



**TENNESSEE BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Board Meeting Minutes for July 23, 2020
Telephonic**

The Board of Examiners for Land Surveyors met on July 23, 2020 Telephonic. Director Roxana Gumucio called the meeting to order at 9:13 am and the following business was transacted:

BOARD MEMBERS PRESENT: Tim Lingerfelt, Jackie Dillehay, Kevin Martin, Jay Caughman

BOARD MEMBERS ABSENT:

STAFF MEMBERS PRESENT: Roxana Gumucio, Michael Schulz, Maria Bush, Stuart Huffman, Morgan Calles, Caleb Darnell, Erica Smith

NOTICE OF MEETING

Director Gumucio called the meeting to order and then read the notice of meeting into the record as follows: "Notice of the July 23rd, 2020 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on July 16th, 2020."

ROLL CALL

Director Gumucio took roll noting those board members who were present, and stated we have quorum.

STATEMENT OF NECESSITY

Read by Maria Bush

ADOPT AGENDA

Mr. Caughman made a change to move the appearing before the Board before the legal report. Mr. Caughman made a motion to adopt the agenda. This was seconded by Mr. Dillehay and voted by roll call.

MINUTES

Mr. Caughman made a motion to approve the January Minutes. This was seconded by Mr. Dillehay and voted by roll call.

APPROVAL OF ROBERT'S RULES

Mr. Dillehay made a motion to approve the use of Robert's Rules. This was seconded by Mr. Caughman and voted by roll call.

APPEARING BEFORE THE BOARD

Mr. Mario Forte appeared before the board to request assistance on virtual in person courses. Director Gumucio responded with they would not need to submit a new course application if they are already approved and conducting it as on an online "in person" section with them being able to answer questions. Mr. Lingerfelt has a concern about the attendance and then being able to participate. Mr. Caughman does not want to change the rules right now for 2020, due to there are plenty of education opportunities. Mr. Dillehay agreed that it needs to be in person or synchronize.

Mr. David Boblitt appeared above the board telephonic for his comity application. Chairman Lingerfelt advised he needs to submit all his plats again with them falling the Standards of Practice. Mr. Caughman is letting him know to keep his plats simple. Mr. Boblitt needs 2 plats of separate properties with a stamp and signature.

Mr. James Campbell appeared above the board to reinstate his license. Mr. Wilson spoke as a character witness to Mr. Campbell. Mr. Childers also Charter witness, has known and worked with him for 30 years. Mr. Campbell served a 4-year sentence on a 11-year sentence and currently on parole. The board would like to see more community involvement on Mr. Campbells part. Mr. Caughman made a motion to deny Mr. Campbell's reinstatement. This motion was seconded by Mr. Lingerfelt and voted by roll call resulting in a tie, with consultation with the staff attorney. After consultations it was resulted into a split vote.

LEGAL REPORT

See attached

DIRECTOR'S REPORT

Election of Officers

Mr. Lingerfelt made a motion to have Mr. Caughman the new Chairman. This was seconded by Mr. Dillehay and voted by roll call. Chairman Lingerfelt made a motion to have Mr. Dillehay the new Vice Chair. This was seconded by Mr. Caughman and voted by roll call.

NCEES Report

Mr. Dillehay made a motion to accept Tennessee to combine the Southern Zone meeting 2022 for the different zones. This was seconded by Mr. Caughman. This was voted by roll call.

Mr. Caughman voted Chris Ramseyer, Ph.D P.E. for the Secretary-Treasurer. This was seconded by Mr. Dillehay. The motion was carried by roll call voice vote.

Mr. Caughman voted Andrew Zoutewell, P.L.S. for the NCEES Treasurer. This was seconded by Mr. Dillehay. The motion was carried by roll call voice vote.

Mr. Caughman made a motion to accept the chairman's recommendation for the motions. This was seconded by Mr. Dillehay. The motion was carried by roll call vote.

Budget

Director Gumucio provided a detailed accounting of the revenue and expenditures for fiscal year 2019. Director Gumucio wrapping of the 2020 fiscal year and will see it next meeting.

PSI exam statistics

Director Gumucio providing information. Under 30 candidates each year and below that in 2020 so far. Mr. Lingerfelt suggested to possible have an exam writing session next year.

Discuss Certificates

Director Gumucio wanted to see if we can get electric signature for the Certificates for the future. Around 40 have been sent out for the Board Members to sign them. The board members would prefer to sign these certificates but will be up to other options during the time.

Update on 2019 Renewal/CE Audit

Renewals can still be completed until 12/31/2020 with automatic audit after the end of February. Discussed during the Legal report on the ones who are still waiting to send in their education in from their Audit.

2021 Meeting Dates

February 18th
May 20th
August 26th
November 18th

Mr. Caughman made a motion to accept these dates listed above. This was seconded by Mr. Martin. The motion was carried by roll call vote.

