



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

**Board Meeting Minutes for January 23, 2020
First Floor Conference Room (1-B)
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on January 23, 2020 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Tim Lingerfelt, Board Chairman, called the meeting to order at 9:00 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Tim Lingerfelt, Jackie Dillehay, and Jay Caughman

BOARD MEMBERS ABSENT: Jed McKeehan

STAFF MEMBERS PRESENT: Jennifer Peck, Erica Smith, Stuart Huffman, Jamye Carney, Caleb Darnell

NOTICE OF MEETING

Mr. Lingerfelt called the meeting to order and then read the notice of meeting into the record as follows: "Notice of the January 23rd, 2020 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on January 17th, 2020."

ADOPT AGENDA

Mr. Lingerfelt made a motion to adopt the agenda as written, but to allow for flexibility. This was seconded by Mr. Caughman, and the motion passed unanimously.

MINUTES

After a brief review of the minutes from the board's October meeting, Mr. Lingerfelt made a correction to the reconvene time to be 9:50 a.m. Mr. Caughman put forth a motion to adopt them as written. Mr. Dillehay seconded the motion, and the motion passed unanimously.

ROLL CALL

Director Peck took roll noting those board members who were present, and stated we have quorum. Mr. McKeehan was not present.

APPEARING BEFORE THE BOARD

Mr. Thomas O. Dorsey appeared before the board via telephone to discuss reinstatement of his expired license on 12/31/2017, he proposed that he be waived the exams along with other initial requirements. Mr. Caughman recused himself from the discussion. Director Peck recommended he be reinstated. After discussion, Mr. Dillehay made a motion to waive the exams and other requirements and Mr. Lingerfelt seconded the motion, and the motion passed unanimously.

LEGAL REPORT *(Presented by Erica Smith)*

1. 2019086251
Respondent:
License Status: - ACTIVE
First Licensed: 10/26/1984
License Expiration: 12/31/2019
Disciplinary History: None

Summary:

Complainant hired Respondent to do a property survey on July 1, 2019. Specifically, Respondent was to cut 5 acres out of Complainant's property around their house. The Complainant was not happy and felt that the Respondent did not do a proper survey. Complainant wants the Respondent to come back and do a new survey.

Respondent explains that Complainant had very specific requests regarding the boundary lines of the cut out. Once Respondent dug into the Complainant's deed description and the monuments, it was clear the property boundary was not cut and dry. It was typical of farm descriptions, lacking mathematical closure, as well as tight accuracy and some monuments. After some time, Respondent realized that re-establishing the property line was not within their scope of services that was agreed upon. The work would have taken a considerable amount of time and fees. Respondent found another way to meet the original parameters set out by Complainant and completed that rendition of the survey which Complainant paid for and received. Soon thereafter, Respondent got a call from Complainant's adjoining neighbor about something they disagreed with regarding the shared property line. Respondent explains that Complainant was not happy with the proposed solution and revision from the neighbor and time went by with little discussion. Respondent set this aside and worked on other projects. When Complainant requested a plat with the proposed revisions, Respondent did not immediately start working on them. This complaint was made as a result of the delay. Respondent admits that they failed to follow up and make changes/revisions in a timely manner. However, all of the work was completed as of November 8, 2019 and Respondent has apologized for the delay. Respondent did not charge Complainant anything for the revision work.

An expert review was conducted. The expert concluded that Respondent has fulfilled their obligation to their client, the Complainant. The Complainant simply disagrees with the survey over minor differences with the description calls. The expert further concluded

that no laws or rules were violated, and no misconduct or incompetence was found. Therefore, Counsel recommends dismissing this complaint.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

2. 2019091171

Respondent:

License Status: – ACTIVE

First Licensed: 7/12/2000

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant claims that on November 1, 2019, they saw two men in their front yard, one with a pick axe and the other with a metal detector and GPS locator pole. Complainant asked them what right they had to be on Complainant's property to which they replied they were in the right of way. Complainant claims the right of way is 25ft from the centerline, therefore alleges they were 35-37ft in front of the centerline and trespassing on Complainant's property. Complainant claims the men told them that they were hired by a landowner who is ¼ mile away from Complainant's property. Complainant claims they were surveying all of the houses in a certain area that backs up to farm land that is technically in two different counties. Complainant states they spoke with Respondent on November 5 about this incident and explained that the men were on their property and outside the appropriate boundary in violation of statute. Complainant alleges Respondent apologized but offered no explanation other than stating who hired them. Complainant also provides a picture showing a vehicle which Complainant claims is the unmarked vehicle the men were using that day. Complainant specifically questions why someone would hire a land surveying company to come in their area and survey all of the houses that border land where a named stone and gravel company has the mineral rights to. Complainant later informed our office that they determined the reason behind the "underhanded" survey – the person that hired the land surveying company just sold their land to the stone and gravel company. Further, they have an easement on Complainant's street. Complainant does not understand why Respondent needed to survey private property that did not adjoin the property being contemplated for purchase. The property surveyed by Respondent is in a different county according to Complainant.

