) Serving discipline in Mississippi, where violations actually occurred.

Aggravating Factors: (1) Multiple violations.  
(2) Threat to health, safety, welfare.

Previous Board Decision: Authorize an indefinite suspension, with the ability to be placed back in good standing when Respondent's Mississippi license returns to good standing.

New Board Decision: Maintain previous discipline recommendation

**SECOND UPDATE:** The Respondent's Mississippi suspension has been lifted. His Mississippi license is currently listed as inactive.

**Updated Recommendation:** Close upon issuance of a Letter of Caution.

**Board Decision:** Concur.

**RULES UPDATE**

Ms. Goldstein reported that Proposed Rule changes are in various stages of the review process.

**DIRECTOR'S REPORT**

*Nomination and Election of New Officers*

The Nominations Committee, through Mr. Thompson, moved to elect the following as Board officers to serve from July 1, 2018 – June 30, 2019.

Chair – Robert Campbell

Vice Chair – Blair Parker

Secretary – Brian Tibbs

The motion carried unanimously.

*NCEES Annual Meeting: August 15-18, 2018*

Motion was made by Mr. Thompson and seconded by Ms. Ballard to authorize Ms. Goldstein and Ms. Gumucio to attend the NCEES Annual Meeting as State funded delegates and to authorize Ms. Ware, Mr. Bursi and Mr. Campbell to attend as NCEES funded delegates. The motion passed unanimously.

*Budget* information was submitted for informational purposes only.

*Administrative Complaint Report*

Motion was made by Mr. Thompson and seconded by Mr. Campbell to close the complaints as submitted. The motion passed unanimously.

*Grants Update*

Ms. Gumucio reported that letters have been sent to the Deans of qualifying Tennessee colleges and universities regarding applications for Board issued grants.

*October Meeting Location*

Ms. Gumucio reported that the October Retreat/Meeting will meet in the Davy Crockett Tower October 3-5, 2018. The Deans of the colleges and universities that receive grants from the Board will be invited to attend and provide an accounting of the revenue awarded.

**ENGINEER COMMITTEE REPORT**

The Engineer Committee, through Mr. Bursi, reported on topics discussed.

**ARCHITECT COMMITTEE REPORT**

The Architect Committee, through Mr. Thompson, reported that persons may now apply directly to the National Architectural Registration Boards (NCARB) to take the Architectural Registration Exam (ARE). After passing all parts of the ARE, the person would then apply to Tennessee for licensure.

**NEW BUSINESS**

It was noted that an extra room would be needed for break-out sessions with the Deans in October.

Ms. Gumucio requested additional topics for discussion at the October meeting. Discussion topics and any relevant material will be disseminated to Board members prior to the meeting.

Mr. Parker reported that he will attend an ASLA/CLARB (American Society of Landscape Architects/Council of Landscape Architectural Registration Boards) Licensing Summit in Columbus, Ohio on June 22-24.

**ADJOURNMENT**

There being no other new business, Mr. Wagster adjourned the meeting at 12:15 p.m.