



The North Carolina Bulletin

The Newsletter of the North Carolina Board of Examiners for Engineers and Surveyors

December 2004

FALL ISSUE

View from the Chair—Attributes of Responsible Charge

by David L. Peeler, PE



While the number of issues the Board deals with remains fairly consistent from year to year, the subject matter and complexity vary. Many times these issues come from violations activities; most frequently they result from inquiries as to Board policy. This year has been no exception with issues ranging from what constitutes engineering in the pharmaceutical processes to responsible charge clarification where multiple employment conditions exist.

It is interesting that the question over responsible charge continues to surface and does frequently where a violation complaint has been filed. Occasionally articles have been written over the years that have provided interpretation, but the one that stands out as the best of all time was written by Al Bass, PE, PLS, in 1988. It has been referred to repeatedly. First, it is necessary to understand that our Statutes define “responsible charge” as having “the direct control and personal supervision, either of engineering work or land surveying, as the case may be.” The eleven questions have been the guide for interpreting requirement

of responsible charge in the Statute and Board Rules. I am presenting an updated list of questions that reflect changes in the ensuing 16 years. The following attributes serve as indicators of compliance with the responsible charge requirement over professional services:

1. Do you supervise the individual performing the work?
2. Do you obtain or set the project parameters or criteria?
3. Can you require changes to the work and dictate the manner and methods by which the work is performed or the scope of involvement by the individual? (over the individual's objections without negative impact on your job status, advancement or compensation)
4. Are you involved from start to finish as the individual performs the work?
5. Are there procedures for quality control and authority over the work that assure that you, as the professional licensee, are in control of the work and the individual performing the work?
6. Is the extent of time spent with the individual during the course of the performance of the work sufficient for you to be familiar with the details of the work?
7. How familiar are you with the capabilities and methods of the individual performing the work and over what period of time? (This goes to the question of how closely you must directly supervise the details of the individual's work.)
8. Did you train the individual?
9. Are you in close proximity or do you have readily accessible contact with the individual, either by physical location or by frequent, clear and full communication in verbal and visual form of the work being performed? (This allows consideration of electronic communication where it is the equivalent of personal contact in the extent of information exchanged.)
10. Are you competent by training and experience in the field of engineering or land surveying which is represented by the drawings or work in question?

While not all of these attributes are necessary to exercise responsible charge, there would be little question that the intent of the Statute was met if they all were applicable. In the profession today where design production work is being shipped abroad, how many of these attributes can truly be complied with? Likewise, how does this apply to multiple employment situations? Clearly both issues test the interpretation and application of these attributes. While we must recognize the industry is changing, logic and common sense must be applied.

The North Carolina Bulletin

Published to provide news and information regarding statutory and regulatory changes and to promote a better understanding of the practices of engineering and land surveying in the State of North Carolina.

Board Office

4601 Six Forks Road
Suite 310
Raleigh, NC 27609

Telephone
(919) 791-2000

Facsimile
(919) 791-2012

Web Site
www.ncbels.org

Michael F. Easley
Governor

Board Members

David L. Peeler, PE *Chair*

J. Glenn Haynes, PLS *Vice Chair*

George E. Freeman, PE, PLS *Secretary*

Johnie C. Garrason, PLS

Caroline M. Guzniczak, PE

Henry V. Liles, Jr., PE

Dr. Joseph Monroe *Public Member*

Doris M. Rodgers *Public Member*

Gary W. Thompson, PLS

Andrew L. Ritter *Executive Director*

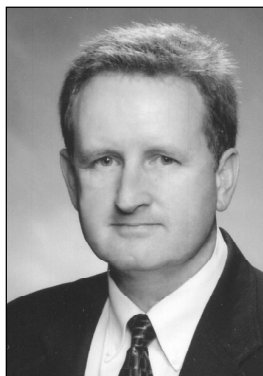
Sheilah Barrett-Carroll *Graphic Designer*

GOVERNOR APPOINTS TWO TO THE BOARD



Governor Easley has appointed **Caroline M. Guzniczak, PE** to replace M. Frank Tyndall, PE whose second term had expired. Ms. Guzniczak's term of service will continue through 2008. For over seventeen years she has managed the process of improvement/technology implementation for a variety of industries. She has served as a business consultant in the Charlotte area since 1990.

Ms. Guzniczak is a graduate of the University of Pittsburgh with a Bachelor of Science degree in Industrial Engineering and received her MBA from UNC-C. She is also the recipient of the Municipal Administration Certificate from the Institute of Government at UNC.



Governor Easley has also appointed **Gary W. Thompson, PLS** to replace Bill Owen, PLS who did not seek reappointment. Mr. Thompson's term of service will continue through 2008. Mr. Thompson serves as the Director of the North Carolina Geodetic Survey which oversees all geodetic activities throughout the State. Mr. Thompson has served as President of the American Association of State Surveyors, National Society of Professional Surveyors and the North Carolina Society of Surveyors. He is a life member of the North Carolina Property Mappers and serves as an advisory committee member for the surveying curriculum at Wake Technical Community College.

Mr. Thompson is a graduate of UNC-C with a degree in Civil Engineering Technology. He is also the co-author of *Development and Application of the North Carolina Coordinate System*.

BOARD DIRECTORY

Main Number: (919) 791-2000

Name		Extension
Laura Parham	Receptionist	100
Andrew L. Ritter	Executive Director	101
Linda Peace	Supervisor of Firm Licensure/CPC	102
Jan Vaughan	Administrative Assistant and Renewals	103
Carrie Fisher	Administrative Assistant	104
Laverne Smith	Surveying and Student Applications	105
Lou Ann Buck	Administrative Services Supervisor	106
Sylvia Harrell	Engineering Applications	107
David S. Tuttle	Board Counsel	111
Audrey Thomas	Investigations Support	112
David Evans	Assistant Executive Director	113
Will Casey	Board Investigator	114
Cathy Kirk	Board Investigator	115
Mark Mazanek	Board Investigator	116

Examination Dates

National examinations are to be conducted on the following dates:

October 29 & 30, 2004

April 15 & 16, 2005

October 28 & 29, 2005

The **deadline for submitting completed applications is January 2nd** for the spring examination and **August 2nd for the fall examination**. The Board administers national registration examinations as offered by the National Council of Examiners for Engineers and Surveyors (NCEES). For additional information about the exams or application process, please contact the Board office at (919) 791-2000.

