



# PE NEWSLETTER

Published by the Texas Board of Professional Engineers  
Number 31, Summer 2004

## Striving for Excellence

### Recalling my Experiences as Executive Director Of the Texas Board of Professional Engineers

By Victoria Hsu, P.E., TBPE Executive Director

**Not everything that can be counted counts, and not everything that counts can be counted. - A. Einstein**

Four years ago, in an award banquet, a P.E. sitting next to me asked, "What do you do?" I answered proudly: "I work with the Texas Board of Professional Engineers." He looked at me and said, "What do you do?" I was puzzled "... I am the executive director of the Board." He was irritated and said, "I know. *What do you do?*"

It has been a tremendous four years! Recognizing the importance of shared visions and strategic intent, the board went through several extensive strategic planning sessions. Many actions followed.

We streamlined licensing review. A focus group was created to define engineering experience. Rules were changed to clarify the Board's licensing criteria, including foreign degree evaluations and a personal interview process. A win win system was created to encourage licensure of professors. A professional facilitator interviewed all board members to establish enforcement penalty guidance. A penalty worksheet encompassing 10 impact parameters was created to ensure fairness and consistency. A new enforcement database was created with all closed case files electronically imaged. We also recently compiled 25 questions on commonly seen violations and will make it available on line.

At the same time, a new firm registration program was established, a joint committee with the Architectural Board was formed to promote understanding and resolve overlapping issues between two professions. A new continuing education program was born, a new policy advisory opinion process has been created, as well as an inactive status program.

Along with all of this, we prepare approximately 160 administrative reports due to different oversight agencies every year and over 200 open records requests annually. We have increased license renewals from 47,000 to over 50,000, increased new applications from 1,600 per year to 2,300 and firm registration from 3,000 to 6,500. We converted our COBOL database into a modern SQL database within deadlines and under budget! Exam registration went on line. We automated renewal payment processing. We automated board meeting and committee meeting minutes. We created a 90+ club to give accolades to our high score examinees. At the same time, we cleared our basement, remodeled our lobby, and put in new workstations. We went through soul searching after the A&M Bonfire incident. We negotiated and outsourced exam proctoring due to a lost exam book, a power failure and a fire at test sites. We also

went through two legislative sessions, a sunset review, and an extensive financial audit. In addition, we successfully continued the Self Direct Semi Independent program for another six years. Then, we revamped the entire set of rules!

As we celebrate changes and plan for the next five years, your input is crucial. We recently emailed surveys to the engineers in our database. You can also provide us feedback through our website or email. Many engineers have expressed concerns about global competition. Also, we see that at present only 5% of college graduates are majoring in engineering, comparing with 45% in some Asian countries. We have heard of concerns about licensing software engineering. We also share the deep concern that the foundation of society and the family is in danger in light of an erosion in ethics. Your thoughts will help us to continue to improve the engineering profession, and thus improve service to the public.

As I leave the board to focus on my family, I want to tell you how proud I am as a professional engineer because now I know what you do. Serving you has been a privilege. Again, thank you for working together with the Board in striving for excellence! ★

## ★ IN THIS ISSUE ★

Board Rule Updates .....	Page 2
Engineering Ethics .....	Page 3
Professional Services Procurement Act .....	Page 4
Enforcement Disciplinary and Administrative Actions .....	Page 6
Continuing Education Program .....	Page 16

## ★ CURRENT BOARD MEMBERS ★

James R. Nichols, P.E., Chair .....	Fort Worth
Govind Nadkarni, P.E., Vice-Chair .....	Corpus Christi
Vicki T. Ravenburg, CPA, Secretary .....	San Antonio
Jose F. Cardenas, P.E. ....	El Paso
Robert M. Sweazy, Ph.D., P.E. ....	Lubbock
C. Roland Haden, Ph.D., P.E. ....	College Station
William "Bill" Lawrence .....	Highland Village
Shannon K. McClendon .....	Dripping Springs
Gerry E. Pate, P.E. ....	Houston

Texas Board of Professional Engineers  
1917 IH 35 South, Austin, TX 78741, 512-440-7723  
Website: [www.tbpe.state.tx.us](http://www.tbpe.state.tx.us)  
Email: [peboard@tbpe.state.tx.us](mailto:peboard@tbpe.state.tx.us)

# The Great Rule Migration of 2004

By David Lusk, P.E.

As a result of Sunset and other legislative actions, the Texas Engineering Practice Act (Act) has a new look. The Act was re codified in June 2003 and is now Chapter 1001 of the Occupations Code. The Board has also proposed and approved new rules to implement the requirements of the Sunset Bill. In addition, every four years, state agencies are required by law to review and update existing rules the Board's rule review was due in April 2004. Since the statutory references in the Board rules were changed to reflect the new designations in the Act, nearly every rule needed to be re proposed and adopted with the new references. The Board chose to fix some organization problems in the existing rules at this time as well as incorporate new legislative requirements.

For the rule review the Board repealed the existing Chapter 131 Board rules and five new chapters are now in a more organized and logical fashion. The new rules also skip some numbers to allow for future rule expansion, either by Board

initiative or statutory requirements. Significant changes either mandated by the legislature or initiated by the Board are summarized under the chapter headings below. Before adopting any new rules, the Board first proposed the rules for comment in the Texas Register and posted them on the Board website. Copies of the new law and rules are available on the website at <http://www.tbpe.state.tx.us/downloads.htm>. If you do not have access to the website, you may call or fax our office and a copy can be mailed to you. ★



*Previous Board Chair, Brenda Bradley Smith, P.E. at the Capitol during the 2003 Legislative Session.*

## Board Rule Updates

Subject	Rule Number	Change
Committees	§131.15	Added Description and Charge of the Policy Advisory Opinion Committee
Professional Designation and Status	§137.13	Established the policies and procedures for Inactive Status
Continuing Education Program	§137.17	Established the policies and procedures for the Continuing Education Program
Firm Registration Compliance	§137.77	Implementation of statutory requirement allowing firms to voluntarily comply with firm registration within 30 days of written notice from the board.
Disciplinary Action	§139.35	Updated rule and sanction tables to reflect statutory requirements relating to restitution as part of an informal conference settlement, conditions of probation for suspended licenses, and disciplinary actions for falsifying CEP documentation.
Actions Against Non-License Holders	§139.31	Modification to make rule consistent with Subchapter B, Complaints.
Subchapter B: Complaint Process and Procedures	§§139.11-21	Revised Complaints section of rule to include statutory changes, including language to prescribe the form of a complaint, the process for the board to receive a complaint, the prioritization of complaints, and complaint reporting requirements. The new rules also set forth investigative authority and ability to obtain technical consultants.
Subchapter A: Policy Advisory Opinions	§§131.101-131.111	Establishes procedure for requesting, developing, and processing a policy advisory opinion.

## Moved or Changed Jobs Recently?

Each license holder shall notify the board in writing not later than 30 days after a change in the person's personal mailing address or employment status (Section 137.5 of the Board rules).

If you are not sure what address or employer the Board currently has on file for you, go to our website at <http://www.tbpe.state.tx.us/>, click on the red search link and select "For Active Licensed Professional Engineers". Search by your name, license number or employer to display your information on file.

To submit changes, go to [https://www.tbpe.state.tx.us/PE\\_Info\\_Change.htm](https://www.tbpe.state.tx.us/PE_Info_Change.htm). Changes may also be mailed to the board at TBPE, 1917 IH-35 South, Austin, TX 78741 or send a FAX to 512-442-1414.

# Engineering Ethics - Not Just a Matter of Rules

Charles B. Pennington, P.E.

The Texas Engineering Practice Act contains a large section devoted to engineering ethics (137.51 through 137.65). Two ethics rules, “engineers shall protect the public” and “engineers shall act as faithful agents for their employers and clients”, are accepted as a basis of ethical behavior for engineers. No one would likely question the good intentions of these rules or find it difficult to apply the rules in simple situations. A 1982 construction accident in Missouri City, Texas, illustrates that ethical issues are sometimes subtle and can have grave consequences.

An engineering company was hired to design a 1000 foot tall television antenna tower and a crew of professional erectors was hired to construct the tower. The erecting company had successfully completed many similar projects. The erecting company had reviewed the engineering company’s design and had found no construction issues with the plans. Construction of the tower was routine until the last tower section was delivered to the jobsite.

The last section contained the microwave “baskets” and was designed with lifting lugs that required the section to be raised in a horizontal position. The section needed to be raised in the vertical position due to construction requirements, but the lifting cable would have interfered with the protruding microwave baskets. The erecting company asked the engineering company for permission to remove the microwave baskets for the lifting operation.

The engineering company had lost a great deal of time and money on a previous job when similar baskets had been removed and the internal parts of the microwave antenna had been damaged. The engineering company did not allow the baskets to be removed. The erecting company, which had no engineers on staff, designed an offset lifting bar that would allow the section to be raised in a vertical position and keep the microwave baskets clear of the lifting cable. The erecting company asked the engineering company to review the design; the engineering company declined.

The engineering company did not want to incur liability by commenting on how the erecting company should perform its work. The erecting company’s expertise in tower erection and heavy load rigging was bolstered by the many successful projects it had completed. The erecting company was under time pressure to complete the tower as soon as possible to allow travel time to the next job. The erecting company made the decision to use their own lifting bar design.

The bolts holding the lifting bar to the tower section failed near the end of the lift and resulted in the loss of several lives and the complete destruction of the tower. The accident investigation revealed that the bolted connection on the lifting bar was subjected to a load seven times greater than anticipated. The design assumptions made by the erecting company personnel did not take into account the moment load that the lifting bar would place on the bolts holding it to the tower section.

In hindsight, it is easy to see the evolution of this accident and that several opportunities were missed to prevent it. The technical “cause” of the accident, the bolted connection failure, could have been prevented. However, decisions involving

the ethical principles cited at the beginning of this article were made that allowed the accident to occur.

The engineering company, in an effort to protect its client from delays and expense, did not allow the removal of the microwave baskets. The engineering company employees made the decision not to review the offset lifting bar design to prevent possible litigation against the company. The erecting company employees made the decision to use the offset lifting lug to save time and fulfill their obligations to the next customer.

All of these decisions were made with the employer, customer and client’s interests in mind and were in compliance with the ethics rules in the Texas engineering practice act. The unforeseen and tragic consequences of these apparently, ethically correct decisions should give every professional engineer pause. Most engineering projects are performed under tight time and financial constraints. Liability issues confront almost every decision that must be made on a large engineering project. It is the ethical responsibility of engineers to serve as the faithful agent of their client and employer and respond to the legal and financial issues in a project. It is also the ethical responsibility of engineers to see beyond the financial and legal constraints of their obligations and insure that the public is served by their decisions.

This article is not intended to judge or place blame on anyone involved in the tower accident. I intended that the reader use this article as a starting point in seeing the subtle, ethical issues that may be involved in an engineering project. For more examples of engineering ethics issues and links to several papers on the subject, please refer to the Texas A&M ethics website at <http://ethics.tamu.edu>. ★

*The TBPE Board and staff would like to extend our heartfelt thanks to Brenda Bradley Smith, P.E., for her hard work and dedication during her term as Board Chair.*



*Previous Board Chair, Brenda Bradley Smith, P.E. receiving a gift of appreciation from current Board Chair, James R. Nichols, P.E.*

## Significant Cases in Enforcement

*Charles B. Pennington, P.E.*

The Sunset Commission has tasked the Compliance Assistance Division to focus our efforts on “significant” cases. This article will illustrate a few of the types of cases we investigate and their significance on the public.