New Policy for Course Approval

Director Gumucio addressed that the Director will be able to Review and decide on the education instead of going to review experts that we currently use now. At this time no decision was made.

| Course Provider | Course Number | Course Name | PDH's |
|--|---------------|--|-------|
| NBI, Inc | 860 | Real Estate Transactions Toolkit | 7.25 |
| Vector Solutions (formerly Red Vector) | 861 | Adverse Possession: An Advanced Course | 2 |
| Vector Solutions (formerly Red Vector) | 862 | Akin V Godwin- A Dave Gibson Lot and Block Case | 2 |
| Vector Solutions (formerly Red Vector) | 863 | Analyzing Costs & Determining Feesfor Land Surveyors | 1 |
| Vector Solutions (formerly Red Vector) | 864 | A Dave Gibson Public Land Related Case | 2 |
| Vector Solutions (formerly Red Vector) | 865 | Basic Financials for Land Surveyors | 1 |
| Vector Solutions (formerly Red Vector) | 866 | Boundary Monuments: Artificial and Natural Markers | 2 |
| Vector Solutions (formerly Red Vector) | 867 | Business Rules for Land Surveyors | 2 |
| Vector Solutions (formerly Red Vector) | 868 | Don Wilson's Court Decisions: Block 1 Surveying Definitions; Overlapping Titles & Descriptions | 2 |
| Vector Solutions (formerly Red Vector) | 869 | Don Wilson's Court Decisions: Block 6 Boundary Retracement | 3 |
| Vector Solutions (formerly Red Vector) | 870 | Don Wilson's Court Decisions: Block 4 Surveying Procedures | 2 |
| Vector Solutions (formerly Red Vector) | 871 | Don Wilson's Court Decisions: Block 3 Rules of Construction for Interpreting Descriptions | 2 |

| | | | |
|--|-----|---|---|
| Vector Solutions (formerly Red Vector) | 872 | Don Wilson's Court Decisions: Block 5 Boundary Retracement I | 3 |
| Vector Solutions (formerly Red Vector) | 873 | Don Wilson's Court Decisions Block 7 Boundary Retracement 3 | 3 |
| Vector Solutions (formerly Red Vector) | 874 | Easements: Part I Basic Elements | 3 |
| Vector Solutions (formerly Red Vector) | 875 | Easements: Part 2 Roads & Highways | 2 |
| Vector Solutions (formerly Red Vector) | 876 | Easements: Part 3 Reversion Rights | 3 |
| Vector Solutions (formerly Red Vector) | 877 | Ethics for Land Surveyors: Decision Making in Everyday Practice | 1 |
| Vector Solutions (formerly Red Vector) | 878 | Frost's Survey-Dave Gibson Metes and Bounds | 2 |
| Vector Solutions (formerly Red Vector) | 879 | Henderson et al-Dave Gibson Metes and Bounds | 2 |
| Vector Solutions (formerly Red Vector) | 880 | Introduction to FEMA Flood Maps and Flood Studies | 3 |
| Vector Solutions (formerly Red Vector) | 881 | Lot 21-Dave Gibson Lot and Block Case | 2 |
| Vector Solutions (formerly Red Vector) | 882 | Metes and Bounds Surveys-An Essential Review | 1 |
| Vector Solutions (formerly Red Vector) | 883 | Palm Court-Dave Gibson Lot and Block Case | 2 |
| Vector Solutions (formerly Red Vector) | 884 | Palm Harbor-Dave Gibson Lot and Block Case | 2 |
| Vector Solutions (formerly Red Vector) | 885 | Rivers vs Lozeau-Dave Gibson Public Lands Related Case | 2 |
| Vector Solutions (formerly Red Vector) | 886 | Simple 300x100 Parcel-Dave Gibson Metes and Bounds Case | 2 |

| | | | |
|--|-----|--|-----|
| Vector Solutions (formerly Red Vector) | 887 | Stefanic et al – David Gibson Metes and Bounds | 2 |
| Lucas & Co, LLC | 888 | First Surveyor I | 1.5 |
| Alabama Society | 889 | How Land Surveyors should work with point cloud data to create Survey deliverable. | 4 |
| Alabama Society | 891 | Online Marketing | 1 |
| Dyersburg State Community College | 892 | CONSERVATION OF OUR NATIONS NATURAL RESOURCES | 2.5 |
| Dyersburg State Community College | 893 | ANIMALS THAT CAN BE ENCOUNTERED WHILE WORKING OUTDOORS | 2.5 |
| Dyersburg State Community College | 894 | DENDROLOGY FOR LAND SURVEYORS | 4 |
| Surveyors Educational Seminars | 895 | Legislative Acts and the Land Surveyor | 4 |
| Surveyors Educational Seminars | 896 | Treaties and the Land Surveyor | 4 |
| Surveyors Educational Seminars | 897 | Know When To Hold'em and Other Procedural Pitfalls | 8 |
| Surveyors Educational Seminars | 898 | Power, Water and sewer- Understanding Utility Easements | 4 |
| Surveyors Educational Seminars | 899 | Wars Between the States | 4 |
| Upper Cumberland Chapter of Professional Surveyors | 900 | Ethical Considerations | 1 |
| Upper Cumberland Chapter of Professional Surveyors | 901 | Tennessee Standards of Practice | 1 |