Exam Fees to Increase

Beginning with the Fall 2005 exams the exam fees will increase to the following:

<i>Fundamentals of Engineering</i> (students and non-students)	\$105
<i>Fundamentals of Land Surveying</i>	\$120
<i>Principles & Practice of Engineering</i>	\$185
<i>Principles & Practice of Land Surveying</i>	\$185

April Exam Results Received

The results from the April, 2004 administration of the licensure exams have been received and processed by the Board. The results for the examinations are as follows:

<i>Fundamentals of Engineering</i>	61% pass rate
<i>Principles & Practice of Engineering</i>	53% pass rate
<i>Fundamentals of Land Surveying</i>	34% pass rate
<i>Principles & Practice of Land Surveying</i>	
Part A:	41% pass rate
Part B:	69% pass rate
Part C:	65% pass rate

BOARD MEMBERS INSTRUMENTAL ON NATIONAL PROJECT

The United States Department of Transportation built a Differential Global Positioning System Tower facility (NDGPS) on the North Carolina A&T University farm. The tower will be part of the nationwide NDGPS system and its purpose is to provide accurate positioning and location information to travelers, emergency response units and other customers. The system provides 1 to 3 meter navigation accuracy.

The following agencies worked together on this project:

U.S. Coast Guard
Federal Highway Administration
North Carolina Geodetic Survey
North Carolina Department of Transportation
North Carolina A&T University

Current Board member **Dr. Joseph Monroe** is the Dean of the College of Engineering at North Carolina A&T and Board member **Gary Thompson** is the Chief of the North Carolina Geodetic Survey. Both of these Board members were instrumental in the development of the tower.

BOARD OFFICE HAS MOVED

The Board office has moved. Please come by and visit us at our new location. The new address and phone number are:

North Carolina Board of Examiners

4601 Six Forks Road
Suite 310
Raleigh, NC 27609
(919) 791-2000 *phone*
(919) 791-2012 *fax*

Renewal Time

It is renewal time again! Renewals will go out in the mail the last week in November. If you do not receive your renewal by the last week in December, please contact the Board office. Per the statute, it is the responsibility of the licensee to renew on time and notify the Board of any address change information. **The deadline for renewals is December 31st.** The renewal fee remains at \$50. The grace period for renewing without penalty extends to January 31, 2005. After January 31, the late fee for renewing is an additional \$100.

The Board highly encourages you to renew online at **www.ncbels.org**. It is the easiest way to renew and takes less than five minutes. Remember to print out the receipt at the end of your online transaction; it will serve as your proof of renewal.



BOARD OF EXAMINERS WINS EDGE AWARD

The Board of Examiners won the EDGE Leadership Award

presented by the *Triangle Business Journal*. The EDGE Awards recognize excellence in the engineering, design, general contracting and landscape contracting industries. The Board was nominated and won for its efforts in promoting a four-year degree program in Surveying at North Carolina A&T. The Board has promoted the program through financial and logistical support. The program has been a joint effort between the Board, the North Carolina Society of Surveyors and North Carolina A&T University.

As quoted in the *Triangle Business*

Journal, Executive Director Andrew

Ritter “stresses that this two year endeavor has been a team effort:

A&T put the program in place, the Board of Examiners provided the public relations and financial

support, and the Society of Surveyors has lobbied to change the statute.”



Board Members and Staff News

Henry Liles, PE has been named to the National Council of Examiners for Engineers and Surveyors Committee on Uniform Procedures and Legislative Guidelines. Mr. Liles was also named a National Fellow with NSPE.

Dr. Joseph Monroe, Public Member, has been named to the National Council of Examiners for Engineers and Surveyors Task Force on Education/Accreditation.

David Evans has been named the Board of Examiners' Assistant Executive Director. Mr. Evans has been with the Board since 1998. He has served as an investigator before becoming the Investigations Supervisor. His responsibilities will still include supervising the investigations.

Board Council **David Tuttle** has been named to the National Council of Examiners for Engineers and Surveyors Committee on Uniform Procedures and Legislative Guidelines.

Assistant Executive Director **David Evans** has been named to the National Council of Examiners for Engineers and Surveyors Committee on Law Enforcement.

Executive Director **Andrew Ritter** has been named to the National Council of Examiners for Engineers and Surveyors Task Force on License Qualifications Oversight.

The Board has hired **Janet Vaughan** as an administrative assistant. Janet will be handling various responsibilities including assisting the Executive Director and Board Counsel and assisting with the renewal process.

Surveying Committee Updates

The Surveying Committee, under the chairmanship of **Gary Thompson, PLS**, has been working on the following issues (as presented by Mr. Thompson):

- Reviewing the Board's "Examples of Acceptable Survey Ties For Maps" white paper. Additions to the white paper will include using the Online Processing User Service (OPUS) and other Global Positioning System related technologies.
- In July, 2004 members of the committee met with North Carolina A&T University faculty members and officers from the North Carolina Society of Surveyors to discuss the university's proposed four-year Geometrics program.
- In September, 2004 Andrew Ritter and Mr. Thompson met with U.S. Army officials at Fort Bragg to discuss the feasibility of military surveyors taking the "Surveyor Intern" and "Professional Land Surveyor" exams.
- In August, 2004 at the National Council of Examiners for Engineering and Surveying (NCEES) conference in Cleveland, Mr. Thompson attended a presentation about a speaker's kit that is being developed for Professional Land Surveyors to use when giving presentations about the surveying profession to middle school students. This speaker's kit is being developed in conjunction with the American Congress on Surveying and Mapping and should be available by March, 2005.