### Disciplinary Actions

These cases involve complaints against licensed engineers that originate from the public, other engineers or from our investigative staff in the course of investigating another matter. These cases can involve alleged violations of engineering ethics or practice rules, misleading reports or statements, in competence and negligence. The cases are usually quite complex and usually take a great deal of time to resolve.

### Unlicensed Practice Of Engineering

This type of case could involve an individual that is performing engineering services for the public and is not licensed. This individual can pose a threat to public safety since their minimum qualifications to practice engineering have not been verified and he/she is not bound by any ethical or practice rules.

### Public Entities

A governmental entity is bound by the Texas Engineering Practice Act to engage professional engineers on public projects that involve engineering. The Act was written specifically to insure that only licensed professional engineers are engaged to

perform the engineering work on public projects.

### Firm Registration

Engineering firms that offer engineering services to the public are required to register with this agency and to provide a list of the professional engineers that are employed with them. Unregistered engineering firms pose a similar threat to the public as unlicensed individuals since the qualifications of their employees to perform engineering services are unverifiable. There is a significant impact to the public from this type of case.

The agency relies on the public to inform us of alleged violations of the law and rules of the Texas Engineering Practice Act. Agency staff can also initiate cases based on referrals from other agencies, information gained during the investigation of cases and reviews of phonebooks, websites and trade publications that advertise engineering services. The agency activity of reviewing publications and initiating alleged “trivial” cases against firms and individuals serve an important function in the protection of the public. The public will use phonebooks and other publications to search for engineering services. Every firm or individual that we find illegally practicing and/or offering engineering services in these publications will be investigated and brought into compliance with the law. It is difficult to place a value on this activity since it is impossible to predict how much harm an unqualified individual or firm that is offering engineering services illegally could do to the public. Our proactive enforcement activity lessens the number of unqualified firms and individuals that offer engineering services illegally. ★

## Professional Services Procurement Act Affects Engineering Purchases

*Paul D. Cook, Assistant Executive Director*

On May 9, 1984, the Texas Attorney General issued Opinion No. JM 155 as an interpretation of the Professional Services Procurement Act (PSPA), then Article 664 4, Vernon's Texas Civil Statutes.

The opinion reconfirmed that no state agency, political subdivision, county, municipality, district, authority or publicly owned utility of the State of Texas shall make any contract for, or engage the professional services of, an architect or registered engineer, or any group or association thereof, selected on the basis of competitive bids submitted for such contracts or for such services to be performed, but shall select and award such contracts and engage such services on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices. Competitive bidding is not prohibited for private sector work. The Texas Engineering Practice Act (Act) authorized the Board in Section 8(b) to make rules restricting competitive bidding.

Not much has changed since 1984 except that the PSPA has been placed under Section 1001.203 of the Texas Occupations Code. The Act still authorizes the Board to make rules against competitive bidding that they did under Board Rule 137.53. The PSPA process typically follows a two step selection process.

A governmental entity first selects the most highly qualified provider of the services on the basis of demonstrated competence and qualifications and then attempts to negotiate a contract with that provider at a fair and reasonable price. If a satisfactory contract cannot be negotiated with the most highly qualified provider, the negotiations end with that provider and the entity will attempt to negotiate a contract with the next

qualified provider.

If a public entity enters into a contract or an arrangement made in violation of the PSPA, the contract is void as against public policy.

Although the PSPA does not fall under the Board's jurisdiction and cannot mandate how a public entity solicits proposals from license holders, the Board has promulgated the above mentioned board rule to restrict the license holder from submitting or requesting, orally or in writing, a competitive bid to perform engineering services for a political subdivision of the State of Texas unless specifically authorized by law. Violation of the rule could subject the license holder to a sanction and administrative penalty by the Board. ★

### **Is your Engineering Firm Registered?**

**Effective January 1, 2000, HB 1544 requires that any firm offering engineering services to the public of Texas must register that firm with the Texas Board of Professional Engineers. A firm is defined as a sole proprietorship, firm, partnership, corporation or joint stock association.**

**The Board established a registration fee of \$75 for firms and \$25 for sole proprietorships.**

**For more information on registering your firm, see the Board website at <http://www.tbpe.state.tx.us/firms.htm> or call the office at 512-440-7723.**

## **Engineering Firms Assessed Administrative Penalties**

**The business entities listed below were assessed an administrative penalty for allegations associated with the offer or performance of consulting engineering services during a period when the business entity's firm registration was in an expired status or during a period when the business entity was not registered with the Board.**

4S Engineering Service, El Paso, TX  
A&H Engineering Consultants, Corpus Christi, TX  
A. Gutierrez Engineering, P.L.L.C., Weslaco, TX  
A. O. Moreno, P.E., & Seabear Foundation Co., Corpus Christi, TX  
ABC Engineering & Inspections, Houston, TX  
Allen Energy, Inc., Longview, TX  
Alliance Engineering & Design, Inc., Beaumont, TX  
Alpha Engineering, Inc., El Paso, TX  
Andrew C. Lyle, P.E., Amarillo, TX  
Aran & Franklin Engineering, Inc., Doucette, TX  
Art Salinas Engineering, Inc., dba Art Salinas Engineering & Surveying, McAllen, TX  
Bartlett & West Engineers, L.L.C., Topeka, KS  
Benchmark Engineering Corp., Houston, TX  
Bently Nevada, L.L.C., Minden, Nevada  
Blackaller Engineering, Inc., Longview, TX  
Bozeman Engineering, Inc., Houston, TX  
Bulian Engineering, Katy, TX  
Caprock Engineering, Inc., Pampa, TX  
CEC Consulting Engineers, McAllen, TX  
Champ-East Consulting Engineers, Inc., Houston, TX  
Civil Engineering Services Company, Inc., Aledo, TX  
Collaboration in Science and Technology, Inc., Houston, TX  
Consulting Engineering Services, Houston, TX  
Core Laboratories, L.P., Houston, TX  
Corona Engineering & Surveying Company, Brownsville, TX  
Corporate Compliance, Inc., Spring, TX  
Crutchfield Engineering Services, Corpus Christi, TX  
Cruz-Hogan Consultants, Inc., Harlingen, TX  
Cunningham Engineering Services, Houston, TX  
Dashiel Corp., Houston, TX  
David S. Broussard, P.E., Tomball, TX  
Decker Engineering, Abilene, TX  
DEH Structural Engineering, Inc., San Antonio, TX  
Diab Engineering Consultants, Houston, TX  
Diversified Engineering Services, Inc., Houston, TX  
Diversified Projects, Inc., Spring, TX  
Don Walter Water Systems, San Angelo, TX  
DWD International, Ltd., Houston, TX  
E Group, L.L.C., Abilene, TX  
E. Evans Associates, Inc., Dallas, TX  
Elastometer Engineering and Testing, Arlington, TX  
Electrical Expertise, Inc., Longview, TX  
Electro Systems Engineers, Inc., El Paso, TX  
Enco Consulting, Austin, TX  
Faust Engineering & Surveying, Inc., Beaumont, TX  
Fortunato Benavides, P.E., Abilene, TX  
French Engineering, Inc., Houston, TX  
Frontera Environmental, L.L.C., El Paso, TX  
Garza-Garza Consulting Engineers, Pharr, TX  
GKO Engineering Company, Channelview, TX  
Graham Building Inspections, Longview, TX  
Guice Engineering Services, Longview, TX  
Hamilton Engineering, Inc., Houston, TX  
Hart Petroleum Services, Inc., Corpus Christi, TX  
Hudson Engineering Company, Grand Prairie, TX  
IHS Engineering, Longview, TX  
J. M. King Engineering Corp., Amarillo, TX  
James Mangan Automation, Clute, TX  
Jay Engineering Company, Inc., Leander, TX  
John E. Hawkins & Associates, Inc., McKinney, TX  
John Milton Clark Engineers, Inc. dba Clark Engineers, Conroe, TX  
John Milton Clark Engineers, Inc., Conroe, TX  
Johnson & Pace Engineering & Surveying Consultants, Longview, TX  
Kebo Oil & Gas, Inc., Boerne, TX  
Keil Environmental, Inc., Austin, TX  
Kimberle Geary, P.E., Austin, TX  
L & E Engineering, Inc., Abilene, TX  
L. A. Hudler Associates, Fort Worth, TX  
LAC Architects & Engineers, Inc., Plano, TX  
Lakeside Engineers, L.L.C., Austin, TX  
Lamont Engineering, Inc., Laredo, TX  
Landmark Consulting, Inc., Dripping Springs, TX  
Lazaris Engineering, Inc., Houston, TX  
Leap Engineering, L.L.C., Beaumont, TX  
Leslie D. Bond, P.E., Fort Worth, TX  
Lindsey Engineers, Inc., Austin, TX  
Llano-Permian Environmental, Amarillo, TX  
Lloyd Consulting & Engineering, Inc., Dallas, TX  
Loadmaster Engineering, Inc., Houston, TX  
LOC Consultants, Inc., Austin, TX  
LWG, Inc., Richardson, TX  
Malouf Engineering International, Inc., Richardson, TX  
Maritech Engineering, Inc., Austin, TX  
Mark A. Howard, P.E., Rockhurst, TX  
Martin, Brown & Perez Engineering - Surveying, Harlingen, TX  
Matrix Engineering, Ltd., Beaumont, TX  
McDowell Engineering, Corpus Christi, TX  
McIntyre & McIntyre, Inc., Austin, TX  
Melvin Klotzman Petroleum Consultant, Inc., Victoria, TX  
Mid-Tex Engineering & Testing, L.L.C., Abilene, TX  
Miratek Corp., El Paso, TX  
Mixer Engineering, Inc., El Paso, TX  
MJ Engineers, Inc., Houston, TX  
MK Engineers, Garland, TX  
Mody K. Boatright, P.E., Corpus Christi, TX  
MPS Engineering, Inc., Crosby, TX  
Napier Engineering, Inc., Abilene, TX  
O'Connor Engineering & Science, Inc., Laredo, TX  
Omega Consulting Engineers, Inc., dba Omega Engineering, Beaumont, TX  
P. Soto Construction, Inc., Pharr, TX  
Packard Engineering Associates, Houston, TX  
Pascador Engineering, Corpus Christi, TX  
Paschal Engineering, Houston, TX  
Paul Garza & Associates, Laredo, TX  
Paulin Research Group, Houston, TX  
PCC Consulting Engineers, Inc., Grand Prairie, TX  
Pena Engineering, McAllen, TX  
Perez and Associates Consulting Engineers & Surveyors, El Paso, TX  
Pete Garza, Jr., Consulting Engineer, Inc., Harlingen, TX  
Petro Project Engineering, Inc., Houston, TX  
Pinnacle Facility Engineering, Inc., Dallas, TX  
Ponce Engineering, Inc, El Paso, TX  
Porras Engineering Company, Laredo, TX  
Premier Plan Designs, Inc., Arlington, TX  
Proteus Systems, Inc., Corpus Christi, TX  
R. E. Garcia & Associates, Edinburg, TX  
R.G.M. Engineering, Inc., dba Genesis Engineering Group, Inc., San Antonio, TX  
Riley Engineering Company, Bryan, TX  
Robert G. Prentice, P.E., Abilene, TX  
Robert Reid Consulting Engineer, Inc., Houston, TX  
Rosin Group, Inc., San Antonio, TX  
RS Engineering, Inc., Amarillo, TX  
RSH Engineering, Inc., Mesquite, TX  
Russell Engineering, Abilene, TX  
Sabre Electric Company, Inc., Temple, TX  
Salinas & Associates, Inc., McAllen, TX  
Salvador Nunez, P.E, dba Spectrum Engineering, El Paso, TX  
San Jacinto Engineering, Inc., Pasadena, TX  
Sanchez Engineering, Inc., Laredo, TX  
SchmArt Engineering, Inc., Beaumont, TX  
SGB Engineering, Inc., El Paso, TX  
Sierra Engineering, Midland, TX  
Spectrum Engineering Co., Inc., Amarillo, TX  
Steve W. Rossler Petroleum Consultant, Midland, TX  
Syntec Engineering Group, Inc. and RCM Engineering Services, Flower Mound, TX  
Taylor-Spaulding Consulting Engineers, Inc., Beaumont, TX  
TCCI Consulting Engineers, Inc., Irving, TX  
Technical Strategies, Inc., El Paso, TX  
Terry Crozier, P.E., Abilene, TX  
The Abijah Group, San Antonio, TX  
The Altus Group, Arlington, TX  
Tommy W. Tucker & Assoc., Inc., Victoria, TX  
Viking Engineering, L.L.C., Houston, TX  
Walker Electrical Contractors & Engineers, Fort Worth, TX

## Enforcement News

### Disciplinary and Administrative Actions October 17, 2001 - October 9, 2003

Clif Bond, TBPE Supervising Investigator

\* Indicates individuals who either agreed to complete a correspondence course in engineering ethics as part of closure of the case, or as a contingency requirement for probation.