| | | | |
|--|-----|---|-----|
| Upper Cumberland Chapter of Professional Surveyors | 902 | Insurance as a Risk Management Tool | 2 |
| Halfmoon Education Inc. | 903 | Land Description Workshop | 6 |
| Lucas & Co, LLC | 904 | Parol Evidence V | 1.5 |
| Lucas & Co, LLC | 905 | Boundary Establishment 1 | 1.5 |
| Lucas & Co, LLC | 906 | Contracts II | 1.5 |
| Lucas & Co, LLC | 907 | Copyright I | 1.5 |
| Lucas & Co, LLC | 908 | Deed Interpretation I | 1.5 |
| Lucas & Co, LLC | 909 | Deed Interpretation II | 1.5 |
| Lucas & Co, LLC | 910 | Easements I | 1.5 |
| Lucas & Co, LLC | 911 | Easements II | 1.5 |
| Lucas & Co, LLC | 912 | Easements III | 1.5 |
| Lucas & Co, LLC | 913 | Easements IV | 1.5 |
| Lucas & Co, LLC | 914 | Evidence & Procedure I | 1.5 |
| Lucas & Co, LLC | 915 | Evidence & Procedure IV | 1.5 |
| Lucas & Co, LLC | 916 | Pincushion Corner I | 1.5 |
| Lucas & Co, LLC | 917 | Retracement I | 3 |
| Lucas & Co, LLC | 918 | Right of Way I | 1.5 |
| Lucas & Co, LLC | 919 | Right of Way II | 1.5 |
| Lucas & Co, LLC | 920 | Right of Way III | 1.5 |
| Lucas & Co, LLC | 921 | Unwritten Rights I | 3 |
| Lucas & Co, LLC | 922 | Unwritten Rights II | 3 |
| Lucas & Co, LLC | 923 | Rights of way IV | 1.5 |
| Lucas & Co, LLC | 924 | Best Available Evidence V | 1.5 |
| Lucas & Co, LLC | 925 | Ambiguities II | 1.5 |
| Lucas & Co, LLC | 926 | What went wrong I | 1.5 |
| Halfmoon Education Inc. | 927 | Introduction to GNSS Surveying | 6.5 |
| Surveying and Mapping Society of Georgia | 928 | Ethics for the Professional Land Surveyor | 2 |
| Surveying and Mapping Society of Georgia | 929 | Life Cycle of a Survey Company | 2 |
| Surveying and Mapping Society of Georgia | 930 | New Datum 2022 | 4 |
| NE Chapter of Taps | 931 | Dendrology | 4 |

Mr. Caughman made a motion to approve courses from Alabama Society and Dyersburg State Community College. This was seconded by Mr. Dillehay. The motion was carried by roll call vote

Mr. Caughman made a motion to approve all the above courses. This was seconded by Mr. Dillehay. The motion was carried by roll call vote.

Expert Reviewers

Director Gumucio advised we have 2 contacts with the experts. Chairman Lingerfelt suggested maybe a restructure on how we get the response from the experts for the complaints.

Discussion-PDH credit for board meeting Attendance

Two (2) hours of PDH will be giving for attending this board meeting.

NEW BUSINESS

ADJOURNMENT

Mr. Caughman made a motion to award the Board five (5) PDH hours for the day's meeting. This was seconded by Mr. Dillehay, and the motion passed by roll call.

There being no other new business, Mr. Caughman made a motion to adjourn. Mr. Dillehay seconded the motion, and the meeting was adjourned at 2:05pm.



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE: (615) 741-3072 FAX: (615) 532-4750**

LEGAL REPORT

TO: Tennessee Board of Examiners for Land Surveyors
FROM: Erica Smith – Associate General Counsel
DATE: July 23, 2020 SUR Legal Report
RE: July Legal Report

1. 2019096881
Respondent:
License Status: - ACTIVE
First Licensed: 4/28/1973
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Complainant alleges Respondent signed off on a survey they allowed to be completed by an unlicensed surveyor. Complainant further alleges the survey encroached an estimated 4 ft onto their lot, which is on a seawall. Complainant claims Respondent is disabled and could not walk to check the survey work. Complainant provides two surveys that another surveyor performed for them on the lot at issue in 2005. Respondent notes that they have been licensed since 1973 and never had any complaints until now. Respondent denies the allegation that the survey was done inaccurately in any way, and states they personally made a field inspection of the survey work. Respondent states specifically that the two common corners between the lots could not be found, so Respondent placed them based on a recorded plat and data gathered on the lot to the other side of the lot surveyed. Respondent also had a copy of the survey done by the surveyor previously hired by Complainant in 2005. Respondent

provided a copy of all work used for their determination of where corners in the survey were placed. An expert review was conducted.