DISCIPLINARY ACTIONS

The following summaries represent disciplinary actions taken by the Board from August 11, 2003 to October 14, 2004. Penalties vary, depending upon the specific circumstances of each case. Space limitations preclude full reporting of all circumstances. Questions or requests for information concerning specific cases should be directed to the Board Counsel at Ext. 111.

CASE NO. V02-041

Mack Gay Associates, P.A. (PC No. C-0569)
Rocky Mount, NC

VIOLATION: Attempting to supplant another engineering and land surveying firm in a particular employment after becoming aware that the other had been selected for the employment [.0701(e)(7)].

BOARD ACTION: Reprimand and Civil Penalty of \$2000.

CASE NO. V02-045

Harold W. Kester, PLS No. L-3645
Asheville, NC

VIOLATION: Failed to include all relevant and pertinent information in a report or statement [.0701(d)], failed to cooperate fully with the Board in the course of an investigation [G.S.89C-20], failed to timely claim Board correspondence from Postal or delivery service [.0701(g)(2)] and failed to notify of address change within 30 days [.0606(a)].

BOARD ACTION: Reprimand and required respondent to furnish, within ninety days from date of the Decision and Order, proof of passing the Professional Ethics Course offered by New Mexico State University with a minimum average of 70% on the homework and a minimum of 70% on the final exam for an overall minimum score of 70% for the course. The course hours do not count toward the annual CPC requirement. Failure to comply with the Order will result in suspension of respondent's license effective upon date of noncompliance and continuing until proof is furnished of compliance with the Decision and Order for the violations set out above. Renewal of license or to make license active is conditioned upon compliance with this Order.

CASE NO. V02-055

Alfred F. Williams, PLS No. L-3446
Statesville, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)]; failed to properly monument or show monuments for inaccessible points [.1602(e)]; failed to describe monuments as set or found [.1602(f)]; failed to accurately locate all apparent rights-of-way and improvements on boundary [.1604(e)(8)]; failed to show calls of property line [.1604(e)(2)]; failed to include bargraph on map [.1604(e)(11)]; failed to make adequate investigation [.1602(a)]; failed to provide adequate tie [.1602(g), .1604(e)(9)]; and affixed his seal to work not done under his direct supervisory control or responsible charge [.0701(c)(3)].

BOARD ACTION: Revocation.

CASE NO. V02-060

Lloyd M. Stewart, PLS No. L-3631
Vass, NC

VIOLATION: Violating Board Rules as stated in Title 21, Chapter 56 of the NC Administrative Code (21 NCAC 56) by failing to report the results of a survey in a factual manner by incorrectly identifying ownership [56.1602(f)]; failing to make adequate investigation to determine ownership [56.1602(a)]; and operating a firm to practice or offer to practice land surveying without the firm being licensed as required by N.C.G.S. 89C-24.

BOARD ACTION: Reprimand and Civil Penalty of \$1500.

CASE NO. V02-122

Clyde T. Pearce, PLS No. L-2481
Zebulon, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner [.1602(f)] with respect to western and southern lines and reference to agreed line that has no legal determination; failed to report and show lappage(s) [.1602(a),(f)]; failed to describe monuments as set or found [.1602(f)]; and failed to indicate title source [.1604(e)(11)].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-001

Parker L. Lambert, PE No. 18126
Dunn, NC

VIOLATION: Failed to be completely objective and truthful in professional statements or testimony [.0701(d)(1)]; expressed opinions not founded upon adequate knowledge of the facts or upon honest conviction of the accuracy [.0701(d)(2)].

BOARD ACTION: Reprimand and Civil Penalty of \$1000.

CASE NO. V03-002

Thomas D. Herman, PLS No. L-2633
Jefferson, NC

VIOLATION: Failed to conduct his practice in order to protect the public health, safety and welfare [.0701(b)]; certified to an actual survey of lines not surveyed [.1602(a)]; failed to report the results of a survey in a clear and factual manner by marking "preliminary" when issued to be relied upon [.1602(f)]; failed to make adequate investigation [.1602(a)]; failed to show names of adjacent land owners, lot designation or legal reference [.1607(e)(7)]; failed to provide a legend [.1604(e)(11)]; failed to include address on document [.1103(a)(6), .1604(e)(11)] and failed to indicate ratio of precision [.1603(a)].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-005

William G. Bradley, PLS No. L-2653
Horse Shoe, NC

VIOLATION: Issued an inaccurate survey creating an encroachment on the adjoining property [.1602(a),(f)] and failed to show improvements crossing or forming a boundary [.1604(e)(8)].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-008

Randy A. Carpenter, PLS No. L-3814
Spruce Pine, NC

VIOLATION:

Map 1

1. Certified a plat which does not comply with the requirements of G.S. 47-30.
2. Failed to accurately locate all watercourses on boundary [.1604(e)(8)].
3. Failed to show calls of property lines [.1604(e)(2)].
4. Failed to report the results of a survey in a clear and factual manner [.1602(f)] including not showing roads and changes of lot lines.
5. Failed to protect the public by not establishing control corners required by G. S. 39-32.1 [.0701(b)].
6. Failed to make adequate investigation [.1602(a)].

(continued on page 6)

(continued from page 5)

7. Failed to monument corners [.1602(d)].
8. Failed to properly reference north arrow [.1604(e)(1)].
9. Failed to identify all references sources [.1602(f)].
10. Performed a substandard survey, failing to protect the public [.0701(b)].
11. Failed to provide adequate tie [.1602(g), .1604(e)(9)].

Map 2

1. Failed to properly reference north arrow [.1604(e)(1)].
2. Failed to provide adequate tie [.1602(g), .1604(e)(9)].

Map 3

1. Failed to identify all references sources [.1602(f)].
2. Failed to provide adequate tie [.1602(g), .1604(e)(9)].
3. Failed to properly reference north arrow [.1604(e)(1)].
4. Failed to protect the public by not establishing control corners required by G. S. 39-32.1 [.0701(b)].
5. Failed to show calls of property lines [.1604(e)(2)].