#### October 17, 2001 Board Meeting Disciplinary Actions

\* **Jesse Eugene Coleman, Jr., P.E.**, Fort Worth, Texas File D 1229 It was alleged that during his testimony as an expert witness in a lawsuit, Coleman made statements regarding the effect of pier to beam contact and foundation level tolerances that appeared to be misleading and were not supported by adequate modeling, calculations or analysis and without fully disclosing the basis and rationale for his opinions. The Board accepted an Agreed Board Order signed by Coleman for a five year probated suspension of his Texas engineer license contingent upon Coleman's agreement that he will cease and desist from practicing structural engineering during the probated period.

\* **George Gutierrez II, P.E.**, San Antonio, Texas File D 1274 It was alleged that on June 6, 1995, Gutierrez signed and affixed his seal on a letter stating that a residential septic system had been constructed in 1973 in accordance with rules that existed at that time and certified that the system was functioning adequately. However, inspections of the septic system performed by a registered sanitarian and a city public works department employee disclosed that the system was not constructed in accordance with state regulations, was a health hazard due to raw sewage was being exposed to the atmosphere and could not be permitted because sewage was being illegally discharged. Therefore, it appeared that Gutierrez's letter was misleading and he failed to identify a potentially dangerous sewage disposal situation that was not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Gutierrez for a two year probated suspension of his Texas engineer license.

\* **Melvin Gary Glass, P.E.**, El Paso, Texas File D 1278 It was alleged that Glass signed and affixed his Texas engineer seal on electrical design plans prepared by his employees who were not licensed professional engineers for an elementary school project that contained numerous errors and code violations and were not in conformance with the school district's standard practices. Based upon the numerous deficiencies, it appeared that Glass was not qualified by education or experience to perform electrical engineering himself or to review and take responsibility for the electrical engineering design work performed by his employees. The Board accepted a Consent Order signed by Glass for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$4,000.00 administrative penalty and his submission of a written plan of corrective measures he will implement to prevent similar violations in the future. Glass also agreed that during the probation period and after the provisions of the Consent Order are fulfilled, he would not practice electrical engineering or affix his seal to electrical engineering design plans until he passes the National Council of Examiners for Engineering and Surveying Principals and Practice examination for electrical engineering.

**Lyndon M. Curry, P.E.**, Port O'Connor, Texas File D 1295 It was alleged that Curry submitted a WPI 2 Form to the Texas Department of Insurance (TDI) certifying that construction of a building addition complied with ASCE 7 93 windload provisions; however, TDI inspections disclosed that Curry certified the construction prior to its completion. Based upon this inspection, TDI requested that Curry provide calculations to support his certification, which he did not do. Therefore, it appeared the WPI 2 Curry submitted was misleading and his failure to provide TDI with his calculations was not in keeping with generally accepted engineering standards and procedures. Additionally, it appeared that Curry was offering and performing consulting engineering services as a sole proprietorship without being registered with the Board as a consulting engineering business entity. The Board accepted a Consent Order signed by Curry for a Formal Reprimand.

**Paul A. Mendoza**, Austin, Texas File B 15103 It was alleged

that Mendoza signed his name and affixed his Texas architect seal to structural, mechanical, electrical and plumbing design plans for the renovation of a commercial building. Based upon the size of the building, the structural, mechanical, electrical and plumbing designs were required by law to have been performed by a licensed professional engineer; therefore, Mendoza's preparation of these design plans constituted the unlawful practice of engineering. The Board accepted a Consent Order signed by Mendoza and his attorney agreeing that Mendoza will not practice engineering outside the exemptions listed in the Texas Engineering Practice Act and will refrain from making any and all representations that he can offer and/or perform engineering services until such time as he hires a Texas licensed professional engineer as a regular full time employee or until such time as he becomes a Texas licensed professional engineer. Mendoza also agreed to pay a \$1,000.00 administrative penalty.

**William James Rich**, Laredo, Texas B 15105 It was alleged that Rich prepared three geotechnical reports that included engineering recommendations for foundation options. Board records did not show that Rich was licensed in Texas as a professional engineer; therefore, his reports represent the unlawful offer and/or attempt to practice engineering. The Board accepted a Consent Order signed by Rich to cease and desist from offering to perform or the actual performance of engineering services and from any and all representations that he can offer and/or perform engineering services for the public of Texas until such time as he becomes licensed in Texas as a professional engineer. Rich also agreed to pay a \$500.00 administrative penalty.

**CDI Engineering Group, Inc. (CDI)**, Houston, Texas B 15114 It was alleged that Lanny Ottosen, a CDI employee who was not licensed in Texas as a professional engineer, signed an engineering report on behalf of CDI that was submitted to a CDI client. Board records did not show that Ottosen was licensed in Texas as a professional engineer nor did the report identify any of CDI's Texas licensed professional engineers as being responsible for the engineering information contained in the report. Therefore, it appeared Ottosen unlawfully practiced engineering through his preparation of the report and unlawfully represented his ability to offer and/or perform engineering services. The Board accepted a Consent Order signed by James E. Musick, Vice President of Operations, CDI, to cease and desist from allowing CDI employees who are not licensed in Texas as professional engineers to sign and issue engineering reports or from any representations that its unlicensed employees have the ability to offer and/or perform engineering services for the public of Texas until such time as those employees become duly licensed in Texas as professional engineers. CDI also agreed to pay a \$2,000.00 administrative penalty.

**David Huerta dba Design Network Group (DNG)**, Houston, Texas B 15126 It was alleged that DNG advertised itself as an architectural/engineering firm with over 20 years engineering experience and submitted an invoice to a customer claiming to have provided engineering services and charging for an "Engineer" and an "Engineer Seal." Board records did not show that Huerta was licensed as a Texas professional engineer nor that DNG had a full time employee who was licensed in Texas as a professional engineer. Therefore, the advertising and invoice represented an unlawful offer and/or attempt to practice engineering. The Board accepted a Consent Order signed by Huerta to cease and desist from any and all representations that he or DNG can offer and/or perform engineering services, to delete any references of engineering from his advertising and to end any current or future contractual obligations to perform engineering services until such time as he hires a Texas licensed professional engineer as a regular full time employee. Huerta also agreed to pay a \$750.00 administrative penalty.

*Continued on Page 7*

## Enforcement News - Continued from Page 6

**Gomez-Mendez-Saenz, Inc. (GMS)**, Brownsville, Texas B 15170 It was alleged that site grading and drainage plans for two projects were submitted to the City of Brownsville, one set bearing Rudy Gomez's signature and architect seal and the other bearing David Saenz's signature and architect seal. The size and scope of the respective projects required that Texas licensed professional engineers prepare the grading and drainage design plans. Board records did not show that Messrs. Gomez or Saenz were licensed in Texas as professional engineers nor that GMS had any regular full time employees who were licensed in Texas as professional engineers. Therefore, it appears these individuals unlawfully performed engineering services and their respective plans were an unlawful representation of GMS' ability to offer and/or perform engineering services. The Board accepted a Consent Order signed by Gomez, President, GMS, to cease and desist from the practice of engineering and from any and all representations that GMS can offer of perform engineering services until such time as GMS hires a full time employee who is licensed in Texas as a professional engineer. GMS also agreed to pay a \$2,000.00 administrative penalty.

**Gerald F. Obermeyer**, El Paso, Texas E 2759 It was alleged that on October 2, 2000, Obermeyer prepared, signed, and affixed his Texas engineer seal on a reference statement on which he indicated he was currently licensed in Texas and used the designation "P.E." after his name. Board records showed that Obermeyer's Texas engineer license expired on December 31, 1993; therefore, his use of his Texas engineer seal and the designation "P.E." were unlawful representations of being a Texas licensed professional engineer. The Board accepted a Consent Order signed by Obermeyer to cease desist from any and all representations that he can offer and/or perform engineering services, to discontinue his use of the designation "P.E." and from affixing his Texas engineer seal on any document until such time as he becomes re licensed in Texas as a professional engineer. Obermeyer also agreed to pay a \$500.00 administrative penalty.

### March 7, 2002 Board Meeting Disciplinary Actions

\* **David Omar Salinas, P.E.**, McAllen, Texas File D 1180 It was alleged that as the project engineer for projects for two Texas cities regarding the Economically Distress Area Program administered by the Texas Water Development Board (TWDB), Salinas signed and sealed documents that contained numerous errors and discrepancies concerning the existence, eligibility and location of residential structures. It was also alleged that Salinas failed to respond to numerous requests from the TWDB to provide additional documentation to support his statements regarding the survey and the eligibility information and that he relied on documentation and information supplied by other individual without Salinas' personal verification. Therefore, it appears Salinas issued false, deceitful and/or misleading information to the TWDB; he failed to endeavor to meet the TWDB codes and regulations; he signed and affixed his seal to documents that contained information that was not collected or verified by himself and he was not acting as a faithful agent for his clients. These actions were contrary to generally accepted engineering standards and procedures. The Board accepted an Agreed Board Order signed by Salinas and his attorney for a three year probated suspension of Salinas' Texas engineer license contingent upon his payment of a \$15,000.00 administrative penalty.

\* **James Mark Swinnea, P.E.**, Lindale, Texas File D 1271 It was alleged that Swinnea failed to notify a district court and involved parties in writing that a potential conflict of interest existed immediately upon his appointment as a Technical Neutral by the court in a lawsuit because his business partner had acted as an expert witness on behalf of the plaintiff in the lawsuit. This was contrary to generally accepted engineering standards and procedures. The Board accepted an Agreed Board Order signed by Swinnea for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$2,500.00 administrative penalty.

**Ms. Debra Yvonne Davis, P.E.**, Houston, Texas File D 1298 It was alleged that Davis failed to respond to the Board in a timely manner when information was requested from her regarding her cur-

rent and correct firm of association after the Board received information that she was the responsible professional engineer for a newly incorporated business entity which was not registered with the Board. It was also alleged that she failed to provide the Board with a written response explaining why she did not respond to numerous letters asking for her rationale for apparently ignoring the letters and that she did not register this new firm in a timely manner. The Board accepted a Consent Order signed by Davis for a Formal Reprimand and assessed her a \$500.00 administrative penalty.