The expert found no violations, no incompetence, no misconduct, and recommends dismissal of this complaint. The expert's findings further conclude, "It appears that the [Respondent] has given their professional opinion as to the correct location of the property corners. The Complainant should have [their] property surveyed to see if their recollection of the location of the corners is correct." Counsel recommends dismissal of this complaint.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

2. 2020009651

Respondent:

License Status: - ACTIVE

First Licensed: 7/29/2003

License Expiration: 12/31/2021

Disciplinary History: None

Summary:

The Complainant alleges the Respondent completed a survey, wherein they caused an overlap and "put property in conflict" and has failed to correct the issue. An expert review was conducted.

The expert found that the Respondent used the most current deeds to complete the original survey in 2014 showing an overlap of 18.26 acres. In 2015, Respondent spoke to the adjoiner's surveyor regarding the overlap, then subsequently spoke to the title attorney involved and felt the issue was worked out. When Complainant communicated they were still not satisfied and explained the issue, the Respondent agreed to revise the survey and remove the encroachment. However, the Respondent, for some unknown reason failed to follow up with the revised survey. On February 7, 2020, the Respondent corrected the survey and thus resolved the issue with Complainant. The expert recommended a Letter of Warning for failure to timely follow up with the revised survey. Otherwise, the expert found no violations. Counsel recommends a Letter of Warning.

Recommendation: Letter of Warning

BOARD DECISION: The Board accepted counsel's recommendation.

3. 2020010961

Respondent:

License Status: - ACTIVE

First Licensed: 12/13/2013
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

The Complainant alleges the Respondent's survey lines are in error due to uncapped rods placed by the Respondent. Complainant further alleges the marker lines do not match the line "marked by the realtor for [Complainant] at the west corner at the creek".

The Respondent explained that the uncapped pins were found by the survey crew during the traverse of the property and "matched Complainant's deed call" along a painted line. Respondent's opinion is that Complainant has built a cabin on the property of the adjoiner. An expert review was conducted.

The expert finds that the issue at hand is clearly a boundary line dispute and the Complainant should have their property surveyed to help resolve the issues. The expert finds no violations and recommends dismissal of the complaint. Counsel recommends dismissal.

Recommendation: Dismiss.

BOARD DECISION: The Board accepted counsel's recommendation.

4. 2020013561
Respondent:
License Status: - ACTIVE
First Licensed: 2/4/1999
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

The Complainant alleges the Respondent's survey misrepresented an adjacent fence line shown in their survey drawing from February 2019. The Respondent does admit to a drafting error where they connected a fence shot to the wrong point. Respondent stated they were not aware of the problem until they received the complaint, after which Respondent corrected the drawing. An expert review was conducted.

The expert finds that there does appear to be a drafting error but emphasizes that the error did not change the actual boundary lines of the survey. It simply changed the fence location in one area of the adjacent property. Normally, the expert would suggest a Letter of Warning for such an error. However, when considering the totality of the circumstances in this matter, the expert opines that a Letter of Warning is too severe of a response for an error which caused no damage to the Complainant. Therefore, Counsel and the expert recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

5. 2020023351
Respondent:
License Status: - ACTIVE
First Licensed: 7/6/2000
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

This complaint was opened when the Respondent filed a complaint and self-reported the following: "I self-certified thinking I had 15 carryover hours and I only had 7... I paid my dues and received my certificate, but I need to be switched back to inactive status until I can show my ethics and standards." Respondent further stated that they are not actually practicing land surveying but only maintain their license for their role as the National Surveyor within USDA. Counsel has requested a more detailed statement from Respondent regarding their PDH submitted for the 2017 and 2019 renewal cycles and any pending PDH but has yet to receive a response. Counsel recommends placing Respondent's license in an inactive status as requested by Respondent until all required PDH has been submitted. Counsel recommends dismissing this complaint considering Respondent self-reported and is not engaged in the practice of land surveying in Tennessee at this time.

Recommendation: Dismiss.

BOARD DECISION: The Board elected to send a Letter of Instruction.

6. 2020026441
Respondent:
License Status: - ACTIVE
First Licensed: N/A
License Expiration: N/A
Disciplinary History: None

Summary:

Complainant is a licensed land surveyor and Respondent is an LLC who offers surveying, civil engineering and geotechnical services. Complainant alleges Respondent has been practicing and engaging in land surveying without a “100% responsible charge [licensed] surveyor.” Complainant further states that Respondent’s previous partner/employee who was the surveyor for the company, also owns and operates his own engineering and land surveying firm. There is a separate complaint against the previous partner which is currently being reviewed by an expert and will be presented to the Board as soon as the expert report is available to Counsel.

