



**BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-2241**

**Meeting Minutes for November 22, 2024
First Floor Conference Room 1B
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on November 22, 2024, and the following business was transacted:

BOARD MEMBERS PRESENT: Jay Caughman, Justin Rains, Kevin Martin, Gary Clark

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Glenn Kopchak, Alexandria Griffey, Philip Allocco, Megan Maleski, Kyle Johnson, Laura Martin

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Gary Clark called the meeting to order at 9:00 am and Director Glenn Kopchak took roll call.

AGENDA

Jay Caughman made a motion to adopt the agenda. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

MINUTES

Jay Caughman made a motion to adopt the August minutes. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

NCEES PRESENTATION

Jim Kelly, NCEES Southern Zone Vice President, presented an overview of the NCEES organization, further noting the organizational structure, committees, task forces, annual meetings, and membership opportunities.

EDUCATION REPORT

Course Provider	Course Number	Course Name	Hours	Recommendation
Lucas & Co, LLC	1253	Ethics XXV	1.5	Approve
Lucas & Co, LLC	1254	Boundary Establishment XI	1.5	Approve
Daniel Shearon	1255	Introduction to Aerial Lidar Workflows	1	Approve
Upper Cumberland Chapter of TAPS	1256	Standards of Practice and Professional Ethics	2	Approve
TAPS	1257	How to Retrieve and use Aerial Photography in CAD	2	Approve
JE Campbell	1258	A Better Understanding of Stormwater and Floodplains	7.5	Approve
JE Campbell	1259	A Better Understanding of ALTA/NSPS Land Title Surveying	7.5	Approve
TAPS	1260	TDOT – Updates for the TN Surveyor	1	Approve
Gary C Clark	1261	Ethics & Professionalism vs Standards of Practice	4	Approve

Jay Caughman made a motion to approve all courses as listed on the education report. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

APPLICATION REVIEWS

Application #1: Jay Caughman made a motion to authorize a complaint be opened and send a letter of warning to Ronnie Joiner. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

Application #2: Gary Clark informed Russell Duck to provide course material for additional courses for consideration and a letter from licensed Land Surveyor as proof of lab work completion to be considered in an additional review of application.

PROFESSIONAL SOCIETY REPORT

Andrew Stokes, Tennessee Association of Professional Surveyors (TAPS), indicated that the Tennessee Land Surveyors youth outreach program is having positive results. Additionally,

it was announced that the Board of Directors meeting will be December 7, 2024, with the Farm Bureau Convention to follow on December 8, 2024.

DIRECTOR'S REPORT

Budget Report

Director Glenn Kopchak summarized the revenues and expenses from July through September and drew attention to an uptick in legal expenses due to current rules in the pipeline and the retrospective rules that were recently drafted as well.

Standards of Practice

The Board expressed an interest in requiring the "standards of practice" to be TN-specific under Rule 0820-05-.03(a). It was determined that a rule change would be required.

CE Audit

Jay Caughman made a motion to move to a 5% CE audit for future renewal cycles. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

NCEES Mapping Science Module

The Board expressed interest in NCEE's development of a Mapping Science Module; however, implementation or adoption would require future action by the Board and/or Legislature.

NCEES Southern Zone Interim Meeting

Jay Caughman made a motion to send all the land surveyor members to the NCEES Southern Zone Interim Meeting. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

LEGAL

Legal Report (Presented by: Kyle Johnson)

1. 2024034691
License Status: Active
First Licensed: 4/13/1984
Expires: 12/31/2025
Disciplinary History: None.

Complainant is a landowner who claims they have hired two attorneys to correct errors in a deed resulting from a survey completed by Respondent. Complainant alleges the incident leading to this complaint began with two 2012 surveys prepared

by Respondent and culminated with an amended 2012 survey revised by Respondent in October of 2023. The main dispute is about an easement that exists on Complainant's property in the survey which Complainant argues should not exist on their property. Complainant alleges Respondent prepared an amended 2012 survey for a landowner that erroneously moved a private road easement from the surveyed property to a property that Complainant purchased in 2022. Complainant alleges the survey was then used by the landowner to prepare a warranty deed for the sale of their property, perpetuating the error and creating legal and practical issues concerning the use and ownership of Complainant's land. Complainant alleges Respondent prepared three versions of the 2012 survey between 2012 and 2023, with each version containing a different description and/or location of the road easement. Complainant contacted Respondent and the landowner about the alleged error and asked them to correct it, stating they provided documentation in the form of deeds, surveys, and other relevant data. Complainant claims Respondent and the landowner refused to correct the survey and have declined all attempts to engage with Complainant in an effort to amicably resolve the problem. Complainant filed this complaint requesting the Board investigate and take action to ensure Respondent corrects the survey in accordance with documentation they have provided.