Map 4

1. Failed to accurately locate all apparent rights-of-way and improvements on boundary [.1604(e)(8)].
2. Failed to describe monuments as set or found [.1602(f)].
3. Failed to indicate title source [.1604(e)(11)].
4. Failed to provide adequate tie [.1602(g), .1604(e)(9)].
5. Failed to monument corners [.1602(d)].
6. Failed to report the results of a survey in a clear and factual manner [.1602(f)].

Map 5

1. Failed to accurately locate all apparent rights-of-way and improvements on boundary [.1604(e)(8)].
2. Failed to indicate ratio of precision [.1603(a)].
3. Certified a plat which does not comply with the requirements of G.S. 47-30, to include inadequate certificate.
4. Failed to monument corners [.1602(d)].

Map 6

1. Failed to accurately locate all apparent rights-of-way and improvements on boundary [.1604(e)(8)].
2. Failed to monument corners [.1602(d)].
3. Certified a plat which does not comply with the requirements of G.S. 47-30 to include inadequate certificate.

BOARD ACTION: Pass Ethics course from New Mexico State University or University of Maine with 70% each part, successfully complete the NC Society of Surveyors Institute Spring 2004 (courses to be determined by the Board) and Civil Penalty of \$2000. (Combined with Case No. V03-023)

CASE NO. V03-011

Jon E. Clemmer, SIT No. B-1478
Belmont, NC

VIOLATION: Practicing or offering to practice land surveying without being licensed as required by G. S.89C-23.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing land surveying until licensed with the Board. As one of the conditions to be seated for the Principles and Practice of Land Surveying Examination, the respondent must pass the Professional Ethics Course offered by New Mexico State University or the University of Maine with a minimum average of 70% on the homework and minimum of 70% on the final exam for a minimum overall score of 70% for the course.

CASE NO. V03-012

Jerry R. Ryan, PLS No. L-3302
New Bern, NC

VIOLATION: (Map 1) Failed to make adequate investigation [.1602(a)] and performed an inaccurate or substandard survey, failing to protect the public [.0701(b)]. (Map 2) Failed to protect the public by not establishing control corners required by G.S. 39-32.1 [.0701(b)].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-015

Jonathan J. Nelson, PE No. 20711
Pfafftown, NC

VIOLATION: Affixed his seal to inadequate design documents including civil, mechanical, plumbing, electrical, structural and building design plans, failing to protect the public [.0701(b)]; failed to include address on plans [.1103(a)(6)]; failed to exercise responsible charge [.0701(c)(3)]; operated a company not in compliance with G. S. 55B-14 as to services offered; failed to cooperate during an investigation [G. S.89C-20]; failed to sign and seal drawings [.1103] and performed services outside area of competence in civil, structural, electrical, mechanical, plumbing and building design [.0701(c)(3)].

BOARD ACTION: Reprimand, restricted his practice to fire protection engineering until such time as competence is shown by passing the NCEES exam in each discipline and required him to furnish proof of passing the Ethics Course PDH-40 offered through the Murdough Center for Engineering Professionalism of Texas Tech University within six months of the date of the Decision and Order.

CASE NO. V03-016

John Hairr, unlicensed
Lillington, NC

VIOLATION: Practicing or offering to practice land surveying without being licensed as required by G.S. 89C-23 and using the words "survey," "surveyor" or "surveying" in violation of licensing required by G.S. 89C-23.

BOARD ACTION: Close case based upon final action taken by the Attorney General's office to cause the respondent to cease representing himself as a "land surveyor" or "county surveyor." (Failure to do so will result in the Attorney General's office filing a court action seeking injunctive and other appropriate relief as provided by law).

CASE NO. V03-019

Donald G. Bolick, PLS No. L-3688
Rutherford College, NC

VIOLATION: Failed to make adequate investigation [.1602(a)]; issued an inaccurate survey creating an encroachment on the adjoining property [.1602(a),(f)]; failed to show names of adjacent land owners, lot designation, or legal reference [.1604(e)(7)]; failed to examine most recent deeds and recorded plats of subject and adjacent properties [.1602(c)]; failed to show coordinates of geodetic monument [.1602(g)]; and failed to show combined grid factor [.1604(e)(3)].

BOARD ACTION: Reprimand and successfully complete the next offering of Section A, B or C of the NC Society of Surveyors Institute as determined by the Board.

CASE NO. V03-020

Ronnie L. Sutton, PE No. 10180
Wilson, NC

VIOLATION: Failed to conduct his practice in order to protect the public health, safety and welfare by failing to comply with state regulations applying to a project [.0701(b)] and practiced engineering and land surveying on expired certificates [G.S. 89C-16,23].

BOARD ACTION: Reprimand, Civil Penalty of \$4000 and pass ethics course PDH-40 offered by the Murdough Center of Texas Tech University within six months from date of Decision and Order. Failure to comply will result in suspension of license effective upon date of noncompliance and continuing until proof is furnished of compliance with Decision and Order.

(continued on page 7)

(continued from page 6)

CASE NO. V03-023

Randy C. Carpenter, PLS No. L-3814
Spruce Pines, NC

VIOLATION: Failed to make adequate investigation [.1602(a)]; failed to examine most recent deeds and recorded plats of adjacent properties [.1602(c)]; issued an inaccurate survey creating an encroachment on the adjoining property [.1602(a),(f)]; and failed to sign and seal a survey not marked as preliminary [.1103].

BOARD ACTION: Pass Ethics course from New Mexico State University or University of Maine with 70% each part, successfully complete the NC Society of Surveyors Institute Spring 2004 (courses to be determined by the Board) and Civil Penalty of \$2000. (Combined with Case No. V03-008)

CASE NO. V03-024

C. W. Smith Associates (Firm No. F-0892)
Asheville, NC

VIOLATION: Failure to have a resident licensed professional in responsible charge in each office [(0901)].

BOARD ACTION: Revocation.

CASE NO. V03-026

Michael T. Stanforth, PE No. 16038
Gastonia, NC

VIOLATION: Affixing seal to work not done under direct supervisory control or responsible charge [.0701(c)(3)] and failure to include address on document [.1103(b)(5)].