Respondent’s president responded to the complaint and first notes that this complaint is filed by a competitor. More importantly, Respondent states that although they do not believe they are engaging in unlicensed activity as alleged, but makes it clear that they will proactively remedy any violation the Board may find. Respondent explains that they are a small business currently employing approximately 13 people. Respondent and their spouse started the company 22 years ago following the closure of an engineering business where they were both employed. Respondent confirmed that their previous partner is a licensed engineer and a licensed land surveyor who provided the civil engineering design and surveying services for the LLC and served as the vice president of the company until June 28, 2019. As of July 1, 2019, the previous partner became “semi-retired” and at that time, agreed to continue to provide land surveying services for the company. Respondent confirmed that the previous partner continues to be an employee of the company. Respondent is not aware of any issue with the partner owning their own engineering business and notes the partner has owned it since prior to their involvement with Respondent’s business. At no time did Respondent believe that they, or the partner, were performing any work in violation of any rule or statute. On 4/21/20, Respondent stated that they had re-engaged the “previous partner” as a current officer of the company and as a partner with an ownership interest in the company. An investigation was conducted to obtain further information and clarity. The investigator spoke with Respondent on 5/28/20 and was informed that Respondent was actively searching for a replacement for the partner. On 6/8/20, Respondent informed the investigator they had hired a replacement who is a licensed surveyor in Missouri and is currently pursuing Tennessee licensure through some reciprocity and by taking the state laws test. The new hire is working on preparing/drawing two plats and obtaining their references. Counsel notes that the new hire has no history of discipline in Missouri and has been licensed as a surveyor since January 2006. Counsel recommends discussing this matter.

Recommendation: Discuss.

BOARD DECISION: The Board elected to authorize a formal hearing and to send a consent order with a civil penalty of \$1,000 for violation of Rule 0820-04-.09 (1) and (3) and to open a complaint against the responsible charge licensee.

7. 2020036801
Respondent:

License Status: - ACTIVE
First Licensed: 10/4/2018
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent did not complete their required hours until February 2020 but certified their education hours were complete on 11/19/19. Respondent responded to this complaint and stated they have not completed any surveying activities in Tennessee before or since licensure. Respondent is licensed in 14 states and states they make it a priority to be in compliance. Respondent further noted they have been licensed in Tennessee since 1991 and have been compliant in all continuing education efforts prior, and apologizes for this mistake. Respondent was under the impression that they had completed the Tennessee Standards of Practice course in March 2018 and assumed we had these records because at the time of the audit, Respondent could not find the certificate for these hours. Respondent then took the Standards course online in February 2020 and is compliant, with their license being renewed and active.

Counsel recommends issuing a Letter of Warning to Respondent.

Recommendation: Letter of Warning

BOARD DECISION: Dismiss because this licensee should not have been included in the audit since they were first licensed on 10/4/18 and allow the additional PDH obtained to carry over

8. 2020036821
Respondent:
License Status: – ACTIVE, NOT APPLICABLE
First Licensed: 7/9/2008
License Expiration: 12/31/2021

Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent did not complete their required hours until March 2020 but certified their education hours were complete when they renewed their license prior to March 2020. Respondent responded to this complaint and stated the reason they had not listed a specific ethics course was due to confusion about the Rule. Specifically, Respondent was under the assumption that the Tennessee Standards class they completed on 11/21/19 would suffice. Respondent was not aware that the Board’s interpretation of the Rule required 1 hour of Standards and 1 hour of Ethics. Respondent states they are licensed in multiple states and take many various classes each year to keep their licenses current. Once Respondent received notice of the deficiency and was given an extension to complete the requirements based on circumstance, Respondent completed the 2-hour Ethics course immediately and submitted proof of such within 24 hours. Respondent is now in compliance and their license was renewed and is active.

Counsel recommends issuing a Letter of Warning to Respondent.

Recommendation: Letter of Warning

BOARD DECISION: The Board elected to authorize a formal hearing and send a consent order with a \$500.00 civil penalty and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during the time they were not in compliance with PDH required for license renewal

9. 2020036851

Respondent:

License Status: – ACTIVE, NOT APPLICABLE

First Licensed: 7/20/1998

License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent certified their education hours were complete when they renewed their license but the audit revealed Respondent had not completed the Standards of Practice course. Respondent responded to this complaint and stated they were confused and did not understand what documentation they have failed to provide for the renewal of their licensure and for their required PDH. Counsel recommends giving Respondent 30 days to comply and if they do not, suspending Respondent’s license until they do comply.

Recommendation: Allow Respondent 30 days to become compliant and if they do not comply, authorize suspension of Respondent’s license until Respondent is compliant

BOARD DECISION: The Board elected to authorize a formal hearing and send a consent order with a \$500.00 civil penalty and ordering the Respondent to become compliant by providing the applicable deficient continuing education requirements within 30 days and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during the time they were not in compliance with PDH required for license renewal

10. 2020036811
Respondent:
License Status: – ACTIVE, Not Applicable
First Licensed: 4/15/1988
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent certified their education hours were complete when they renewed their license but the audit revealed Respondent was not in compliance. Respondent is exempt from the normal requirements but is still required to complete 2 hours of Ethics and Standards. Respondent completed these 2 hours in March 2020. Respondent responded to this complaint and stated they applied for licensure renewal on 1/21/20 and confirmed they attested to having completed the CE hours required. Respondent states this was a mistake because they later discovered they did not have 2 carryover hours as they had assumed. Respondent is now in compliance and their license was renewed and is active.

Counsel recommends issuing a Letter of Warning to Respondent.