Respondent provided a detailed response and much documentation to support their survey and amendments. An expert review was conducted. The expert states that the survey at issue appears to meet the minimum standards and requirements for General Property Surveys under Rule 0820-03-.07(1) except for a missing tie by bearing and distance to a subdivision, parent tract, permanent corner, or permanent reference point, which is required under 0820-03-.07(1)(b)(1). The expert further opines that this apparent omission is debatable because the POB (point of beginning) text is illegible in the PDF. However, the crux of this complaint is centered on the location of the easement. Adjacent surveys depict an easement for a road, running up to Parcel 7, both from the east side and west side. The question (and complaint) comes down to a location. The Respondent does offer up logic about why they moved the easement off of Parcel 7, but it appears it may be in an incorrect location. The expert is uncertain if it is within the Board's purview to consider questions of location as it relates to placing lines (easement or otherwise) on the surface of the earth. The expert noted that the most troubling issue is the reissuing of a survey 11 years later and not changing the date on the seal. The expert further notes that we have been provided three iterations of the same document, one of which was alleged to have been revised in 2023, and they all appear to be dated February 28, 2012. The expert states that this is likely in violation of Rule 0820-04-.08(8), which states "[a]ny revision to a document containing the seal and signature of a registrant shall be described and dated in a manner that conforms to current industry standards...". Additionally, the expert believes that when a surveyor updates a survey that is 11 years old, there should be a new contract in place for the new work and fee involved. The Respondent should have engaged the Complainant in this manner or let the past survey be, as the

4-year statute of limitations had run. The expert further notes Respondent should be instructed of the importance of documenting revisions as defined in Rule 0820-04-.08.

Counsel believes the Board has fulfilled their duty to thoroughly assess the allegations made in this complaint by providing an expert review of this matter. However, Counsel does not feel it is appropriate or within the Board's purview to make a decision regarding the location of the easement, considering the expert was unable to definitively state whether the location is incorrect. Counsel recommends issuing a Letter of Warning citing Rule 0820-04-.08(8), which states "[a]ny revision to a document containing the seal and signature of a registrant shall be described and dated in a manner that conforms to current industry standards..." reminding Respondent of the requirement to properly date surveys and amended surveys. Additionally, the Letter will cite the requirements listed under Rule 0820-03-.07(1), noting there may be a missing tie by bearing and distance to a subdivision, parent tract, permanent corner, or permanent reference point.

RECOMMENDATION: Letter of Warning

BOARD DECISION: Concur

2. 2024041201

License Status: Active

First Licensed: 8/27/1975

Expires: 12/31/2025

Disciplinary History: None.

Complainant states Respondent surveyed their property on July 18, 2024, and they have some major concerns with Respondent's services. Complainant's first concern and allegation is that Respondent dug up a corner pin that was in place from 1992 when the home on the property was built. Complainant alleges the original homeowner confirmed the pin had been dug up. Complainant alleges Respondent did not inform them the pin was dug up and left it on the ground by a light pole in front of the property. Complainant states they are having a property dispute with a neighbor and claims the neighbor used that same property pin to place a fence that is also in dispute. Complainant's second concern and allegation is that Respondent had a lengthy conversation with the neighbor who Complainant is having the property dispute with. Complainant feels this is a conflict of interest and notes they did not pay Respondent to talk with their neighbor. Complainant's third concern and allegation is that there was no written contract for the services performed. Complainant alleges Respondent told them it would cost between \$750-\$850 and ended up billing

Complainant \$850. Last, Complainant would have preferred to have been present on the property when the survey was being performed but alleges Respondent didn't call them until they were at the property and ready to begin.

Respondent provided a lot of documentation to support their response to this complaint and gave a very detailed statement. Respondent states they were contacted by Complainant on July 15, 2024, to survey the boundaries of their lot and Respondent informed Complainant they could probably do the survey that same week. Respondent sent Complainant an email with the cost estimate and time frame, and Complainant responded with a notice requesting Respondent proceed the next day, July 16, 2024. Respondent provided this email chain which supported their response to this complaint. When Respondent's survey crew arrived at the lot on July 18, 2024, at 8:00 am, they called Complainant to inform them of their arrival. During this phone call, Complainant told the survey crew that they thought pins had been removed. Respondent instructed the crew to find control of each side of the property to retrace the original survey. During the course of the survey work, a neighbor inquired with the crew to find out what they were doing, and the crew informed the neighbor that they were surveying Complainant's property. The crew asked permission to look for property corners and was granted permission. Several iron pins were found on the subject lot and adjoining lots, and during the course of searching and uncovering pins, the crew unearthed a piece of metal a few inches long near an iron pin at a power pole. The piece of metal did not mean anything to the crew as they found the iron pin that represented the easternmost common corner of Lots 188 and 189. The crew left the piece of metal lying beside the power pole, which is commemorated in two photographs provided by Respondent. Respondent processed the field work on July 19 and determined the iron pins the crew found substantially matched the plat of record. Respondent sent Complainant an email with the findings and the invoice which matched the estimate originally provided. Respondent believes Complainant did not know where their property lines were and is simply in dispute with their neighbor. Respondent further argues this complaint was filed in an attempt to get out of paying for the survey considering they have failed to do so.