Respondent states that they had a crew surveying their client's property located in the southern end of "County A" adjoining "County B." The property consists of 175.60 acre trace located in "County A" with a 50' wide easement that crosses through the southwest corner of the subdivision located in "County B." The crew needed to locate adjoining front property corners along the right of way of a named Drive in order to correctly position the limits of the access road easement that crosses through the southwest corner of the subdivision. The crew was walking down the right of way and came to Complainant's lot. It was a friendly encounter until they found an iron pin which disagreed with Complainant's idea of where the mark should be. Complainant called the police, the police realized the crew was surveying and told Complainant there was no problem with what the crew was doing. At that point the crew left the site and has not been back. Complainant and Respondent did discuss this on the phone. Respondent

explained they had right to access Complainant's property according to TCA §62-18-124 and stated the centerline was 50' wide, 25' on each side. Respondent feels the underlying issue here is Complainant's dislike for the stone and gravel company. Counsel recommends dismissing this complaint finding no evidence of any violations.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

3. 2019091861

Respondent:

License Status: – ACTIVE

First Licensed: 11/4/2018

License Expiration: 12/31/19

Disciplinary History: None

Summary:

This complaint was opened administratively. The license issued to Respondent was released due to a system error. At the time this complaint was opened, Respondent had not met licensing requirements. Respondent has since voluntarily surrendered this license issued in error, therefore the Director requested that this matter be closed.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

4. 2019094271

Respondent:

License Status: – ACTIVE

First Licensed: 5/23/2012

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant hired Respondent to do a land survey and at the time of this complaint, wanted our assistance in obtaining a plat from Respondent because they were having trouble obtaining it. After this complaint was filed, Complainant notified our office that they have resolved this issue with Respondent and were able to purchase a plat from Respondent. Complainant requested that we close this complaint. Counsel found no evidence of any violations and recommends dismissal.

Recommendation: Dismiss

BOARD DECISION: The Board accepted counsel's recommendation.

REPRESENTS

5. 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.

6. 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.

EDUCATION REPORT

Mr. Dillehay made a motion to approve the education report as amended to approve Kerr Seminars, which was seconded by Mr. McKeehan. The motion passed unanimously.

<u>COURSE</u>	<u>COURSE PROVIDER</u>	<u>BOARD APPROVED/DENIED PDH's</u>
"HR-101"	TAPS Annual Conference-Mario Forte-52 nd Annual 2020-2021	Approved 2.0
"The Commish : Taxation for Employers 101"	TAPS Annual Conference-Mario Forte-52 nd Annual 2020-2021	Approved 2.0
"Cooley III"	Lucas & Company, LLC	Approved 1.5
"Engineering Cost Analysis"	American Society of Engineers (ASCE)	Denied
"Geometrics"	American Society of Engineers (ASCE)	Denied
"Hydraulics"	American Society of Engineers (ASCE)	Denied
"Hydrology"	American Society of Engineers (ASCE)	Denied
"Project Planning"	American Society of Engineers (ASCE)	Denied
"Site Development"	American Society of Engineers (ASCE)	Denied
"Fundamentals of Erosion Prevention & Sediment Control - Level I Course"	TN Water Resources Research Center (UT)	Approved 7.0
"Level I Recertification: Construction Site Inspection as req by TN. Construction"	TN Water Resources Research Center (UT)	Approved 4.0
"Land Laws for Civil Engineers and Land Surveyors"	"Halfmoon Education, Inc"	Approved 4.0
"Certified Floodplain Surveyor, CFS Certification"	C. Bart Crattie - TAPS	Approved 20.5
"Negligence IV"	Lucas & Company, LLC	Approved 1.5
"Principles & Practices II"	Lucas & Company, LLC	Approved 1.5
"Principles & Practices VI"	Lucas & Company, LLC	Approved 1.5
"Retracement II"	Lucas & Company, LLC	Approved 1.5
"Retracement III"	Lucas & Company, LLC	Approved 1.5
"Retracement IV"	Lucas & Company, LLC	Approved 1.5
"Retracement V"	Lucas & Company, LLC	Approved 1.5
"Ambiguities"	Lucas & Company, LLC	Approved 1.5
"Apportionment Rule I"	Lucas & Company, LLC	Approved 1.5