\* **Manuel Flores, P.E.**, Los Fresnos, Texas File D 1310 It was alleged that project manuals containing engineering specifications for an elementary school project, an airport project and a college project, appeared to have been prepared by the architect of the projects. Although Flores was the responsible professional engineer for the mechanical engineering for these projects, he failed to sign and seal the specification manuals, directed a draftsman employed by the architect to place a decal of his (Flores) engineer seal with signature on three of the plan sheets and also failed to sign and seal two other revised plan sheets. Therefore, it appears that Flores aided and abetted the architect and the draftsman in the unlawful practice of engineering and the unlawful representation that the architect's firm had the ability to offer and/or perform engineering services. The Board accepted a Consent Order signed by Flores for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$2,500.00 administrative penalty.

\* **Eshraghollah Vatani, P.E.**, Houston, Texas File D 1318 It was alleged that Vatani prepared WPI 2 forms that were submitted to the Texas Department of Insurance (TDI) certifying that construction of two structures were in compliance with the Southern Standard Building Code (SSBC) wind load provisions for Inland II Areas; however, TDI inspections disclosed that Vatani certified the structures prior the completion of construction and that several conditions did not meet the SSBC requirements. Based upon these inspections, TDI requested that Vatani provide additional information to demonstrate the structures complied with the SSBC. When Vatani provided his response to TDI, he cited ASCE standards rather than the SSBC codes listed in his initial WPI 2 forms. Therefore, it appears the WPI 2 forms Vatani prepared were misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Vatani and his attorney for a two year probated suspension of Vatani's Texas engineer license contingent upon his payment of a \$2,500.00 administrative penalty.

\* **Barry Dale Jordan, P.E.**, Rockwall, Texas File D 1321 It was alleged that Jordan prepared an engineering report and a foundation repair plan and was engaged to conduct an inspection to certify the repairs; however, it appears that Jordan never kept appointments with the home owner and members of the repair crew stated they never saw Jordan at the site. Therefore, it appears Jordan failed to conduct the certification inspection. Additionally, Jordan failed to take elevation measurements to justify his recommendation for piers to be installed; failed to annotate the existence of a patio addition to the residence; failed to include suggested actions that should be taken to prevent damage to the patio addition as a result of installing the piers; and erroneously described the kind of siding installed on the residence as being asphalt siding. Thus, it appears that Jordan's report and certification were misleading, his inspection of the residence was not conducted in a careful and diligent manner and his actions were contrary to generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Jordan for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$3,000.00 administrative penalty.

**D. C. Tindall, P.E.**, Bacliff, Texas File D 1323 It was alleged that Tindall prepared WPI 2 forms that were submitted to the Texas Department of Insurance (TDI) certifying that the construction of a structure was in compliance with ASCE 7 93 wind load provisions; however, TDI inspections disclosed that Tindall certified the structure prior the completion of construction and that several conditions did not meet

*Continued on Page 8*

## Enforcement News - Continued from Page 7

the ASCE 7 93 requirements. Based upon these inspections, TDI requested that Tindall provide additional information to demonstrate the structures complied with the ASCE 7 93 requirements. Tindall did attempt to respond to TDI's request; however, since he certified the structure prior to its completion, the WPI 2 forms were false and/or misleading. This action was not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Tindall for a Formal Reprimand.

**Eram Ali**, Midland, Texas File B 15336 It was alleged that Ali, under contract to a private firm, performed a petroleum engineering analysis for the firm and identified himself in the report as a "Reservoir Engineer" and a "Petroleum Engineer". Board records did not show that Ali was licensed in Texas as a professional engineer; therefore, his practice of engineering and use of "Engineer" titles were unlawful. The Board accepted a Consent Order signed by Ali to cease and desist from the practice of engineering and from any and all representations that he can offer and/or perform engineering services for the public of Texas until such time as he becomes licensed in Texas as a professional engineer. Ali was also ordered to pay a \$2,500.00 administrative penalty.

**Jeffrey Holland Allen**, Spring, Texas File C 98 It was alleged that Allen practiced engineering, identified himself as a professional engineer by using the designation "P.E." after his name and by affixing a Texas engineer seal bearing his name to two geotechnical engineering reports and a pavement engineering and analysis report. Board records did not show that Allen was licensed in Texas as a professional engineer; therefore, his practice of engineering, use of the designation "P.E." and the Texas engineer seal were unlawful. The Board accepted a Consent Order signed by Allen to cease and desist from the practice of engineering and from any and all representations that he can offer and/or perform engineering services for the public of Texas, to immediately discontinue the use of the designation "P.E." after his name and to immediately discontinue using a Texas engineer seal until such time as he becomes licensed in Texas as a professional engineer. Allen was also ordered to pay a \$10,500.00 administrative penalty.

**Kip S. Giese**, Carrollton, Texas File C 99 It was alleged that Giese prepared design plans for a building that were issued under a firm's title block and affixed a replica of a Texas engineer seal and signature of a Texas licensed professional engineer on the plan sheets without authority or knowledge of the firm or the professional engineer. Board records did not show that Giese was licensed in Texas as a professional engineer; therefore, his practice of engineering was unlawful. The Board accepted a Consent Order signed by Giese to cease and desist from the practice of engineering and from any and all representations that he can offer and/or perform engineering services for the public of Texas and to immediately discontinue the use of any Texas engineer seal. Giese was also ordered to pay \$2,000.00 administrative penalty.

**Maverick Technologies, L.L.C.**, Houston, Texas File E 2780 It was alleged that a business card for this firm identified Mickey Teague as a professional engineer by using the designation "P.E." after his name. Board records did not show that Teague was licensed in Texas as a professional engineer; therefore, the use of the designation "P.E." to identify Teague was an unlawful representation that he was a Texas licensed professional engineer. The Board accepted a Consent Order signed by Robert A. Shelton, P.E., Director of the Gulf Coast Region for Maverick Technologies (MT), to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify its employees in Texas unless they are licensed in Texas as a professional engineer. MT was also ordered to pay a \$1,500.00 administrative penalty.

**City of Brownsville**, Brownsville, Texas File G 611 It was alleged that the City of Brownsville (City) failed to ensure that Texas licensed professional engineers were engaged to perform the engineering design and supervise the engineering construction for site grading and drainage for three public works projects. It was also alleged that the City accepted the site grading and drainage engineering plans that were prepared, signed and sealed by an architect, but which did not bear the signature or seal of a Texas licensed professional engineer. Additionally,

it was alleged that the City performed construction work on a street project without engineering design plans and without engaging a professional engineer to supervise the engineering construction. The Board accepted an Agreed Board Order signed by Lenny S. Lambert, City Manager and Ricardo J. Navarro, City Attorney to cease and desist from accepting engineering plans for all projects that require professional engineering that do not bear a Texas licensed professional engineer seal, signature and date; to immediately ensure that Texas licensed professional engineers are engaged to perform the engineering designs, specifications and cost estimates and to supervise the engineering construction on all projects involving professional engineering as required by Section 19 of the Texas Engineering Practice Act. The City was also ordered to pay \$2,500.00 administrative penalty.

## June 12, 2002 Board Meeting Disciplinary Actions

**Manuel Jesus Montemayor, P.E.**, Brownsville, Texas File D 1305 It was alleged that Montemayor prepared and submitted eight WPI 2 forms to the Texas Department of Insurance (TDI) certifying that construction of eight structures were in compliance with ASCE 7 93 wind load provisions; however, TDI inspections disclosed that the methods of construction and/or materials used did not conform to the cited standards. Based upon these inspections, TDI requested that Montemayor provide additional information to demonstrate the structures complied with the ASCE 7 93 requirements. Although Montemayor attempted to address TDI's request, he did not demonstrate that the construction projects met ASCE 7 93 requirements. Therefore, it appears the WPI 2 forms Montemayor prepared were misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Montemayor and his attorney for a one year probated suspension of Montemayor's Texas engineer license.

**James W. Gartrell, Jr., P.E.**, La Marque, Texas File D 1324 It was alleged that Gartrell prepared four WPI 2 forms that were submitted to the TDI certifying that construction of four structures were in compliance with Building Code for Windstorm Resistant Construction. TDI inspections disclosed that the construction of these structures deviated from the cited code. Based upon these inspections, TDI requested that Gartrell provide additional information to demonstrate the structures complied with the cited code; however, Gartrell failed to provide TDI with the requested information. Therefore, it appears the WPI 2 forms Gartrell prepared were misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Gartrell for a Formal Reprimand.

**Eugene Merten Sengelman, P.E.**, South Padre Island, Texas File D 1328 It was alleged that Sengelman prepared WPI 1 and WPI 2 forms certifying that construction of a structure that started approximately 17 months before the forms were submitted to the TDI was in accordance with the wind load provisions of ASCE 7 93. Because of the late submission of the forms, the TDI requested that Sengelman provide additional information to demonstrate the structure complied with the cited code; however, Sengelman failed to provide TDI with the requested information and reported that he did not personally perform all requested inspections of the structure. Therefore, it appears the WPI 2 form Sengelman prepared was false, deceitful and/or misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Sengelman for a Formal Reprimand.

**Houtan Jalayer, P.E.**, Houston, Texas File D 1334 It was alleged that Jalayer prepared four WPI 2 forms that were submitted to the TDI certifying that construction of four structures were in compliance with Building Code for Windstorm Resistant Construction. TDI inspections disclosed that Jalayer certified that structures prior to their completion and that portions of the construction of these structures deviated from the cited code. Therefore, it appears the WPI 2 forms Jalayer prepared were misleading and were pre sealed prior to comple

*Continued on Page 9*



## Enforcement News - Continued from Page 8

tion of construction. These actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Jalayer and his attorney for a one year probated suspension of Jalayer's Texas engineer license contingent upon his payment of a \$1,000.00 administrative penalty and submission of a written plan of corrective measures implemented to prevent similar violations in the future.

**Richard Franklin Keelan, P.E.**, League City, Texas File D 1336

It was alleged that Keelan prepared a WPI 2 form that was submitted to the TDI certifying that construction of a structure was complete and in compliance with ASCE 7 93 wind load provisions; however, TDI inspections disclosed that Keelan had certified the structure prior to its completion and that several conditions did not conform to the cited code. Based upon these inspections, TDI requested that Keelan provide additional information to demonstrate the structures complied with the ASCE 7 93 requirements. Although Keelan attempted to address TDI's request, he did not provide sufficient information to demonstrate that the construction projects met ASCE 7 93 requirements. Therefore, it appears the WPI 2 forms Keelan prepared were misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Keelan for a Formal Reprimand.

\* **Narayana Lakshmi Sripadanna, P.E.**, Houston, Texas D

1337 It was alleged that Sripadanna affixed his Texas engineer seal and signed his name to a geotechnical engineering report. The engineering analysis had been performed and the report prepared by an individual who was not licensed in Texas as a professional engineer and who did not have an employment relationship with Sripadanna. Therefore, it appears Sripadanna aided and abetted this individual in the unlicensed practice of engineering and could have misled the public into assuming that the firm that issued the report had the ability to offer and/or perform engineering services in Texas. The Board accepted an Agreed Board Order signed by Sripadanna and his attorney for a nine month probated suspension of Sripadanna's Texas engineer license contingent upon his payment of a \$940.00 administrative penalty.