Counsel finds no evidence of any violations and recommends dismissal.

RECOMMENDATION: Dismiss

BOARD DECISION: Concur

3. 2024050171
License Status: Active

First Licensed: 1/31/2008
Expires: 12/31/2025
Disciplinary History: None.

This complaint was opened as a result of the recent PDH audit. As of August 5, 2024, Complainant had not provided proof of any of the 30 PDHs required to have been taken in the last two years for the renewal of their license which occurred on December 14, 2023. A letter was mailed to Respondent on August 5, 2024, requesting Respondent provide such proof immediately to avoid a complaint being opened but Respondent never replied or communicated with the Board. An Agreed Citation was mailed and emailed to the Respondent on September 10, 2024, offering Respondent the opportunity to resolve this complaint by paying a \$100 civil penalty and providing proof of the required 30 PDHs. Respondent did not respond or communicate with the Board after the Agreed Citation was sent to them.

Counsel recommends issuing the maximum civil penalty allowed (\$1,000) for each violation committed by Respondent. Specifically, Respondent is in violation of Tenn. Code Ann. §62-18-116(a)(1)(B), which states the Board can take lawful disciplinary action against a land surveyor who engages in fraud or deceit in obtaining a certificate of registration of \$1,000. Counsel argues Respondent engaged in fraud or deceit by attesting they had completed all of the required education credits and their professional development hours would be available if they were selected for an audit when they submitted their renewal application on December 14, 2023. Respondent is also in violation of Rule 0820-05-.03 which requires every licensee to complete 30 PDHs during the two-year period immediately preceding application for renewal. Therefore, Counsel recommends issuing a \$2,000 civil penalty, ordering the Respondent to provide proof of compliance with the PDHs by submitting that proof along with the signed Consent Order, and require Respondent to provide a signed affidavit stating whether Respondent did or did not act as a land surveyor during any time they were not in compliance with PDHs required for license renewal.

RECOMMENDATION: Authorize a \$2,000 civil penalty, order the Respondent to provide proof of compliance with the PDHs by submitting that proof along with the signed Consent Order, and require Respondent to submit a signed affidavit stating whether they were acting as a licensed land surveyor during any time they were not in compliance with the required PDHs; authorize a formal hearing if Respondent does not sign the proposed Consent Order and comply with these terms

BOARD DECISION: Concur

4. 2024050181

License Status: Active
First Licensed: 7/13/1998
Expires: 12/31/2025
Disciplinary History: None.

This complaint was opened as a result of the recent PDH audit. Respondent had submitted Standards of Practice PDHs that had been taken in 2020, which is outside of the renewal period of 2022-2023. Therefore, Respondent is in violation of Rule 0820-05-.03 which requires a licensee to obtain a minimum of 2 PDHs related to the standards of practice during the applicable biennial renewal period. An Agreed Citation was mailed and emailed to the Respondent on September 10, 2024, offering Respondent the opportunity to resolve this complaint by paying a \$100 civil penalty. Respondent reached out to the Board staff and confirmed they understood they needed to pay the civil penalty and asked if they needed to take the Standards of Practice course again. Respondent was instructed that if they were to take the course this year, it would apply to their 2025 renewal. Respondent has not paid the civil penalty or signed the Agreed Citation.

Counsel recommends raising the civil penalty from \$100 to a \$500 civil penalty for failure to provide proof of 2 PDHs related to Standards of Practice completed within the 2022-2023 biennial renewal period. Counsel notes that the Agreed Citation makes it clear to the Respondent that if this matter is not resolved within thirty days of the date of the Agreed Citation, which offered a minimal civil penalty of \$100, a complaint would be opened which would be presented to the Board, and the civil penalty could increase. Counsel argues it is appropriate to assess a higher civil penalty once a licensee fails to comply with the Agreed Citation because the program has to open a complaint and spend time, effort, and resources by continuing to pursue a resolution of this matter.

RECOMMENDATION: Authorize a \$500 civil penalty for noncompliance with required PDHs for biennial renewal of license, and authorize a formal hearing if Respondent does not sign the proposed Consent Order and comply with these terms

BOARD DECISION: Concur

Retrospective Rules

Justin Rains made a motion to approve the retrospective rules with 2 additional edits. This was seconded by Kevin Martin. The motion passed by majority voice vote.

NEW BUSINESS

Jay Caughman made a motion to approve 3 PDH's. This was seconded by Justin Rains. The motion passed by unanimous voice vote.

PUBLIC COMMENT

There were no public comments.

ADJOURNMENT

Meeting adjourned at 12:00 p.m.