Recommendation: Letter of Warning

BOARD DECISION: The Board elected to authorize a formal hearing and send a consent order with a \$500.00 civil penalty and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during the time they were not in compliance with PDH required for license renewal

11. 2020036831
Respondent:
License Status: – ACTIVE, not applicable
First Licensed: 10/24/1975
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent certified their education hours were complete when they renewed their license but the audit revealed Respondent was not in compliance. Respondent is exempt from the normal requirements but is still required to complete 2 hours of Ethics and Standards. Respondent completed these 2 hours in March 2020. Respondent responded to this complaint and stated that it was brought to their attention as a result of the Board audit that their professional development hours for the years 2018/2019 were incomplete. Respondent reviewed their records and files and determined this was true but unintentional. Respondent accepts full responsibility for the oversight and states there is no excuse for such a mistake. Respondent complied and is not sure how else to rectify the situation and asks the Board for instruction on what else they can do to rectify the situation. Respondent is now in compliance and their license was renewed and is active.

Counsel recommends issuing a Letter of Warning to Respondent.

Recommendation: Letter of Warning

BOARD DECISION: The Board elected to authorize a formal hearing and send a consent order with a \$500.00 civil penalty and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during the time they were not in compliance with PDH required for license renewal

12. 2020036901
Respondent:
License Status: – ACTIVE, not applicable
First Licensed: 8/4/2003
License Expiration: 12/31/2021
Disciplinary History: None

Summary:

Pursuant to Rule 0820-05-.13, the Board decided to conduct audits of continuing education starting with the 2019 renewal cycle for all licensees that expired on 12/31/19 (all licensees have the same renewal date). This Rule states “[s]hould deficiencies be discovered, registrants will be notified and have six (6) months to satisfy the deficiencies, except where such audits reveal fraudulent misrepresentations to have been made by the registrant.” All licensees, when renewing their license, attested to completing their continuing education requirements. According to Rule 0820-05-.03(2), a registrant seeking biennial renewal of active registration must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained thirty (30) PDH’s during the two (2) year period immediately preceding application for renewal (carryover hours, not exceeding fifteen (15) hours, from the next preceding renewal cycle may be included). The Respondent renewed their license, however, upon audit, was found to be non-compliant with this requirement.

In this matter, Respondent certified their education hours were complete when they renewed their license but the audit revealed Respondent was not in compliance. Respondent was notified of the deficiency and immediately responded. Respondent states they have been working for a contractor for the last year and a half, doing layout in several states. Respondent usually goes to the TAPS conference every year and obtains their hours that way, but was unable to go this year because they have been in Alabama and Texas working. Respondent is in the process of getting their hours to become compliant but notes they were recently hospitalized and have not been able to complete the requirements. Respondent asks the Board to bear with them because their license is very important to them and asks if there is anything else they can do to resolve this situation in the meantime. Counsel recommends giving Respondent 30 days to comply and if they do not, suspending Respondent’s license until they do comply.

Recommendation: Allow Respondent 30 days to become compliant and if they do not comply, authorize suspension of Respondent’s license until Respondent is compliant

BOARD DECISION: The Board elected to authorize a formal hearing and send a consent order with a \$500.00 civil penalty and ordering the Respondent to become compliant by providing the applicable deficient continuing education requirements within 30 days and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during the time they were not in compliance with PDH required for license renewal

REPRESENTS

13. 2019063091
Respondent:
License Status: - EXPIRED
First Licensed: 3/3/1997
License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant alleges that after having issues getting in touch with the original surveyor of her property, she reached out to Respondent and he agreed to meet and discuss separating some acreage for Complainant and doing a boundary and division survey. Complainant alleges that she paid Respondent half of the fee, with the rest to be paid upon receipt of the completed survey. Complainant further alleges that Respondent approached her after the initial meeting and requested more money, so Complainant paid the entire fee at that time without a completed survey. Approximately one month later, Complainant alleges that Respondent provided her with an incomplete and inaccurate survey. Complainant further alleges that several months subsequent to receiving this survey, she attempted to contact Respondent and attempted to address the inaccuracies in the incomplete survey. Complainant states that after threatening Respondent with a Board complaint, Respondent came back and walked the property again. Complainant alleges that Respondent acknowledged the mistake, but stated that it was “on paper only” and promised to correct the survey. Complainant also alleges that it is well known that Respondent has a drug problem that has been affecting the way he conducts business.

This complaint was sent for investigation because Respondent has failed to respond to this complaint despite every effort by our office to contact him, as well as by our investigator. This complaint was also sent out for an expert review but Counsel notes that our expert was unable to consider any defense Respondent may have offered considering the lack of any response, and was only able to consider the complaint’s allegations and documentation provided by the Complainant.

Based on the Complainant’s allegations and documentation, it is the opinion of the expert reviewer that Respondent is in violation of:

- Standards of Practice 0820-04.02(1), which states “[T]he registrant shall at all times recognize the primary obligation to protect the safety, health, and welfare of the public in the performance of the registrant’s professional duties.”
- Standards of Practice 0820-04-02(3), which states “[T]he registrant shall respond to all inquiries and correspondence from the Board within fifteen days from the day of receipt and shall timely claim undelivered correspondence from the U.S. Postal Service, or any other delivery service, upon notice thereof.”