BOARD ACTION: Reprimand and Civil Penalty of \$2000.

CASE NO. V03-027

Carlos J. Serna, unlicensed
Libertyville, IL

VIOLATION: Practicing or offering to practice engineering without a license as required by G. S. 89C-23.

BOARD ACTION: Board issued letter to cause respondent to cease and desist offering or practicing engineering until licensed with the Board and to assure that any engineering is properly provided by a licensed firm that has a PE in responsible charge of the engineering.

CASE NO. V03-029

Matrix Environmental, Inc.
Libertyville, IL

VIOLATION: Corporation practicing or offering to practice engineering in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering until licensed with the Board and to assure that any engineering is properly provided by a licensed firm that has a PE in responsible charge of the engineering.

CASE NO. V03-034

Philip J. Bisesi, PE No. 5220
Asheville, NC

VIOLATION: Affixed his seal to work not done under his direct supervisory control or responsible charge [.0701(c)(3)], failed to properly certify documents [.1103], aided or abetted another person to evade or attempt to evade any provision of G.S. 89C [G.S. 89C-16(c)], associated or permitted use of licensee's name by person or firm engaging in practices of fraudulent or dishonest nature or is not properly licensed [.0701(g)(1)], and failed to cooperate fully with the Board in the course of an investigation [G.S. 89C-20].

BOARD ACTION: Board issue reprimand, and require respondent to furnish proof, within six months of date of Decision and Order, of passing the Ethics Course PDH-40 offered through the Murdough Center for Engineering Professionalism of Texas Tech University. Failure to comply with the Order will result in suspension of Certificate of Licensure until such time as proof of passing the course is furnished. The course hours do not count toward the annual CPC requirement.

CASE NO. V03-035

Ben A. Gentry, Jr., PLS No. L-3560
Oxford, NC

VIOLATION: Failed to comply with annual CPC requirements [.1712] and failed to maintain CPC records [.1706].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-036

Wallace S. McAbee, PLS No. L-2473
Fairview, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner by not referencing source of information for right-of-way [.1602(f)]; failed to determine gaps and lappages [.1602(a)].

BOARD ACTION: Reprimand.

CASE NO. V03-038

M. P. Kenes, Inc., unlicensed
Orland Park, IL

VIOLATION: Corporation practicing or offering to practice engineering in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering in NC until licensed with the Board.

CASE NO. V03-046

Henry C. Cuninghame, PLS No. L-1358
Elizabeth City, NC

VIOLATION: Failed to show encroachment on survey [.1602(b), (f)]; failed to show names of adjacent landowners, lot designation, or legal reference [.1604(e)(7)]; failed to provide legend [.1604(e)(11)]; and failed to provide adequate tie [.1602(g), .1604(e)(9)].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-047

General Environmental Systems
Summerfield, NC

VIOLATION: Corporation practicing or offering to practice engineering in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause Richard S. Geney and General Environmental Systems to cease and desist offering or practicing engineering in NC until licensed with the Board.

(continued on page 8)

(continued from page 7)

CASE NO. V03-049

Donald J. Moore, PLS No. L-3482
Advance, NC

VIOLATION: Practiced on an expired certificate or inactive certificate [G.S. 89C-16, 23]; respondent's corporation practiced surveying on expired or inactive certificate [GS 89C & 55B]; respondent failed to use the revised title "Professional Land Surveyor" [G.S. 89C-3(9), .1102].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-051

Francis H. Chan, El No. A-19755
Chapel Hill, NC

VIOLATION: Submitting false information in the Application for Licensure as a Professional Engineer in violation of G. S. 89C-23.

BOARD ACTION: Board denied respondent permission to take exam.

CASE NO. V03-056

Glen E. Walker, PE No. 4003
Hickory, NC

VIOLATION: Affixed seal to inadequate design documents, failing to protect the public [.0701(b)] and failed to include address on document [.1103(a)(6)].

BOARD ACTION: Reprimand and Civil Penalty of \$1000.

CASE NO. V03-073

William E. Poole Designs, Inc.
Wilmington, NC

VIOLATION: Corporation practicing or offering to practice engineering in violation of G. S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering until licensed with the Board.

CASE NO. V03-076

Barrett, Woodyard & Associates, Inc. (PC No. C-2226)
Norcross, GA

VIOLATION: Failed to inform Board in application of branch office [G.S. 55B-10, .0802(a)].

BOARD ACTION: Reprimand and Civil Penalty of \$1000.

CASE NO. V03-077

Vertical Mapping Resources, Inc., unlicensed
Raleigh, NC

VIOLATION: Corporation practicing or offering to practice land surveying in violation of G. S. 89C and 55B

BOARD ACTION: Board issued a letter to cause the respondent to cease and desist offering to practice or practicing land surveying and to discontinue any phone, marketing, or any offer of services in NC until such time as the company is properly licensed with the Board.

CASE NO. V03-078

M-Squared (Firm No. F-0939)
Hanford, CA

VIOLATION: Failure to have a resident licensed professional in responsible charge in each office [.0901].

BOARD ACTION: Board refused to renew license.

CASE NO. V03-079

Jose U. Barnes, PE No. 18736
Oxford, MS

VIOLATION: Revocation by another jurisdiction in violation of G.S. 89C or the Board Rules [.0701(h)].

BOARD ACTION: Suspension until reinstated in other jurisdiction. Must continue to renew and maintain CPC during suspension to allow for reinstatement without new application.

CASE NO. V03-086

Dale L. Jones, PE No. 5725
Wake Forest, NC

VIOLATION: Produced a deficient, substandard or inaccurate report, failing to protect the public [.0701(b)] and failed to include all relevant and pertinent information in a report or statement [.0701(d)].

BOARD ACTION: Reprimand and Civil Penalty of \$2000.

