

The Board of Licensure Report
October 2023
Kyle Elliott, Executive Director

Firm Renewals

All business entity (firm) permits expire on December 31, 2023. The online permit renewal system is open, and you can renew those permits online at: <https://secure.kentucky.gov/formservices/KBOELS/PERMITAPPLICATION>. The Board has already sent out three email notifications about the permit renewals. These email notifications, and other Board correspondence, come from the Kentucky General Government Cabinet, of which the Board of Licensure is a part. Please renew your permit before the expiration date to avoid late penalties.

If you are unsure of your permit or individual license status, please check our online searchable roster for that status. The roster is updated continually and can be found on the Board’s website, or here: <http://elsweb.kyboels.ky.gov/kboels-web/SearchableRoster.aspx>. If you have any questions about your license status, contact the Board offices for assistance.

Individual License Renewals 2023

Individual licenses expired on June 30, 2023, for those individuals whose last name begins with the letter A – K. Any person that missed the renewal deadline may still renew their license online for up to one year from the date of their license expiration but will have to pay a late renewal penalty of 10% per month, or any part of a month they are late. The Online Renewal takes only a few minutes, and you can pay the renewal fee with a credit card or electronic check. Please read all the renewal questions carefully and answer them honestly.

Anyone who renews after September 1 of their renewal cycle year will automatically be audited for compliance with the continuing professional development regulations. Access the online renewal system at: <https://secure.kentucky.gov/formservices/KBOELS/LicenseRenewal>.

CPD Task Force

A Task Force committee of the Board of Licensure, NSPE-KY, ACEC-KY, and KAPS has recently completed work on revising the Continuing Professional Development regulations for professional land surveyors and professional engineers. Those revisions were presented to the Board of Licensure at their October 27, 2023, meeting and were approved. The Board will be following the administrative regulation review process and hope to get the regulations updated in calendar year 2024.

Calendar of Events 2023

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|----------------|----------------------------|---------------|
| January 26 | Board of Licensure Meeting | Frankfort, KY |
| April 19 | Board of Licensure Meeting | Frankfort, KY |
| July 19 | Board of Licensure Meeting | Frankfort, KY |
| August 14 – 17 | NCEES Annual Meeting | Chicago, IL |
| October 18 | Board of Licensure Meeting | Frankfort, KY |

ENFORCEMENT REPORT

For The Period

July 1, 2023 – September 30, 2023

Heather L. Baldwin, PE, PLS, Director of Enforcement

DISCIPLINARY ACTIONS

BERARDI + PARTNERS, LLC

Berardi + Partners, LLC, is a limited liability corporation organized in the state of Ohio. On May 1, 2023, the company applied for a business entity permit to practice engineering in Kentucky and failed to disclose four disciplinary actions, a November 2016 Ohio action, a February 2022 West Virginia action, a March 2022 Ohio action, and a December 2022 West Virginia action, on its application, in violation of KRS 322.180 (1) and/or 20 KAR 18:142, Section 3. A subsequent investigation revealed that the company had provided engineering services for two Kentucky projects, in Crescent Springs in 2018 and in Murray in 2023, without a business entity permit, in violation of KRS 322.060. To resolve the investigation, the company, through its vice president Christopher Bruzzese, entered into a Consent Decree with the Board and agreed to: (1) receive a Letter of Reprimand; (2) pay a fine of \$6,000 within 30 days; (3) maintain a current and valid business entity permit for any period of time in which the company is providing engineering services in Kentucky; and (4) notify the Board in writing of any change in status of the professional engineer(s) in responsible charge of the engineering work in Kentucky within 14 days. The Board of Licensure approved this Consent Decree on October 27, 2023.

TERRASMART, INC.