The expert considered the fact that it seems Complainant has been led on by the Respondent for many months after payment was made in full, Complainant’s implications that Respondent has been incompetent and unprofessional, and Complainant’s suggestion that Respondent may have a drug problem. The expert was reluctant to list a clear violation of 0820-04.02(1) because we don’t have a response from the Respondent; however, the expert and Counsel find a clear violation of 0820-04.02(3) because of Respondent’s failure to respond to this complaint. Therefore,

Counsel recommends a civil penalty of \$1,000 and requiring Respondent to complete an Ethics course above and beyond what is normally required for licensed land surveyors within 180 days.

Recommendation: \$1,000 civil penalty for violation of Standards of Practice Chapter 0820-04-02(3) and completion of an Ethics course above and beyond what is normally required for licensed land surveyors within 180 days

BOARD DECISION: Further Board consideration needed.

New Information: Respondent's license has expired and they have recently submitted a renewal application that was denied as a result of this unresolved complaint. Counsel requests this complaint be placed in monitoring status for further investigation considering Respondent provided a new address with their renewal application. Counsel will represent this matter once the investigation is complete.

New Recommendation: Place in Monitoring

NEW BOARD DECISION: The Board accepted counsel's recommendation.

New Information: On 1/21/20, Counsel reached out to Respondent by mail and email to their new addresses provided in their renewal application asking that they immediately address this complaint. Counsel also made it clear that their renewal application could not be approved unless they addressed this complaint and it was presented to the Board. Respondent responded to the email the following day and stated this was the first time they had seen the complaint, and the claimed the facts were being misrepresented by Complainant but stated they would send an official response and documentation to explain the situation. Respondent followed up with their response stating Complainant contacted them about cutting 10 acres out of a larger tract which Respondent had worked on in the past. Complainant told Respondent what they needed and Respondent told them it would cost \$800 because they had already done a lot of work in the area dating back to 1997. Respondent had surveyed a large tract in which this new 10-acre parcel will be a part of. Respondent did ask for half of the payment up front, which was paid in cash by Complainant. A few days later, Respondent went and located everything they needed to bring back to the office to plot out the new parcel on the computer. Respondent delivered the new drawing to Complainant which showed the division along with the new description. Complainant paid the remainder of monies owed to Respondent at that time. Later, Complainant contacted Respondent with a concern about the remaining acreage after the division. Respondent looked over all the data and at first, admits they did not see the problem. Respondent went back to the job site to set the new corner pins and saw right away that there was an error somewhere. Respondent went back to the office to figure out the issue and found that they had overlooked one bearing and distance when they moved the old data over to the new data. Respondent fixed the problem and printed two new drawings, one of them being just to show

Complainant what had happened. Complainant and Respondent met at the property and Respondent explained what happened and all the acreage was accounted for. Respondent further explained that everything was correct on paper at that time but they would need to go back and move one corner pin. Complainant then told Respondent they wanted to make some changes anyway and asked how much it would cost. Respondent told them it would not cost anything because of their prior mistake and they would do it for free as an act of goodwill. Respondent states that they take much pride in their work but admits they are human and admits to this mistake. Respondent corrected the error and further admits they should have communicated with Complainant in a more timely manner. Respondent notes that they have been around the business of surveying for over 40 years and ran their own business for over 20 years. However, since 2016, Respondent has mostly worked as a one-man crew due to their health. Respondent has had Crohn's disease for 23 years and their illness has recently played a big factor in them recently taking a new position with an engineering group in July 2019. The owner and manager of the engineering group who hired Respondent also provided Counsel with a statement and a copy of an email sent to Complainant. The owner emailed the Complainant and explained that although Respondent was just hired in July 2019 and they had nothing to do with the survey, they were made aware of the complaint and spoke to Respondent about it. Respondent's new employer states that as far as they can tell, Respondent has been trying to provide the services agreed upon to the Complainant. Nevertheless, Respondent's new employer offered to send their survey crew to verify Respondent's prior work done for Complainant and make sure they get the completed survey if they are still unsatisfied with what Respondent has provided. Respondent will compensate their new employer for the work done and if this satisfies Complainant, they will put the job at the top of their schedule. They further stated they could treat the job as a new survey and would not rely on any of Respondent's prior field work to eliminate any chances for error. Complainant never responded to this offer. Complainant's brother did later contact Respondent about this matter and stated everything was taken care of. Additionally, Complainant later confirmed with Counsel that they told Respondent they no longer needed their services because the matter had been resolved. Counsel recommends dismissal of this complaint.

New Recommendation: Dismiss.

NEW BOARD DECISION: The Board elected to authorize a formal hearing and to issue a consent order with a \$1,000.00 civil penalty for failure to update address with the Program.