**Kenneth R. Smith**, Arlington, Texas File B 14552 It was alleged that Smith prepared two engineering design drawings for an apartment on which he affixed a copy of a Texas professional engineer's seal and signed the professional engineer's name, without the professional engineer's knowledge, prior to submitting the drawings for permitting purposes. Board records did not show that Smith was licensed in Texas as a professional engineer; therefore, his practice of engineering was unlawful. The Board accepted a Consent Order signed by Smith to cease and desist from the practice of engineering and from any and all representations that he can offer and/or perform engineering services for the public of Texas until such time as he becomes licensed in Texas as a professional engineer, and to discontinue the practice of affixing any Texas professional engineer seal to any documents issued in Texas. Smith was also ordered to pay a \$2,000.00 administrative penalty.

**Pro-Mech USA, Inc.**, Denton, Texas File B 2780 It was alleged that a technical proposal to perform fire protection surveys and services in Texas for a federal government agency identified its employees as "Fire Protection Engineers", "Professional State Certified Engineers" and as a "P.E." licensed in Texas. Board records did not show that any of the employees of this firm were licensed in Texas as professional engineers. Therefore, it appeared that the use of "Engineer" titles and the professional engineer designation of "P.E." by this firm to identify its employees in Texas was unlawful. The Board accepted a Consent Order signed by Richard A. Jensen, Vice President, Pro Mech USA, Inc., to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify its employees in Texas unless they are licensed in Texas as a professional engineer. The firm was also ordered to pay a \$1,500.00 administrative penalty.

**Ellerbee-Walczak, Inc.**, Fort Worth, Texas B 15616 It was alleged that two letters signed by an employee of the firm contained engineering recommendations to prevent potential problems between lime and sulfate interaction regarding a paving project. Although the letters were counter signed by two different Texas licensed professional

engineers, these professional engineers were not employed by this firm and they simply reviewed and approved the employee's recommendations. Board records did not show that the employee was licensed in Texas as a professional engineer. Therefore, the employee's letters constituted the unlawful practice of engineering on behalf of the firm and the unlawful representation that the firm had the ability to offer and provide engineering services. The Board accepted a Consent Order signed by Stanley T. Walczak ordering the firm to pay a \$2,000.00 administrative penalty. The firm was not issued a Cease and Desist Order because during the course of the Board's inquiry, this firm hired a Texas licensed professional engineer as a regular full time employee.

**Lorenzo Pena, Jr.**, El Paso, Texas E 2786 It was alleged that

Pena affixed a Texas engineer seal bearing his name to a shop drawing for a Fire Protection Plan. Board records did not show that Pena was licensed in Texas as a professional engineer. Therefore, Pena's use of the seal bearing his name constitutes the unlawful representation of being a Texas licensed professional engineer. The Board accepted a Consent Order signed by Pena to cease and desist from any and all representations that he is a Texas licensed professional engineer until such time as he is licensed in Texas as a professional engineer and to immediately discontinue the use of the unauthorized engineer seal in Texas. Pena was also ordered to pay a \$2,000.00 administrative penalty.

### September 5, 2002 Board Meeting Disciplinary Actions

**Earl F. McKinney, P.E.**, Lexington, Kentucky File D 1034 It was alleged that McKinney affixed his Texas engineer seal to structural and foundation design plans for a hotel/motel project in Arlington, Texas, which McKinney does not appear to be qualified by education and experience to perform in an adequate and competent manner; thus, potentially endangering the public health, safety and welfare of the general public of Texas. Further, the representation to his client that he was competent in these engineering disciplines by sealing these plans appears to be fraudulent, deceitful and misleading. The Board accepted an Agreed Board Order signed by McKinney and his attorney for a three year probated suspension of McKinney's Texas engineer license contingent upon his payment of a \$3,500.00 administrative penalty. McKinney also agreed that he would not practice civil or structural engineering during the probated period unless he passes the civil and/or structural engineering examination given by the National Council of Examiners for Engineering and Surveying.

**Jaywantsinh G. Vaghela, P.E.**, Houston, Texas File D 1348 It was alleged that Vaghela submitted a response that included a listing of engineering services and fees on behalf of his firm to a Request for Proposal issued by a Texas school district for needed engineering services. Therefore, it appeared that Vaghela submitted engineering cost information to the school district in the initial step of selecting qualified consultants. The Board accepted a Consent Order signed by Vaghela for a one year probated suspension of his Texas engineer license and the assessment of a \$1,500.00 administrative penalty.

**Roberto Moreno, P.E.**, El Paso, Texas File D 1350 It was alleged that Moreno submitted a response that included an engineering service fee schedule in an attached sealed envelope on behalf of his firm to a Request for Proposal issued by a Texas school district for needed engineering services. Therefore, it appeared that Moreno submitted engineering cost information to the school district in the initial step of selecting qualified consultants. The Board accepted a Consent Order signed by Moreno and his attorney assessing Moreno a \$500.00 administrative penalty.

**DFW Consulting Group, Inc.**, Irving, Texas File E 2801 It was alleged that this firm's web page identified Pat Lechtenberg, an employee, as a professional engineer by using the designation "P.E." after his name. Board records did not show that Lechtenberg was licensed in Texas as a professional engineer; therefore, it appeared that this firm's use of the designation "P.E." to identify Lechtenberg was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by W.

*Continued on Page 10*

## Enforcement News - Continued from Page 9

L. McCulloch, Jr., P.E., Principal of the firm, to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify any of its employees in Texas until such time as the respective employee becomes duly licensed in Texas as a professional engineer. The firm was also ordered to pay a \$1,500.00 administrative penalty.

**Phillip James Naughton**, Austin, Texas File E 2798 It was alleged that Naughton identified himself as a professional engineer by using the designation "P.E." after his name on his business card. Board records showed that Naughton's Texas engineer license expired on March 31, 1996 and became non renewable on March 31, 1998. Therefore, it appeared that his use of the designation "P.E." after his name was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Naughton to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify himself in Texas until such time as he becomes duly licensed in Texas as a professional engineer. Naughton was also ordered to pay a \$100.00 administrative penalty.

### January 9, 2003 Board Meeting Disciplinary Actions

\* **Per K. Schneider, P.E.**, San Antonio, Texas File D 1306 It was alleged that Schneider submitted a sworn affidavit to a district court attesting that his opinion regarding an engineering issue was based upon his review of various publications; however, when testifying before the court Schneider denied having reviewed the publications listed in his sworn affidavit. Therefore, it appears Schneider's sworn affidavit was misleading. The Board accepted a Consent Order signed by Schneider and his attorney for a two year probated suspension of Schneider's Texas engineer license contingent upon Schneider's payment of a \$2,500.00 administrative penalty.

**Terry Glen Shipman, P.E.**, Beaumont, Texas File D 1341 It was alleged that Shipman submitted two WPI 2 forms to the Texas Department of Insurance (TDI) certifying that two residential structures had attached garages connected to the structures by breezeways. Subsequent TDI inspections disclosed that neither structure had an attached garage connected to the structure by a breezeway. Based upon these inspections, the TDI requested that Shipman provide additional information to demonstrate that each structure complied with the codes cited in the WPI 2 forms; however, Shipman failed to provide adequate information. Therefore, it appears the WPI 2 forms Shipman submitted were misleading and his actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted an Agreed Board Order signed by Shipman and his attorney assessing Shipman a \$1,300.00 administrative penalty.

**J. Kelly Senter, P.E.**, Houston, Texas File D 1347 It was alleged that Senter submitted a response that included a listing of engineering services and fees on behalf of his firm to a Request for Proposal issued by a Texas school district for needed engineering services. Therefore, it appears that Senter submitted engineering cost information to the school district in the initial step of selecting qualified consultants. The Board accepted an Agreed Board Order signed by Senter for a five month probated suspension of his Texas engineer license contingent upon his payment of a \$600.00 administrative penalty.

**Samuel Kam-Fu Cheng, P.E.**, Houston, Texas File D 1353 It was alleged that Cheng prepared WPI 2 forms that were submitted to the TDI certifying one re roofing project complied with ASCE 7 93 wind load codes and that construction was complete for another structure that also complied with ASCE 7 93 wind load codes. Subsequent TDI inspections disclosed that the products used on the re roof project could not be approved and that the construction of the other structure was not complete. Based upon these inspections, the TDI requested that Cheng provide additional information to demonstrate that each structure complied with the codes cited in the WPI 2 forms; however, Cheng failed to provide adequate information. Therefore, it appears the WPI 2 forms Cheng prepared were misleading, that the projects did not meet the cited codes and his actions were not in keeping with generally accepted engineering standards and procedures. The Board

accepted a Consent Order signed by Cheng for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$2,500.00 administrative penalty.

**David Ernie Rodriguez, P.E.**, San Antonio, Texas File D 1369

It was alleged that on January 14, April 2, April 11 and April 12, 2002, Rodriguez signed his name and affixed his Texas engineer seal on a total of nine documents submitted to various Texas public entities. Board records showed that Rodriguez's Texas engineer license expired on December 31, 2001 and was not renewed until June 21, 2002; therefore, it appears that Rodriguez affixed his Texas engineer seal to documents during a period when his Texas engineer license was in an expired status. The Board accepted a Consent Order signed by Rodriguez for a seven month probated suspension of his Texas engineer license contingent upon his payment of a \$700.00 administrative penalty.

**Dejan Perge, P.E.**, Dallas, Texas File D 1371 It was alleged that Perge signed and affixed his Texas engineer seal to engineering design plans prepared by an employee of Perge's part time engineering business. Although, Perge discussed engineering design issues with the employee and directed him to prepare the design, Perge was not personally present during the employee's performance of the engineering design. Therefore, it appears that Perge did not provide adequate direct supervision over his employee during the performance of the engineering design. The Board accepted a Consent Order signed by Perge for a Formal Reprimand and assessed him a \$1,000.00 administrative penalty.

**Hollis A. Baugh, P.E.**, Bacliff, Texas File D 1374 It was alleged that Baugh submitted a WPI 2 form to the TDI certifying that a structure was in compliance with ASCE 7 93 wind load codes. A previous TDI inspection of the structure disclosed that the structure did not comply with the prescriptive wind storm codes; therefore, the TDI requested that Baugh provide additional information to demonstrate that the structure complied with the code cited in the WPI 2 form. Although Baugh's calculations were eventually approved by the TDI, construction deficiencies were corrected and a new WPI 2 submitted, it appears the initial WPI 2 form Baugh submitted was misleading. The Board accepted a Consent Order signed by Baugh for a Formal Reprimand.

**Mark Allen Howard, P.E.**, Houston, Texas File D 1376 It was alleged that on January 24, 2000, Howard signed his name and affixed his Texas engineer seal on five documents submitted to a Texas public entity in support of a permit application. Board records showed that Howard's Texas engineer license expired on December 31, 1999 and was not renewed until April 28, 2000; therefore, it appears that Howard affixed his Texas engineer seal to documents during a period when his Texas engineer license was in an expired status. The Board accepted a Consent Order signed by Howard for a seven month probated suspension of his Texas engineer license contingent upon his payment of a \$700.00 administrative penalty.

**Jose Ulpiano Barnes, Dallas, Texas File D 1384** It was discovered that Barnes was incarcerated in a Federal Correction Institution under a sentence of 16 months for a felony conviction. The incarceration as a result of a felony conviction requires that the Board revoke Barnes Texas professional engineer license as stipulated in Texas Civil Statutes, Article 6252 13c, Section 4(e). Therefore, the Board accepted a Consent Order signed by Barnes to revoke his Texas engineer license.