CASE NO. V03-087

Linwood J. Jones, PLS No. L-1381
Garner, NC

VIOLATION:

Map 1

1. Failed to indicate title source [.1604(e)(11), .1602(f)].

Map 2

1. Failed to identify reference source for easement [.1602(f)].
2. Failed to accurately locate all apparent rights-of-way (easement) on the boundary [.1604(e)(8)].
3. Failed to indicate title source [.1604(e)(11), .1602(f)].
4. Failed to report the results of a survey in a clear and factual manner by stating property is not in flood zone [.1602(f)].

Map 3

1. Failed to indicate title source [.1604(e)(11), .1602(f)].
2. Failed to report the results of a survey in a clear and factual manner by not showing 30' easement removed, by stating property is not in flood zone, and not showing well shown previously [.1602(f)].

Map 4

1. Failed to indicate title source [.1604(e)(11), .1602(f)].
2. Failed to report the results of a survey in a clear and factual manner [.1602(f)] by stating property not in flood zone, not showing well previously shown, and not delineating extent of the riparian buffer.
3. Failed to identify reference source for easement [.1602(f)].
4. Failed to accurately locate all apparent rights-of-way (easement) on the boundary [.1604(e)(8)].

Map 5

1. Failing to reference north arrow [.1604(e)(1)].
2. Failing to describe monuments as set or found [.1602(f)].
3. Failing to protect the public by not establishing control corners required by G. S. 39-32.1 [.0701(b)].
4. Failing to provide a legend that depicts symbols not otherwise labeled [.1604(e)(11)].

BOARD ACTION: Reprimand, Civil Penalty of \$2000, and require respondent to furnish proof of passing, within 90 days of the date of Decision and Order, the Professional Ethics Course offered by New Mexico State University or the University of Maine with a minimum average of 70% on the homework and a minimum of 70% on the final exam for a minimum overall score of 70% for the course. Failure to comply with this Order will result in suspension of the Certificate of Licensure effective on the date of noncompliance and continuing until proof of passing the course is shown. Course hours do not count toward annual mandatory CPC requirements.

(continued on page 9)

(continued from page 8)

CASE NO. V03-089

Robert J. Bracken, PLS No. L-1373
Sanford, NC

VIOLATION:

Map 1

1. Failed to sign and seal a survey not marked as preliminary [.1103].
2. Issued an inaccurate survey creating an encroachment and gap on the adjoining property [.1602(a),(f)].
3. Failed to tie to geodetic monument within 2,000 feet [.1602(g)].
4. Failed to reference north arrow [.1604(e)(1)].

Map 2

1. Issued an inaccurate survey creating an encroachment on the adjoining property [.1602(a),(f)].
2. Failed to comply with G. S. 47-30, to include size requirements.
3. Failed to tie to geodetic monument within 2,000 feet [.1602(g)].
4. Failed to reference north arrow [.1604(e)(1)].
5. Failed to provide title source [.1604(e)(11)].

BOARD ACTION: Reprimand, Civil Penalty of \$2000, and required to show proof of successful completion of two courses offered by NC Society of Surveyors "Deed & Plat Interpretation" and "G. S. 47-30/89C."

CASE NO. V03-090

MKAssociates, LLC
Warrenton, VA

VIOLATION: Limited Liability Company practicing or offering to practice surveying in violation of G. S. 89C-24.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing land surveying until such time as the firm is licensed with the NC Board. This includes but is not limited to the offering of surveying services in marketing materials and the web site or practicing surveying by dictating judgment as to decisions requiring surveying education, training or experience. Such decisions must be made by a PLS licensed in NC and the company must be licensed with the Board.

CASE NO. V03-091

John K. Causby, PLS No. L-3188
Morganton, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner [.1602(f)] and failed to locate all apparent improvements in the surveyed right-of-way [.1604(e)(8)].

BOARD ACTION: Reprimand and Civil Penalty of \$1500.

CASE NO. V03-094

William T. Robbins, PLS No. L-2677
Poplar Branch, NC

VIOLATION: Issued an inaccurate survey [.1602(a)]; failed to report the results of a survey in a clear and factual manner [.1602(f)]; failed to show names of adjacent landowners, lot designation, or legal reference [.1604(e)(7)]; and failed to indicate title source [.1604(e)(11)].

BOARD ACTION: Reprimand.

CASE NO. V03-095

Ram Jack, LLC, unlicensed
Durham, NC

VIOLATION: Firm practicing or offering to practice engineering without a license as required by G. S. 89C-24.

BOARD ACTION: Issued a letter to cause respondent to cease and desist advertising engineering services, offering to practice or practicing engineering until such time as they become properly licensed with the Board. The practice of engineering includes but is not limited to analysis or recommendations that require engineering education, training or experience. The practice of engineering may be involved in the determinations of what has caused a foundation to fail and the recommended solutions. Should respondent fail to comply, further action may be pursued by the Board as authorized in G.S. 89C-10(c) to apply to the court for an injunction and/or to refer to the District Attorney for prosecution as a misdemeanor as authorized by G. S. 89C-23.

CASE NO. V03-097

Regional Waterproofing Co., Inc., unlicensed
Zebulon, NC

VIOLATION: Corporation practicing or offering to practice engineering in violation of G. S. 89C-24 and 55B.

BOARD ACTION: Issued a letter to cause respondent to cease and desist advertising, offering to practice or practicing engineering as defined in G. S. 89C-3(6) until such time as the company becomes properly licensed with the Board. The practice of engineering includes but is not limited to analysis or recommendations that require engineering education, training or experience. The practice of engineering may be involved in the determinations of what has caused a foundation to fail and the recommended solutions including the proposed pier systems and wall anchoring systems. Should respondent fail to comply, further action may be pursued by the Board as authorized in G.S. 89C-10(c) to apply to the court for an injunction and/or to refer to the District Attorney for prosecution as a misdemeanor as authorized by G.S. 89C-23.

CASE NO. V03-098

Thomas A. Fitzpatrick, unlicensed
New Bern, NC

VIOLATION: Practicing or offering to practice engineering without a license as required by G.S. 89C-23.