"Apportionment II"	Lucas & Company, LLC	Approved	1.5
"Apportionment III"	Lucas & Co, LLC	Approved	1.5
"Apportionment IV"	Lucas & Co, LLC	Approved	1.5
"Best Available Evidence II"	Lucas & Company, LLC	Approved	1.5
"Best Available Evidence III"	Lucas & Company, LLC	Approved	1.5
"Best Available Evidence IV"	Lucas & Company, LLC	Approved	1.5
"Boundary Establishment II"	Lucas & Company, LLC	Approved	1.5
"Boundary Establishment III"	Lucas & Company, LLC	Approved	1.5
"Boundary Establishment IV"	Lucas & Company, LLC	Approved	1.5
"Boundary Establishment V"	Lucas & Company, LLC	Approved	1.5
"Boundary Establishment VI"	Lucas & Company, LLC	Approved	1.5
"Contracts I"	Lucas & Company, LLC	Approved	1.5
"Contracts III"	Lucas & Company, LLC	Approved	1.5
"Contracts IV"	Lucas & Company, LLC	Approved	1.5
"Contracts V"	Lucas & Company, LLC	Approved	1.5
"Doctrine of Monuments I"	Lucas & Company, LLC	Approved	1.5
"Doctrine of Monuments II"	Lucas & Company, LLC	Approved	1.5
"Doctrine of Monuments III"	Lucas & Company, LLC	Approved	1.5
"Duties & Responsibilities I"	Lucas & Company, LLC	Approved	1.5
"Ethics I"	Lucas & Company, LLC	Approved	1.5
"Ethics II"	Lucas & Company, LLC	Approved	1.5
"Ethics III"	Lucas & Company, LLC	Approved	1.5
"Ethics IV"	Lucas & Company, LLC	Approved	1.5
"Ethics IX"	Lucas & Company, LLC	Approved	1.5
"Ethics V"	Lucas & Company, LLC	Approved	1.5
"Ethics VI"	Lucas & Company, LLC	Approved	1.5
"Ethics X"	Lucas & Company, LLC	Approved	1.5
"Expert Witness II"	Lucas & Company, LLC	Approved	1.5
"Principles & Practices VII"	Lucas & Company, LLC	Approved	1.5
"Principles & Practices VIII"	Lucas & Company, LLC	Approved	1.5
"Ethics XX"	Lucas & Company, LLC	Approved	1.5
"Cooley III"	Lucas & Company, LLC	Approved	1.5

Mr. Lingerfelt had reviewed Continuing Education Courses from American Society of Engineers (ASCE) and requested the board review during this meeting. He recommended denial because the subject matter covered engineering education more than land surveyor education. Mr. Caughman and Mr. Dillehay agreed. Mr. Caughman made a motion to approve the continuing education courses on the listing. It was seconded by Mr. Dillehay, and the motion passed unanimously.

DIRECTOR'S REPORT

Budget

Director Peck provided a detailed accounting of the revenue and expenditures for fiscal year 2019. Director Peck also stated there was a spike in revenue in November 2019 due to the renewals.

Active Licensee Count/Renewal Count/Expired Grace Count

Director Peck provided a report on the renewal percentage for the 2017-19 renewal period. 1,027 active, 94 not completely renewed. The percentage is 92% active and 8% are not active at this time

Expired Grace Status Correspondence

Mr. Lingerfelt wanted to clarify renewals that are not completed by February 1, 2020, will be automatically audited. The random audit will be 10% of completed renewals, received by December 31, 2019. He also would like to know the number of applicants who have passed the TN Specific exam during 2019.

NEW BUSINESS

New Policy for Course Approval

Director Peck addressed the board members about the timeline for a board member to respond with an approval, after it has been reviewed, and submitted for approval. She suggested that if a board member had not responded within a 15 day period, then the Executive Director may approve the course(s).

Mr. Caughman made a motion. It was seconded by Mr. Dillehay, and the motion passed unanimously.

Discussion-PDH credit for Board Meeting Attendance

Mr. Galyon Northcutt submitted a letter to the board inquiring about possible credit of PDH's for attendance to board meetings. Mr. Caughman made a motion to allow a maximum of 2 PDH's for attending a board meeting in person. It was seconded by Mr. Dillehay, and the motion passed unanimously.

TAPS - Murfreesboro Event

Mr. Lingerfelt wanted to remind everyone that TAPS will be hosting their annual conference on March 6, 2020 in Murfreesboro Tennessee. The board members will be available to meet everyone.

ADJOURNMENT

Mr. Caughman made a motion to award the board one and one half (1.5) PDH hours for the day's meeting. This was seconded by Mr. Dillehay, and the motion passed unanimously. There being no other new business, Mr. Caughman made a motion to adjourn. Mr. Dillehay seconded the motion, and the meeting was adjourned at 10:21 a.m.