**Ronald A. Roberts & Associates, Inc.**, Dallas, Texas File E 2804 It was alleged that this firm identified Ms. Lorrie Gray, an employee, as a professional engineer by using the designation "P.E." and the title "Structural Engineer" after her name on a business card. Board records did not show that Ms. Gray was licensed in Texas as a professional engineer; therefore, it appeared that this firm's use of the designation "P.E." and the title "Engineer" to identify Ms. Gray on business cards was an unlawful representation that she was licensed in Texas as a professional engineer. The Board accepted an Agreed Board Order signed by Ronald A. Roberts, P.E., Principal of the firm, to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify any of its employees in Texas until such time as the respective employee is duly licensed in Texas as a profes

*Continued on Page 11*

## **Enforcement News - Continued from Page 10**

sional engineer. The firm was also ordered to pay a \$750.00 administrative penalty.

**Process Automation, Inc.**, Hurst, Texas, File B 15720 It was alleged that this firm was listed in the 2002 Thomas Regional Buyers Guide under the headings of "Engineers Automation" and "Engineers Control Systems" with numerous references to "Control Engineering" and "Automation Engineering". Several previous inquiries by the Board against this firm for similar advertising resulted in agreements from the firm to change its advertising by deleting it from "Engineer" listings and deleting representations that it can offer or provide "Engineering" services. Board records show that this firm does not have a Texas licensed professional engineer as a regular full time employee; therefore, it appeared this new listing was a continued unlawful representation that this firm could offer and perform engineering services in Texas. The Board accepted an Agreed Board Order signed by Scott Carlson, the firm's president, to cease and desist from offering to perform or the actual performance of engineering services in Texas, to immediately discontinue the use to the word "Engineering" and the listing of the firm name under "Engineers" headings in its advertisements and any and all other representations that the firm can offer or perform engineering service in Texas until such time as the firm hires a Texas licensed professional engineer as a regular full time employee and the firm is registered with the Board. The firm was also ordered to pay a \$520.00 administrative penalty.

**William D. Bevier**, Gold River, California File B 15822 It was alleged that Bevier prepared and issued engineering design plans and a letter under his firm name, William D. Bevier, Structural Engineer, Inc., addressing engineering recommendations regarding a project in Schertz, Texas. Board records show that Bevier is not now nor has he ever been licensed in Texas as a professional engineer nor does his firm have a Texas licensed professional engineer as a regular full time employee. Therefore, Bevier's preparation of the above mentioned engineering documents represents the unlawful practice in Texas and his issuance of the documents bearing his firm name constitutes the unlawful representation of that his firm is able to offer and perform engineering services in Texas. The Board accepted a Consent Order signed by Bevier to cease and desist from the practice of engineering services in Texas and from any and all representations that his firm can offer or perform engineering service in Texas until such time as he becomes duly licensed in Texas as a professional engineer and his firm is registered with the Board. Bevier was also ordered to pay a \$2,000.00 administrative penalty.

**George N. Mitri**, Baytown, Texas File B 15845 It was alleged that Mitri used the word "Engineering" in his company name, Mitri Engineering, which is listed under the heading of "Building Designer" in the July 2002 Baytown classified telephone directory. It was also alleged that Mitri prepared an engineering roof design for a gas station in Baytown, Texas. Board records show that Mitri is not now nor has he ever been licensed in Texas as a professional engineer nor does his firm have a Texas licensed professional engineer as a regular full time employee. Therefore, Mitri's preparation of the above mentioned engineering design represents the unlawful practice in Texas and the use of the word "Engineering" in his company name constitutes the unlawful representation of that his firm is able to offer and perform engineering services in Texas. The Board accepted a Consent Order signed by Mitri to cease and desist from the practice of engineering services in Texas, to delete the word "Engineering" from his firm name and from any and all representations that his firm can offer or perform engineering service in Texas until such time as he becomes duly licensed in Texas as a professional engineer and his firm is registered with the Board. Mitri was also ordered to pay a \$2,200.00 administrative penalty.

### **June 11, 2003 Board Meeting Disciplinary Actions**

**Jorge Luis Azcarate, P.E.**, El Paso, Texas File D 1391 It was alleged that Azcarate had signed an agreement document indicating his understanding that his employer at the time required written approval before beginning any form of secondary employment. However, without such approval, Azcarate participated in the formation of two sepa-

rate engineering businesses. Therefore, it appears Azcarate's actions in the formation of these secondary businesses without the knowledge and consent of his primary employer at the time, reflected that he was not acting as a faithful agent of his employer. The Board accepted a Consent Order signed by Azcarate and his attorney for a six month probated suspension of Azcarate's Texas engineer license contingent upon Azcarate's payment of a \$870.00 administrative penalty.

**Ruben Chavez, P.E.**, El Paso, Texas File D 1390 It was alleged that Chavez had signed an agreement document indicating his understanding that his employer at the time required written approval before beginning any form of secondary employment. However, without such approval, Chavez participated in the formation of a separate engineering business. Therefore, it appears Chavez's actions in the formation of this secondary business without the knowledge and consent of his primary employer at the time, reflected that he was not acting as a faithful agent of his employer. The Board accepted a Consent Order signed by Chavez and his attorney for a six month probated suspension of Chavez's Texas engineer license contingent upon Chavez's payment of a \$870.00 administrative penalty.

\* **Albert C. Alaniz III, P.E.**, Corpus Christi, Texas File D 1392 It was alleged that between March 8 and October 1, 2001, Alaniz signed and sealed 18 WPI 2 forms that were submitted to the Texas Department of Insurance (TDI) certifying that the partial re-roofing of 18 apartment structures complied with ASCE 7-93 wind load codes. Subsequent TDI inspections disclosed that none of the 18 re-roofing projects complied with the cited code and Alaniz acknowledged that the WPI 2 forms should have not been submitted to TDI because he had not performed the final inspection. Board records show that Alaniz's Texas engineer license expired on March 31, 2001, and was not renewed until September 4, 2001. Therefore, it appears these re-roofing projects did not meet the applicable code nor was the construction complete when he signed and sealed the WPI 2 forms which was misleading and contrary to generally accepted engineering standards and procedures; and he affixed his seal to a number of the WPI 2 forms while his Texas engineer license was in an expired status. The Board accepted a Consent Order signed by Alaniz for a two year probated suspension of his Texas engineer license contingent upon his payment of a \$2,500.00 administrative penalty.

**Hisham Najib El-Chaar, P.E.**, Cypress, Texas File D 1408 It was alleged that on October 9, 2002, El Chaar signed his name across his Texas engineer seal that he affixed to design plans for a retaining wall and on September 24, 2002, he identified himself as being a registered professional engineer in Texas in a career profile he sent to an individual. Board records showed that El Chaar's Texas engineer license expired on June 30, 2002, and was not renewed until November 14, 2002; therefore, it appears that El Chaar affixed his Texas engineer seal to documents during a period when his Texas engineer license was in an expired status and he obscured his Texas engineer seal with his signature. It was also alleged that El Chaar performed this and 58 other consulting engineering projects under his firm name, Form International, Inc., during a period when it was not registered with the Board. The Board accepted a Consent Order signed by El Chaar for a six month probated suspension of his Texas engineer license contingent upon his payment of a \$1,020.00 administrative penalty.

\* **Stanley Ray Fees, P.E.**, Kingsville, Texas File D 1395 It was alleged that Fees submitted engineering reports to a city permitting department for three subdivision lots certifying that runoff would not have an adverse impact downstream from the new development. However, it was found that in addition to other errors, he had modified the wrong portion of the creek hydraulic model and that there would be a significant adverse impact downstream from the development. It was also alleged that after assistance from the city's engineer, Fees produced an acceptable report which was finally approved. Therefore, it appears that the engineering reports were misleading and not in keeping with generally accepted engineering standards and procedures; that Fees was practicing engineering outside his area of competence; that he was not acting as a faithful agent of his client; and that he did not perform the

*Continued on Page 12*

## **Enforcement News - Continued from Page 11**

engineering in a careful diligent manner in conformance with standards, laws, codes, rules and regulations applicable to engineering practice. The Board accepted a Consent Order signed by Fees for a one year probated suspension of his Texas engineer license contingent upon his payment of a \$1,500.00 administrative penalty.

**Lawrence Fischer, P.E.**, Orlando, Florida File D 1403 The Oklahoma State Board of Regulation for Professional Engineers and Land Surveyors issued a Consent Order to Fischer disciplining him for aiding and assisting a firm that was not registered in Oklahoma and unlicensed individuals in the practice of engineering in Oklahoma by affixing his Oklahoma seal to design plans that were not prepared by him or under his direct supervision. As a result of this action, the South Carolina State Board of Registration for Professional Engineers and Land Surveyors issued Fischer a Consent Order for a public reprimand. Based upon the actions taken in Oklahoma and South Carolina, Fischer's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by Fischer for a Formal Reprimand.

**David Lee Joyner, P.E.**, Kingsbury, Texas File D 1346 It was alleged that Joyner signed and affixed his Texas engineer seal to two letters concerning an inspection performed by his employee of piers installed at a residence which incorrectly identified the type of foundation under the residence and may have incorrectly reported the depth of the piers. Because Joyner had not performed a site visit at the inspection site and failed to review the content of the letters, it appears that he failed to provide adequate direct supervision over his employees which resulted in his sealing engineering work that was neither performed by him nor under his direct supervision. It was also alleged Joyner performed consulting engineering services under his firm name, Joyner Ventures, Inc., dba Trinity Group, during a period when it was not registered with the Board. The Board accepted an Agreed Board Order signed by Joyner and his attorney for a Formal Reprimand and assessed Joyner a \$1,250.00 administrative penalty. Joyner also agreed to submit a corrective action plan to the Board.

**William Ross McDowell, P.E.**, Corpus Christi, Texas File D 1381 It was alleged that McDowell submitted a WPI 2 form to the TDI certifying that a partial re-roofing project was in compliance with ASCE 7-93 wind load codes. A subsequent inspection of the project by TDI at the request of the homeowner, disclosed that the re-roofing did not comply with the cited code which was later confirmed by McDowell after he performed another follow up inspection. Therefore, it appears the WPI 2 form McDowell submitted was misleading and the project did not meet the cited codes; thus, McDowell's actions were not in keeping with generally accepted engineering standards and procedures. The Board accepted an Agreed Board Order signed by McDowell for a one year probated suspension of his Texas engineer license contingent upon his payment of a \$3,000.00 administrative penalty.

**Gary Paul Olson, P.E.**, Granbury, Texas File D 1394 The Florida Board of Professional Engineers issued a Final Order to Olson for a reprimand, the assessment of an administrative penalty and requiring him to complete an engineering ethics course and study guide prepared by the Florida Board for signing and sealing drawings for repair and additions to a hurricane damaged residence that did not indicate his intent that the plans were issued for only a limited purpose and were not for construction. Based upon the action taken by the Florida Board, Olson's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by Olson for a Formal Reprimand.

**Albert William Reed III, P.E.**, Dallas, Texas File D 1417 It was alleged that Reed signed and affixed his Texas engineer seal to design drawings and calculation sheets for a fire alarm system that were performed by employees of Electronic Technologies Corporation (ETC). Board records showed that Reed was not a full time employee of ETC; therefore, it appears that he signed his name and affixed his Texas engineer seal to documents that were not performed by him nor were they performed under his direct supervision. The Board accepted a Consent Order signed by Reed for a Formal Reprimand and assessed him a \$1,000.00 administrative penalty.