BOARD ACTION: Closed case based upon final action taken by the Attorney General's office, which issued a formal notice to cease and desist from acts which would constitute the practice or the offer to practice engineering without being duly licensed. Further, violations of Chapter 89C will result in the Attorney General's office filing a lawsuit against respondent seeking injunctive and other appropriate relief.

CASE NO. V03-099

David L. Kempka, PE No. 12408
Kernersville, NC

VIOLATION: Failed to comply with annual CPC requirements [.1712]; failed to comply with CPC audit requirements [.1712(a)]; failed to cooperate fully with the Board in the course of an investigation [G.S. 89C-20]; and failed to be completely objective and truthful in professional reports and statements [.0701(d)(1)].

BOARD ACTION: Revocation.

CASE NO. V03-101

Daniel G. Longo, unlicensed (PE No. 30039 - became licensed on 06/27/04)
Westerville, OH

VIOLATION: Practiced or offered to practice engineering without a license as required by G.S. 89C-23.

BOARD ACTION: Reprimand.

(continued on page 10)

(continued from page 9)

CASE NO. V03-102

Geotechnical Consultants, Inc. (PC No. C-2611 - became licensed on 07/08/04)
Westerville, OH

VIOLATION: Practiced or offered to practice engineering without a license as required by G. S. 8C-24 and 55B.

BOARD ACTION: Reprimand and Civil Penalty of \$1000.

CASE NO. V03-103

James T. West, PLS No. L-3392
Harrisburg, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner [.1602(f)]; failed to make adequate investigation [.1602(a)] and failed to be completely objective and truthful in professional statements [.0701(d)(1)]; affixed seal to work not done under direct supervisory control or responsible charge [.0701(c)(3)]; failed to date flood elevation certificates [.1103(b)(4)]; failed to note revisions [.1103(a)(7), .1604(c)]; and failed to show watercourse [.1604(e)(8)].

BOARD ACTION: Reprimand, Civil Penalty of \$1500 and required respondent to furnish proof of passing and receiving certification for the Spring 2005 North Carolina Society of Surveyors Institute Course that includes FEMA. Failure to pay Civil Penalty will result in suspension of Certificate of Licensure until paid. Failure to take course will result in suspension of Certificate of Licensure until proof of taking course is furnished. Failure to pass course will restrict licensee from providing flood certifications until course is passed. Course hours do not count toward annual mandatory CPC requirements.

CASE NO. V03-104

Thomas E. Ramsey, PE No. 7241
Greensboro, NC

VIOLATION: Affixed his seal to inadequate design documents, failing to protect the public [.0701(b)]; performed services outside his area of competence [.0701(c)(3)]; and provided architectural building design services in violation of the Board's Decision and Order that he refrain from practicing electrical and mechanical engineering or architectural building design until he satisfies the Board, by exam and other evidence as the Board reasonably requires, that he is competent to practice in these areas.

BOARD ACTION: Revocation.

CASE NO. V03-105

Robert C. Cummins, PLS No. L-2951
Kill Devil Hills, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner [.1602(f)], failed to indicate title source [.1604(e)(11)], and failed to indicate ratio of precision [.1603].

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V03-108

Wayne C. Davis, unlicensed
Raleigh, NC

VIOLATION: Using the title "engineer" without being licensed in North Carolina [G.S. 89C-23].

BOARD ACTION: Board issue letter to cause respondent to cease and desist using PE title in NC until licensed with Board. Failure to comply will result in Board seeking an injunction and/or to refer to the District Attorney for prosecution as a misdemeanor as authorized by G.S. 89C-23.

CASE NO. V03-109

John W. Balzer, PLS No. L-3888
Cornelius, NC

VIOLATION: Failed to show lappage and gap [.1602(a), (f)] and provided an inadequate tie by not describing the monument used as tie [.1602(g), .1604(e)(9)].

BOARD ACTION: Reprimand.

CASE NO. V03-112

Brian P. Ruff, PE No. 22508
Durham, NC

VIOLATION: Performed services outside area of competence by performing structural design [.0701(c)(3)] and affixed seal to work not done under direct supervisory control or responsible charge [.0701(c)(3)].

BOARD ACTION: Reprimand; required proof of successfully completing the Ethics Course PDH-40 offered through the Murdough Center for Engineering Professionalism, Texas Tech University within six months of the date of the Decision and Order; and restricted respondent from practicing structural engineering until he furnishes proof of competency by passing the NCEES Structural I Examination.

CASE NO. V03-113

Forest E. Ross, Jr., PLS No. L-3720
Lincolnton, NC

VIOLATION: Failed to report the results of a survey in a clear and factual manner [.1602(f)], failed to make adequate investigation [.1602(a)], and failed to accurately locate all apparent rights-of-way on the boundary [.1604(e)(8)].

BOARD ACTION: Reprimand and require respondent to furnish proof of successful completion of the section to be determined by the Board of the Spring 2005 North Carolina Society of Surveyors Institute. Failure to comply will result in suspension of Certificate of Licensure until proof of compliance. Course hours do not count toward annual mandatory CPC requirements.

CASE NO. V03-117

Mark K. Hollar, PLS No. L-2840
Yadkinville, NC

VIOLATION: Failure to report and show lappage [.1602(a), (f)].

BOARD ACTION: Reprimand.

CASE NO. V03-118

Robert E. Reif, PLS No. L-1516
Toast, NC

VIOLATION: Failed to be completely objective and truthful in statements [.0701(d)(1)], indiscriminately criticized another land surveyor's work in public [.0701(d)(4)], failed to be completely objective [.0701(d)(1)], and misrepresented professional qualifications [.0701(f)(4)].

BOARD ACTION: Reprimand, and required respondent to furnish proof of passing, within 90 days of the date of Decision and Order, the Professional Ethics Course offered by New Mexico State University with a minimum average of 70% on homework and a minimum of 70% on the final exam for a minimum overall score of 70% for the course. Failure to comply with this Order will result in suspension of his Certificate of Licensure effective on the date of noncompliance and continue until proof of passing the course is shown. Course hours do not count toward annual mandatory CPC requirements.