14. 2019069671
Respondent:
License Status: - EXPIRED
First Licensed: 1/26/1999

License Expiration: 12/31/2015
Disciplinary History: 2018 Letter of Warning

Summary:

Complainant is involved in a boundary dispute in civil court with a neighbor. Counsel notes that Complainant is not the client for whom the survey at issue was completed. Complainant claims Respondent sold the land survey to his neighbor in 2017 but notes that Respondent's license has been expired since 2015. Complainant argues that the fact Respondent's license has been expired should negate the legitimacy of Respondent's survey being put forth as evidence in the civil case but takes issue because the Judge has not thrown it out. Complainant's civil attorney advised her to file this complaint as a result but Counsel opines that this specific issue is not one for the Board to consider as it is currently being litigated and all documentation regarding Respondent's license history has been provided to Complainant's attorney in response to a public records request.

Respondent's license has been expired since 12/31/15. Respondent appeared before the Board in July of 2018 to try to renew his license and made it known to the Board that he had just recently discovered that his license had expired, despite it having expired two and a half years prior. Respondent told the Board that he had kept current with all continuing education and that his renewal application and documentation had been submitted. However, all required information and documentation was not timely submitted to the Board by Respondent. Due to the length of time that Respondent had been expired, he appeared in front of the Board requesting that it waive the examination requirement for his license to be reinstated. This request was denied and Respondent was advised of what was necessary to complete his application to renew his license after appearing in front of the Board but has failed to renew his license to date. Tenn. Code Ann. §62-18-113 states that "[i]t is the sole responsibility of any person registered as a land surveyor to renew the person's registration on or before the date of its expiration." Additionally, Tenn. Code Ann. §62-18-101 states that "[i]t is unlawful for any person to practice or offer to practice land surveying in the state or to use in connection with the person's name or otherwise assume or advertise any title or description tending to convey the impression that the person is a land surveyor, unless the person has been duly registered or exempted under this chapter."

This complaint was sent for investigation and for an expert review. The investigator spoke to the Respondent and obtained a sworn affidavit. Respondent states that he is aware his license is still expired and that he is not currently advertising in any way to be a licensed land surveyor. Respondent states that he is unsure of how many surveys he completed prior to finding out his license was expired and before appearing before the Board in 2018. Respondent states that while he does keep copies of all of his surveys, he was recently seriously injured and is unable to access them. However, Respondent states that he has not completed any surveys since finding out his license was expired and since appearing before the Board in 2018. The survey at issue in this

complaint was completed in 2017 after Respondent's license expired, but before he appeared in front of the Board in July of 2018 as stated in the paragraph above.

This complaint was also sent for expert review. It is the opinion of the expert reviewer that Respondent's survey contained the following violations:

- Standards of Practice Chapter 0820-03 (1)(b)(1) - the survey lacked a descriptive location or vicinity or corner tie indicating point of beginning
- Standards of Practice Chapter 0820-03(1)(b)(7) - the Ratio of Precision of the unadjusted survey is not shown
- Standards of Practice Chapter 0820-03(1)(h)(3) - the size and type of property corners are not indicated
- Tenn. Code Ann. §62-18-101 and §62-18-113 – failure to renew license and unauthorized practice as a land surveyor

Counsel recommends assessing a \$1,000 penalty for each of the four violations referenced in bullet points above for a total \$4,000 civil penalty.

Recommendation: \$4,000 civil penalty for violations of Standards of Practice Chapter 0820-03 (1)(b)(1), 0820-03(1)(b)(7), 0820-03(1)(h)(3); and Tenn. Code Ann. §62-18-101 and §62-18-113

BOARD DECISION: The Board elected to defer making a decision regarding this matter in order for counsel to investigate further.

New Information: Counsel reached out to Complainant and clarified what they meant when they alleged Respondent "sold" a land survey to their neighbor in 2017. Complainant explained that Respondent was hired by their neighbor to perform a survey, which they completed in 2017 while their license was expired. This is the survey at issue.

Counsel recommends assessing a \$1,000 civil penalty for each violation of Standards of Practice Chapter 0820-03 (1)(b)(1), 0820-03(1)(b)(7), and 0820-03(1)(h)(3), for a total \$3,000 civil penalty.

New Recommendation: \$3,000 civil penalty for violations of Standards of Practice Chapter 0820-03 (1)(b)(1), 0820-03(1)(b)(7), 0820-03(1)(h)(3)

NEW BOARD DECISION: The Board accepted counsel's recommendation.

NEW INFORMATION: Respondent contacted Counsel after they received the Consent Order and admitted to the violations. However, Respondent explained that there is no way they can come up with \$3,000 while they are taking care of their terminally ill mother and out of work. Counsel suggests considering lowering the civil penalty since the Respondent is no longer a licensee and will admit to the violations.

NEW RECOMMENDATION: Discuss

NEW BOARD DECISION: The Board elected to authorize a formal hearing and issue a consent order with no civil penalties if the Respondent will agree to the violations committed and will not be granted licensure with the Program in the future without an in person appearance before the Board. Respondent will, however, be permitted to work in the industry in a position that does not require a license.