**Earl Anthony Romero, Jr., P.E.**, Highlands, Texas File D 1409

It was alleged that Romero signed his name and affixed his Texas engineer seal to septic design plans and documents on September 4 and 5, 2002. Board records showed that Romero's Texas engineer license expired on June 30, 2002, and was not renewed until November 5, 2002; therefore, it appears that Romero affixed his Texas engineer seal to documents during a period when his Texas engineer license was in a expired status. It was also alleged that Romero offered and performed consulting engineering projects under his firm name, E. R. Consultant Land Surveyors and Engineers, which was listed under the "Engineers Consulting" heading in the July 2002 Baytown classified telephone directory, during a period when it was not registered with the Board. The Board accepted a Consent Order signed by Romero for a ten month probated suspension of his Texas engineer license contingent upon his payment of a \$900.00 administrative penalty.

**John Larkin Wilson, P.E.**, San Antonio, Texas File D 1301 It was alleged that Wilson signed and affixed his Texas engineer seal to design plans for a cantilevered canopy that collapsed during construction injuring workers. It appears the canopy failed because a steel bar rod specified in the plans was too small. It was further alleged that when deflection of the canopy was noticed prior to the collapse by the construction manager, Wilson was notified and asked to re-check his design; however, he did not instruct the manager to cease construction until he could conduct an inspection or re-check his design. Therefore, it appears that Wilson design created an endangerment to the health, safety, welfare and property of the public and did not comply with local statutes, codes, regulations, rules or ordinances. Further, it appears his failure to respond to the construction manager's concerns of a possible flaw in his design suggests a level of negligence on Wilson's part which is contrary to his professional responsibility to protect the public, contrary to generally accepted engineering standards and procedures and is disrespectful to his client and involved parties. The Board accepted a Consent Order signed by Wilson and his attorney for a two year suspension of Wilson's Texas engineer license with the final 18 months to be probated contingent upon Wilson's payment of a \$1,500.00 administrative penalty and upon his agreement to enroll in and successfully complete the Steel Design Course 3233 offered by the University of Texas at San Antonio.

**John T. Barton**, Lubbock, Texas File E 2824 It was alleged that Barton identified himself as a professional engineer by using the designation "P.E." after his name on his business card. Board records showed that Barton is not now nor has he ever been licensed in Texas as a professional engineer. Therefore, it appears that his use of the designation "P.E." after his name was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Barton to cease and desist from using the designation "P.E." after his name or any and all representations that is a Texas licensed professional engineer until such time as he becomes duly licensed in Texas as a professional engineer. Barton was also ordered to pay a \$100.00 administrative penalty.

**John Gustafson**, Dallas, Texas File E 2832 It was alleged that Gustafson identified himself as a professional engineer by using the designation "P.E." after his name on two letters. Board records showed that Gustafson is not now nor has he ever been licensed in Texas as a professional engineer. Therefore, it appears that his use of the designation "P.E." after his name was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Gustafson to cease and desist from using the designation "P.E." after his name and any and all representations that he can offer and/or perform engineering services in Texas until such time as he becomes duly licensed in Texas as a professional engineer. Gustafson was also ordered to pay a \$870.00 administrative penalty.

**Matrikon International, Inc.**, Houston, Texas File E 2814 It was alleged that this firm identified Karim Moti, an employee, as a professional engineer by using the designation "P.Eng." after his name on a business card. Board records did not show that Moti has ever been licensed in Texas as a professional engineer; therefore, it appears that this firm's use of the designation "P.Eng." to identify Moti on busi

*Continued on Page 13*

## **Enforcement News - Continued from Page 12**

ness cards was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Shafin U. Kanji, Chief Financial Officer for the firm, to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify any of its employees in Texas until such time as the respective employee is duly licensed in Texas as a professional engineer. The firm was also ordered to pay a \$500.00 administrative penalty.

**Meadows Analysis & Design, L.L.C.**, Fort Worth, Texas File B 15691 It was alleged that prior to this firm having a Texas licensed professional engineer as a regular full time employee and becoming registered with the Board, it used the phrase "Providing Engineering Analysis and Design" in an advertisement and was deemed to have provided engineering services. Therefore, it appears at that time, the representation of the ability to offer and perform consulting engineering services and the performance of engineering services was unlawful. The Board accepted an Agreed Board Order signed by Marc A. Meadows, P.E., the firm's president, and its attorney assessing the firm a \$400.00 administrative penalty.

**Owen Oil Tools Division**, Fort Worth, Texas File B 15799 It was alleged that this firm used the words "Engineers" and "Engineering" in its advertisement on its web page at [www.owentools.com/support/](http://www.owentools.com/support/) and that its employees, who were not Texas licensed professional engineers, prepared mechanical engineering designs of explosive products for its clients in the oil field industry. Board records show that this firm does not have a Texas licensed professional engineer as a regular full time employee; therefore, it appears the web page advertisement and the practice of engineering was unlawful. The Board accepted a Consent Order signed by Dan W. Pratt, the firm's vice president, to cease and desist from offering to perform or the actual performance of engineering services in Texas, to immediately discontinue the use of the words "Engineers" and "Engineering" from its web page any and all other representations that the firm can offer or perform engineering service in Texas until such time as the firm hires a Texas licensed professional engineer as a regular full time employee and the firm is registered with the Board. The firm was also ordered to pay a \$2,000.00 administrative penalty.

**PBS&J**, Austin, Texas File E 2821 It was alleged that four letters sent from this firm identified Dale P. Murphy, an employee, as a professional engineer by using the designation "P.E." and the title "Senior Project Engineer" after his name. Board records did not show that Murphy has ever been licensed in Texas as a professional engineer; therefore, it appeared that this firm's use of the designation "P.E." and the title "Senior Project Engineer" to identify Murphy in the letters was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Keith Jackson, P.E., the firm's vice president, to cease and desist from using the designation "P.E." or any other "Engineer" title not authorized by law to identify any of its employees in Texas until such time as the respective employee is duly licensed in Texas as a professional engineer. The firm was also ordered to pay a \$500.00 administrative penalty.

**Salman Qadir**, Houston, Texas File B 15897 It was alleged that Qadir used the word "Engineers" in his company name, H2O Engineers, Planners, Designers, Construction Managers, and that he performed consulting engineering services. Although Qadir claimed that the engineering services he provided were performed under the direct supervision of a Texas licensed professional engineer, that Texas licensed professional engineer was not employed by Qadir's company. Board records show that Qadir has never been licensed in Texas as a professional engineer nor that his firm has any regular full time employees who are licensed in Texas as professional engineers. Therefore, it appears that the engineering services performed by Qadir were unlawful. The Board accepted a Consent Order signed by Qadir to cease and desist from any and all representations that he can offer and/or perform engineering services and from the actual practice of engineering until such time as he becomes duly licensed in Texas as a professional engineer. Qadir was also ordered to pay a \$1,000.00 administrative penalty.

## **October 9, 2003 Board Meeting Disciplinary Actions**

### **Archi Design & Construction, Inc.**, Dallas, Texas File B 15693

It was alleged that Sung Kim, on behalf of this firm, may have unlawfully performed engineering activities in its services on a church project. The Board accepted a Consent Order signed by Kim and the firm's attorney to cease and desist from the practice of engineering in Texas until such time as the firm hires a Texas licensed professional engineer as a regular full time employee and the firm is registered with the Board. The firm was also ordered to pay a \$2,000.00 administrative penalty.

**City of Alvarado**, Alvarado, Texas File G 652 It was alleged that the City accepted and approved engineering design drawings for a church project that were designed without the involvement of a Texas licensed professional engineer and that did not bear the signature or engineer seal of a Texas licensed professional engineer. The Board accepted a Consent Order signed by Ms. Mary Daly, City Manager, to cease and desist from accepting engineering plans for all projects requiring professional engineering that do not bear a Texas licensed professional engineer seal, signature and date. The City was also ordered to pay a \$500.00 administrative penalty.

**Mangan, Inc.**, Carson, California File B 15971 It was alleged that an employee of this firm performed engineering services for a Texas project. However, Board records did not show that the employee was licensed in Texas as a professional engineer, that the firm did not employ any Texas licensed professional engineers nor was the firm registered with the Board. The Board accepted a Consent Order signed by Dick Mangan, President of the firm, to cease and desist from offering to perform and the actual performance of engineering in Texas until such time as the firm hires a Texas licensed professional engineer as a regular full time employee and the firm is registered with the Board and to also cease and desist from identifying of its employees in Texas as "Engineers" until such time as they become licensed in Texas as professional engineers. The firm was also ordered to pay a \$2,250.00 administrative penalty.

### **Horizon Consultants, Inc.**, Baton Rouge, Louisiana File B 16041

It was alleged that this firm represented its ability to offer and/or perform engineering services in Texas on its Internet website at [www.horizonconsultants.com](http://www.horizonconsultants.com) listing a Houston, Texas, office. Board records do not show that this firm has registered with the Board; therefore, the offer of engineering services was unlawful. The Board accepted a Consent Order signed by Jeff Mire, President of the firm, to cease and desist from offering to perform or the actual performance of engineering services in Texas until such time as the firm becomes registered in Texas. The firm was also ordered to pay a \$250.00 administrative penalty.

**Carl Luther Brassow, P.E.**, Sugar Land, Texas File D 1377 It was alleged that on February 19, 1999, Brassow signed his name and affixed his Texas engineer seal to one design plan and on June 22, 1999, he signed his name and affixed his Texas engineer seal to eight design plan sheets that were submitted to the Texas Natural Resource Conservation Commission in support of a permit application. Board records showed that Brassow's Texas engineer license expired on March 31, 1998, and was not renewed until March 2, 1999; and it again expired on March 31, 1999, and was not renewed until June 24, 1999. Therefore, it appears that Brassow affixed his Texas engineer seal to documents during periods when his Texas engineer license was in an expired status. The Board accepted an Agreed Board Order signed by Brassow for a one year probated suspension of his Texas engineer license contingent upon his payment of a \$500.00 administrative penalty.

**Edward Dennison Collins, P.E.**, Van Nuys, California File D 1416 The Nevada State Board of Professional Engineers and Land Surveyors issued Collins a public reprimand for practicing a discipline of engineering that the Nevada Board had not qualified him to practice, for sealing plans over which he was not in responsible charge and for failure to sign and date his seal on the plans. As a result of this action, the South Carolina State Board of Registration for Professional Engi

*Continued on Page 14*

## Enforcement News - Continued from Page 13

neers and Land Surveyors issued Collins a Consent Order for a public reprimand. Based upon the actions taken in Nevada and South Carolina, Collins's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by Collins for a Formal Reprimand.

**Stephen S. Curyk, P.E.**, Houston, Texas File D 1440 It was alleged that an on site sewage facility plan for a residence prepared, signed and sealed by Curyk was rejected by the Harris County Public Infrastructure Department because the plan failed to meet all the minimum design, installation and separation requirements of 30 Texas Administrative Code 285. It was also alleged that Curyk performed consulting engineering services under his sole proprietorship during a period when it was not registered with the Board. The Board accepted a Consent Order signed by Curyk for a Formal Reprimand and assessed him a \$910.00 administrative penalty.

**Frederick Lee Kurth, P.E.**, Edinburg, Texas File D 1442 It was alleged that on November 3, 1993, Kurth prepared signed and affixed his Texas engineer seal to a subdivision plat certifying that the subdivision was located in Zone B of the Federal Emergency Management Agency Insurance Rate Map. However, after construction of the subdivision, it was discovered that the subdivision was actually located in Zone AH, which, by city ordinance, would have required that foundations of residences in the subdivision be built at an elevation of 24 inches above the curb rather than the 18 inch elevation they were built to as allowed for structures in a Zone B area. The Board accepted a Consent Order signed by Kurth for a Formal Reprimand and assessed him a \$1,500.00 administrative penalty.