Terrasmart, Inc. is a foreign corporation organized in the state of Ohio. On June 30, 2023, the company applied for a business entity permit to practice engineering in Kentucky and failed to disclose a March 2023 disciplinary action in Ohio on its application, in violation of 201 KAR 18:142, Section 3. A subsequent investigation revealed that the company solicited engineering services in Kentucky through its website, in violation of KRS 322.060 (1)(a); offered to practice engineering services in Kentucky through its website, in violation of KRS 322.020; solicited land surveying in Kentucky through its website, in violation of KRS 322.060 (2)(a); offered to practice land surveying in Kentucky through its website, in violation of KRS 322.020; and provided engineering services for one Kentucky project in Frankfort in March 2023 without a business entity permit to practice engineering, in violation of KRS 322.060. To resolve the investigation, the company, through its president Edward McKiernan, entered into a Consent Decree with the Board and agreed to: (1) receive a Letter of Reprimand; (2) pay a fine of \$6,000 within 30 days; (3) maintain a current and valid business entity permit for any period of time in which the company is providing engineering services in Kentucky; (4) notify the Board in writing of any change in status of the professional engineer(s) in responsible charge of the engineering work

in Kentucky within 14 days; and (5) obtain a land surveying business entity permit or remove the word “professional” from the phrase “professional surveying” on its website or state “Terrasmart, Inc. does not offer or provide professional surveying services in the Commonwealth of Kentucky” on its website. The Board of Licensure approved this Consent Decree on October 27, 2023.

TIMOTHY G. FUTCH, PLS #4163

In August 2019 and February 2021, the Board of Licensure received written complaints from a landowner regarding a survey that was performed by DDI Engineering and certified by Timothy G. Futch, PLS, on November 9, 2017. In August 2017, DDI was retained by the complainant’s neighbor to complete a boundary retracement survey of a property in Central City, Kentucky. Prior to performing the survey, Futch did not make a reasonable effort to inform the complainant of the need to enter his property during the survey, in violation of KRS 322.470. In making his boundary determination, Futch disregarded two original iron pin monuments and two retracement iron pin monuments found along the common boundary line with the complainant, and ignored the complainant’s statement to the DDI survey crew that the monuments had been in place for twenty years. Futch also failed to depict said found monuments on the plat of survey. The boundary determination resulted in one corner of the property being located inside of the residence of the complainant, creating an encroachment that had not previously existed. Furthermore, Futch failed to visit the site during the survey, despite creating said encroachment. These actions are violations of 201 KAR 18:150, the standards of practice for land surveying, Sections 3(1), 6, 6(4), and 10(5)(e), and 201 KAR 18:142, Section 3 and Section 8 (7). In addition, the investigation found that Futch did not have any expertise in surveying with GPS equipment and provided land surveying services outside of his area of competence, a violation of 201 KAR 18:142, Section 7 and 8. The actions set forth constitute misconduct, gross negligence and/or incompetence in the practice of land surveying, and are grounds for disciplinary action pursuant to KRS 322.180 (2) and (3). To resolve the investigation, Futch entered into a Consent Decree with the Board and agreed to: (1) receive a Letter of Reprimand; (2) pay a fine of \$7,500 within 30 days; (3) have his professional land surveying license placed on probation for two years with quarterly project reviews; (4) complete a four hour course in the standards of practice for professional land surveyors, professional ethics, and the code of professional practice and conduct by June 30, 2024; and (5) complete the webinar entitled *The Art of Retracement for Surveyors*, by Gary Kent, offered by HalfMoon Education Online Learning, by June 30, 2024. The Board of Licensure approved this Consent Decree on October 27, 2023.