CASE NO. V03-122

William E. Oram, PE No. 6742
Myrtle Beach, NC

VIOLATION: Failure to comply with CPC audit requirements [.1712(a)] and failure to timely claim Board correspondence from Postal or delivery service [.0701(g)(2)].

BOARD ACTION: Reprimand and Civil Penalty of \$250.

(continued on page 11)

(continued from page 10)

CASE NO. V03-123

Charles R. Browning, PE No. 4436
Raleigh, NC

VIOLATION: Failed to comply with CPC audit requirements [.1712(a)] and failed to timely claim Board correspondence from Postal or delivery service [.0701(g)(2)].

BOARD ACTION: Refusal to renew until such time as the respondent has complied with the continuing professional competency requirements for licensure in NC.

CASE NO. V03-131

John L. Wilson, PE No. 16934
San Antonio, TX

VIOLATION: 24 months' suspension by another jurisdiction beginning 06/11/03 with final 18 months probated based upon compliance with another jurisdiction's action [G.S. 89C and .0701(h)].

BOARD ACTION: Suspension for 24 months beginning 06/11/03 with the final 18 months probated based upon compliance with another jurisdiction's action. Should respondent fail to comply with the other jurisdiction's action, a suspension of his North Carolina license will be activated. Respondent must continue to renew and maintain CPC during suspension to allow for reinstatement without a new application.

CASE NO. V03-132

Carignan & Associates, Inc., unlicensed
Manteo, NC

VIOLATION: Corporation offering or practicing engineering and land surveying in violation of G.S. 89C-24 and 55.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering and land surveying in NC until such time as Neil S. Carignan and Carignan & Associates, Inc. are licensed with the Board.

CASE NO. V03-148

Harvey C. Danner, Jr.
d/b/a Danner Companies, LLC & Salem Environmental, Inc.
Charlotte, NC

VIOLATION: Practicing or offering to practice engineering without a license as required by G.S. 89C-23, Limited Liability Company offering to practice engineering in violation of G.S. 89C-24, 57C and 55B, and Corporation practicing or offering to practice engineering in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering, including environmental remediation, until such time as he is properly licensed with the Board.

CASE NO. V04-006

William J. Kluge, Jr., PE No. 25817
Raleigh, NC

VIOLATION: Practiced on an expired certificate or inactive certificate. G.S. 89C-16, 23.

BOARD ACTION: Reprimand and Civil Penalty of \$500.

CASE NO. V04-012

Kenneth T. Mills, PLS No. L-2411
Asheville, NC

VIOLATION: Failed to be completely objective and truthful when issuing public statements [.0701(d)(1)] and indiscriminately criticized other land surveyors' work in public including statements without valid basis or cause [.0701(d)(4)].

BOARD ACTION: Reprimand and furnish proof within 90 days of the date of Order of passing the Professional Ethics Course offered by New Mexico State University or the University of Maine with a minimum average of 70% on the homework and minimum of 70% on the final exam for a minimum overall score of 70% for the course.

CASE NO. V04-015

Alvin E. Dresser, PE No. 1747
Cornelius, NC

VIOLATION: Failed to comply with CPC audit requirements [.1712(a)], submitted false information on renewal form [G.S.89C-23], and operated an engineering corporation without a license in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Reprimand.

CASE NO. V04-016

Timothy J. Esolen, PLS No. L-3365
Plymouth, NC

VIOLATION: Performed an inaccurate or substandard survey, failing to protect the public [.0701(b)].

BOARD ACTION: Reprimand, Civil Penalty of \$500, and requires respondent to successfully complete section (to be determined by the Board) of the NC Society of Surveyors Institute in the Spring of 2005. Failure to comply with the Order will result in suspension of respondent's license effective upon date of noncompliance and continuing until proof is furnished of compliance with the Decision and Order.

CASE NO. V04-022

Tim E. Williams, PLS No. L-3591
Charlotte, NC

VIOLATION: Failed to make adequate investigation [.1602(a)]; failed to show encroachment on survey [.1602(b)(f)]; failed to show names of adjacent landowner, lot designation, or legal reference [.1604(e)(7)]; failed to indicate ratio of precision [.1603]; failed to indicate title source [.1604(e)(11)]; failed to show area [.1602(h)]; and failed to conduct his practice in order to protect the public health, safety and welfare [.0701(b)].

BOARD ACTION: Reprimand, Civil Penalty of \$1000 and required respondent to furnish proof of passing, within 90 days of the date of Decision and Order, the Professional Ethics Course offered by New Mexico State University or the University of Maine with a minimum average of 70% on the homework and a minimum of 70% on the final exam for a minimum overall score of 70% for the course. Failure to comply with the Decision and Order will result in suspension of the Certificate of Licensure effective on the date of noncompliance and continuing until proof of compliance. Course hours do not count toward annual mandatory CPC requirements.

CASE NO. V04-031

Automation Technologies, Inc.
Harrisburg, NC

VIOLATION: Corporation practicing or offering to practice engineering in violation of G.S. 89C-24 and 55B.

BOARD ACTION: Board issue letter to cause respondent to cease and desist offering or practicing engineering in NC, including programmable logic controller services, until such time as the company is properly licensed with the Board.

**The North Carolina Board of Examiners
for Engineers and Surveyors**

4601 Six Forks Road Suite 310
Raleigh, NC 27609

PRESORTED STD
U.S. POSTAGE
PAID
PERMIT NO. 1976
RALEIGH, NC

IN THIS ISSUE...

<i>View from the Chair</i>	1
<i>Governor Appoints Two to the Board</i>	2
<i>Board Directory</i>	2
<i>Exam Fees to Increase</i>	3
<i>Termination Dates</i>	3
<i>Board Members Instrumental on National Project</i>	3
<i>Board Office Moved</i>	3
<i>Renewal Time</i>	3
<i>Board of Examiners Wins EDGE Award</i>	4
<i>Board Members and Staff News</i>	5
<i>Survey Committee Updates</i>	5
<i>Disciplinary Actions</i>	5-11