**Earl F. McKinney, P.E.**, Lexington, Kentucky File D 1398 The California Board of Professional Engineers and Land Surveyors issued McKinney a Stipulated Settlement and Disciplinary Order for, among other things, affixing his California mechanical engineer seal to five electrical engineering drawings when McKinney was not licensed in California as an Electrical Engineer. Based upon the actions taken in California, McKinney's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by McKinney and his attorney for a Formal Reprimand and assessed McKinney a \$2,400.00 administrative penalty.

**Lawrence E. Miller, P.E.**, Friendswood, Texas File D 1433 It was alleged that on May 20, 2002, Miller signed and affixed his Texas engineer seal to a WPI 2 form that was submitted to the Texas Department of Insurance (TDI) certifying that the complete re-roofing project of a residence complied with ASCE 7 93 wind load codes. Because previous TDI inspections of the structure concluded that the roof failed to comply with the prescriptive provisions of the Texas Windstorm Insurance Association Building Code for Windstorm Resistant Construction, Miller was asked to submit additional information to TDI substantiating his certification. Although Miller attempted to respond to TDI's request, he failed to submit sufficient information to demonstrate that the completed project met the cited code requirements. Therefore, it appears the WPI 2 form was misleading which is contrary to generally accepted engineering standards and procedures. The Board accepted a Consent Order signed by Miller for a Formal Reprimand.

**Thomas Doyle Simmons, P.E.**, Missouri City, Texas File D 1424 The Arizona Board of Technical Registration issued Simmons a Letter of Reprimand, a one year probation and assessed him a \$885.00 administrative fine for his failure to provide adequate supervision over subordinate personnel on electrical plans for a public hospital project that did not meet technical knowledge or skill standards. Based upon the action taken in Arizona, Simmons's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by Simmons for a Formal Reprimand.

**Phillip Edward Thompson, P.E.**, Austin, Texas File D 1421 It was alleged that on January 20, 2003, Thompson signed his name and affixed his Texas engineer seal to a calculation sheet for a private project. Board records showed that Thompson's Texas engineer license expired on September 30, 2002, and was not renewed until February 10, 2003; therefore, it appears that Thompson affixed his Texas engineer seal to a document during a period when his Texas engineer license was in an

expired status. It was also alleged that the firm registration for Site Development Engineering, Inc., Thompson's firm, expired on July 31, 2002, and was not renewed until March 3, 2003; thus, Thompson provided consulting engineering services during a period when his firm's registration was not current. The Board accepted a Consent Order signed by Thompson for a one year probated suspension of his Texas engineer license contingent upon his payment of a \$1,500.00 administrative penalty.

**Richard Dean Zimmerman, P.E.**, Middleton, Wisconsin File D 1425 The Colorado Board of Registration for Professional Engineers and Professional Land Surveyors issued Zimmerman a Stipulation and Final Agency Order which required him to complete an engineering ethics course, comply with Colorado statutes, regulations and rules of conduct governing engineering practice and assessed him a \$750.00 penalty for failing to meet generally accepted standards of engineering on three residential foundation projects by relying on data provided to him by his clients. Based upon the action taken in Colorado, Zimmerman's Texas engineer license was also subject to censure; therefore, the Board accepted a Consent Order signed by Zimmerman to Refuse to Renew his Texas engineer license.

**Frank J. Call, Odessa, Texas File E 2851** It was alleged that Call identified himself as a professional engineer by using the designation "P.E." after his name in an opinion letter bearing his Texas address used for litigation purposes and on a statement of qualifications used in the same litigation. Board records showed that Call is not now nor has he ever been licensed in Texas as a professional engineer. Therefore, it appears that his use of the designation "P.E." after his name was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Call to cease and desist from using the designation "P.E." after his name or any and all representations that is a Texas licensed professional engineer until such time as he becomes duly licensed in Texas as a professional engineer. Call was also ordered to pay a \$100.00 administrative penalty.

**Kirk Clark, Houston, Texas File E 2853** It was alleged that Clark identified himself as a professional engineer by using the designation "P.E." after his name in letters bearing his Texas address sent to the Board. Board records showed that Clark is not now nor has he ever been licensed in Texas as a professional engineer. Therefore, it appears that his use of the designation "P.E." after his name was an unlawful representation that he was licensed in Texas as a professional engineer. The Board accepted a Consent Order signed by Clark to cease and desist from using the designation "P.E." after his name or any and all representations that he is a Texas licensed professional engineer until such time as he becomes duly licensed in Texas as a professional engineer. Clark was also ordered to pay a \$250.00 administrative penalty. ★

### Email Addresses Needed

**Email is the best method to contact license holders with pertinent information concerning rule changes, electronic newsletters and engineering updates. The Board currently maintains a listserve of over 990 addresses and maintains email information for license holders in the agency database.**

**Note: All email addresses are confidential and are not subject to open records requests. The emails will be strictly used for Board notifications.**

**Do we have your email address? Make sure to submit your email address with your next renewal statement or subscribe to the listserve today by going to <http://www.tbpe.state.tx.us/list.htm>.**

# What it Means to be an Engineer

Mr. Leo W. Ruth P.E. was a highly respected and active engineer who recently passed away. At the NCEES Awards Luncheon on April 15, 2003, his daughter, Aimie Van Meter, gave the following speech for an award presented posthumously. The Texas Board thought this inspiring message should be shared with its license holders and have reprinted this speech with the permission of Ms. Van Meter.



Leo W. Ruth, Jr., P.E.

When I was a little girl, I found out that my father was an engineer. “Hmm, Daddy is an engineer,” I thought to myself, “but I have no idea what that means.” I did know that he was not the railroad train driving kind of engineer but I didn’t know what being an engineer was or what it meant. At dinner times, our family did not sit and discuss Daddy’s professional life...so the only way to figure it out was to just watch my Dad.

And so, through my childhood years, I found out! Being an engineer meant you wore a big college ring; crisp shirts and bow ties; and that when you came home from work, you backed your car into the garage. I learned that, in the evenings, you could be found in the den, sitting at the big black and grey desk, looking at

**“I learned what it meant to be an engineer...it meant that you were a person of kindness, integrity, generosity, good character, intelligence, and friendliness.”**

lots of papers and something called blueprints. It meant you were a really good whistler that while you worked you whistled beautiful harmonies to the Mario Lanza record that played on your hi fi. You had a large pencil holder on your desk, filled with sharpened pencils and you had an incredibly cool plastic fluorescent orange triangle drawing measuring thing and several slide rules. It meant you had phone conversations with lots of people and you would end your conversations with the words, “Certainly. I’m happy to help.” I learned that being an engineer meant that you were a very kind, very intelligent and very well known person.

My brother Phil told me that he remembers going to the corner ARCO station to get gas. Dad had given him the gas card. “Leo Ruth,” said the gas station attendant, “is your father Leo Ruth?” “Yes,” answered teenaged Phil. “A fine, fine man,” said the attendant, “it’s an honor to know him.” Being an engineer meant that you were friends with Mayor Norm Mineta, and you served on lots of civic committees and professional and educational boards.

Being an engineer meant that the people you worked with were more than employees; they were family friends, and, for myself and some of my siblings, they were even our godparents. It meant that every summer our whole family got to go to the Ruth & Going company picnic eat BBQ chicken and have a chance to win an AM/FM radio in the egg toss contest.

Having our Dad be an engineer meant that some of our children were born in a hospital that he helped build; that we worshipped in churches the he helped build; that we and our children attended colleges and universities that he helped build and still worked with. We also came to understand that our Dad was concerned with protecting neighborhoods from over run sewage, and making sure that people could drink water that was clean.

And so I learned what it meant to be an engineer...it meant that you were a person of kindness, integrity, generosity, good character, intelligence, and friendliness.

Today, a Presidential Commendation is being given in my Dad’s name. His life and work are being commended by an organization that he deeply respected and loved. To commend means “to mention as worthy of regard, approval or praise...” and while that is so true of my Dad he would be greatly uncomfortable with the accolades. He would, instead, say all the credit and all the glory belong to God.

The word commend also means “to entrust.” And so, in closing, I want to entrust to you those things I learned in my childhood that make a great engineer...

Kindness, integrity, generosity, good character, intelligence, and friendliness.

On behalf of my sister Mary Anne, our six siblings and their spouses; on Dad’s 24 grandchildren and their spouses and his 12 great grandchildren...

I want to say “Thank you” to the members and the organization of the NCEES. We are deeply, deeply honored to accept this Presidential Commendation, acknowledging our father’s extraordinary and lasting contribution to the Council, the profession and the licensure community.

Thank you so very much God bless you. ★

## Board Seeking Experienced Policy Advisory Opinion References

The board is seeking licensed Professional Engineers with extensive public or private experience to serve as references for Policy Advisory Opinions on an as-needed basis. The board may need subject matter experts to review requests and provide information for specific Policy Advisory Opinions.

Qualified PE’s should forward a current detailed resume’ and any questions to the board. The resume’ should set forth relevant education, employment, and experience information, including specialized experience and training, and the area of interest (wastewater, airport construction, traffic control, etc.)

**Please send resumés and information to:  
Texas Board of Professional Engineers  
Policy Advisory Reference  
1917 IH-35 South, Austin, TX 78741**

## ***What You Need to Know about the Continuing Education Program (CEP)***

During the 78th legislative session (2003), SB277 was passed instructing the Texas Board of Professional Engineers to develop and implement a Continuing Education Program (CEP) adding Section 1001.210 to the Occupations Code. CEP credits are NOT required for 2004 renewals. However, CEP credits will be required in order to process your 2005 renewal.

You should collect your CEP credits all through 2004 to meet the 2005 renewal requirement. Your 2005 renewal statement will have reporting forms and instructions to report these credits.

The Board wants the reporting process to be as simple as possible. Starting with the 2005 renewals, there will be three things that a license holder needs to do:

- 1) Keep track of activities, dates, etc. on the logsheet provided by the Board. The intent of the continuing education program is for it to be self administered. TBPE does not plan on pre approving any courses, seminars, presentations, or other activities to meet the CEP requirement. The Board does not have a list of approved courses or activities. It would be very difficult to include every possible course, seminar, or activity available to a PE nationwide.

- 2) Keep some sort of paper proof of your activity. This can include a certificate of completion or attendance in a course or seminar, a grade report, a flyer or agenda from a presentation or meeting, or any other document that shows the date, location, duration, and type of activity you wish to claim.

- 3) Certify on your renewal statement that you have completed the CEP requirement. Please do not submit the full

sized log sheet with your renewal payment. Keep this document in the event that the Board decides to review your CEP activities.

In regard to the CEP and exemptions, there are several important things to note. The exemptions for the \$200 professional fee for renewals are NOT the same as exemptions from CEP requirements. ALL active engineers, regardless of industry exemption or age, must provide CEP hours for renewal. This means that even if you do not perform engineering for the public (exempt industry) or you are over 65 you must still provide 15 PDH per renewal period.

The only exemptions are listed below:

A license holder serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.

License holders experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.

License holders who list their status as "Inactive" and who further certify that they are no longer receiving any remuneration from providing professional engineering services shall be exempt from the professional development hours required.

New license holders by way of examination shall be exempt for their first renewal period.

For further information and updates regarding the CEP, please refer to our website at <http://www.tbpe.state.tx.us>. ★