ANTHONY E. BOWLING, PE #14199, PLS #2690

In August 2018, the Board of Licensure received a written complaint from a Letcher County landowner regarding Post Mining Land Use (PMLU) maps prepared by CBC Engineers & Associates, Ltd., and certified by Anthony E. Bowling, PE, PLS. Said maps were prepared for Cheyenne Resources, Inc. and were used for reclamation of the complainant's and adjoining owners' properties. The location of a concrete structure near the common property line of the complainant and an adjoining property affected how the properties would be reclaimed. A January 31, 2018, PMLU map prepared by Mark Summers and certified by Bowling depicted the concrete structure as being on the property of the complainant. An August 27, 2018, PMLU map prepared by Summers and certified by Bowling depicted the same concrete structure as being on the adjoining property and not on the property of the complainant. Bowling was unaware of the change. A September 18, 2018, PMLU map prepared by Summers and certified by Bowling also depicted that concrete structure as being on the adjoining property and not on the property of the complainant. Bowling was still unaware that the structure was depicted on the adjoining property. The investigation found that Bowling provided services outside of his area of competence in relation to the PMLU maps, in violation of 201 KAR 18:142, Section 7, and certified work product dealing with subject matter in which he lacked competence by virtue of education or experience, in violation of 201 KAR 18:142, Section 8, by certifying the PMLU maps without being aware that the depiction of the location of the concrete structure had been changed. To resolve the investigation, Bowling entered into a Consent Decree with the Board and agreed to: (1) receive a Letter of Reprimand; (2) pay a fine of \$1,000 within 30 days; (3) have his professional engineering license suspended for 30 days; and (4) complete the online 60-hour Texas Tech Engineering Ethics course within six months. The Board of Licensure approved this Consent Decree on October 27, 2023.

CHARLES S. BISHOP, PE #10619

In February 2020, the Board of Licensure received a written complaint from a member of the public regarding Mining and Reclamation Maps certified by Charles S. Bishop, PE, for Bluegrass Materials Co, LLC. The investigation found that four Mining and Reclamation Maps certified by Bishop on June 18, 2018, October 9, 2018, January 23, 2019, and January 7, 2020, were prepared by Bishop's client, Martin Marietta Materials, Inc., the parent company of Bluegrass Materials Co, LLC. The maps were not prepared by Bishop or an individual under his direct supervision, in violation of KRS 322.180 (16) and 201 KAR 18:142, Section 8, and KRS 322.180 (3). To resolve the investigation, Bishop entered into a Consent Decree with the Board and agreed to: (1) receive a Letter of Reprimand; (2) pay a fine of \$1,000 within 60 days; (3) have his professional engineering license suspended for 30 days; and (4) complete the online 60-hour Texas Tech Engineering Ethics course within six months. The Board of Licensure approved this Consent Decree on October 27, 2023.

LEE WILLIAM BEST, PE #33693

On February 7, 2022, Lee William Best, PE, renewed his Kentucky PE license over seven months late, subjecting him to Continuing Professional Development (CPD) audit due to late renewal for the 2019/2020 reporting period. On April 18, 2022, Lee William Best, PE, was issued a Written Admonishment for failing to respond to a CPD audit within 30 days, failing to obtain 30 professional development hours (PDH) during the 2019/2020 reporting period, and falsely answering the CPD question during renewal. He was scheduled for another CPD audit for the 2021/2022 reporting period with materials due by January 10, 2023. After Best failed to submit 30 PDH for the 2021/2022 CPD audit and failed to respond to repeated attempts by Board staff to contact him, an administrative action was filed on March 30, 2023. Best failed to participate in a Prehearing Conference and/or Show Cause Hearing on two occasions, and the Hearing Officer recommended that the Board be granted Default Judgment and that Best's PE license be revoked. The Board of Licensure accepted and adopted the Hearing Officer's Findings of Fact and Conclusions of Law and ordered Lee William Best's PE license to be revoked by Final Order entered on October 27, 2023.

NON-DISCIPLINARY ACTIONS

Cases Closed with a Written Admonishment – 15

PE – admonishments for CPD violations – 5 (2 late renewal audits 2022. 3 random audits 2023)

PLS – admonishments for CPD violations – 5 (4 random audits 2023, 1 enforcement audit)

PE – admonishments for unlicensed practice – 2

PE – admonishment for failing to report disciplinary action on renewal – 1

Firm (engineering) – admonishments for failing to report disciplinary action on application – 2

Cases Closed with an Educational Letter – 1

PE licensed in another state using PE designation in Kentucky

Case Closed with No Action – 4

PLS – no violation - 2

PE – CPD (invalid exemption claim) – no violation – 1

Firm (engineering) – withdrew business entity permit application – no violation - 1