

LOUISIANA STATE BOARD OF
ARCHITECTURAL EXAMINERS
9625 FENWAY AVENUE, SUITE B
BATON ROUGE, LOUISIANA 70809-1592
(225) 925-4802

RECEIVED

NOV 23 2020

By LSBAE Compliance

IN THE MATTER OF:)
CASE NO. 2019-20)
CLIFTON C. JAMES)
RESPONDENT)
_____)

CONSENT ORDER

The Louisiana State Board of Architectural Examiners [hereinafter the "Board"], by and through its Executive Director, pursuant to authorization by the Board, and Clifton C. James [hereinafter "Respondent"], hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as an architect, number 1527; however, his license was expired from January 1, 2017, to January 4, 2017; January 1, 2018, to March 22, 2018; January 1, 2019, to January 29, 2019, and January 1, 2020, to March 31, 2020.

Investigation and Findings

An investigation was opened based upon the Board's receipt of information and documents which suggested that Respondent may have committed various violations of the Board's laws and/or rules in connection with his practice of architecture in Louisiana. The investigation disclosed that in late 2018, Respondent sealed and issued a set of architectural design plans for a new multi-family residential project for Patrick Swilling [hereinafter "Swilling project"] in New Orleans, Louisiana, and in late 2018, Respondent sealed and issued a set of architectural designs plans for a renovation of an existing building for Abundant Life Adult Day Healthcare [hereinafter "Abundant Life project"] in New Orleans, Louisiana.

The investigation also disclosed that (a) the plans for both the Swilling project and the Abundant Life project were prepared outside of Respondent's office by an unlicensed person (Lisa M. Southern d/b/a/ Southern Custom Designs) who was not employed by Respondent; (b) Respondent did not exercise responsible charge over the preparation of the plans by Southern, and (c) the plans for both the Swilling project and the Abundant Life project were submitted to the State Fire Marshal's Office [hereinafter "OSFM"] on Southern Custom Designs title block only, neither set containing the title block of Respondent.

On or about January 14, 2017, Respondent submitted to the Board his Louisiana architect license renewal application for CY2017, certifying thereon that he had completed twelve (12) continuing education hours [hereinafter "CEH"] in Health, Safety and Welfare [hereinafter "HSW"] subjects during CY2016, such CEH required for the license period of January 1, 2017, to December 31, 2017. Having not renewed his license by December 31, 2017, Respondent's license was then in an expired status. On or about March 22, 2018, Respondent submitted to the Board his renewal application for CY2018, certifying thereon that he had

completed twelve (12) CEH during 2017, such CEH required for the license period of January 1, 2018, to December 31, 2018. Again, failing to renew his license by December 31, 2018, Respondent's license was then in an expired status. Respondent submitted to the Board his Louisiana architect license renewal application for CY2019 on January 29, 2019, certifying thereon that he had completed twelve (12) CEH during 2018, such CEH required for the license period of January 1, 2019, to December 31, 2019.

On October 17, 2019, the Board requested proof of Respondent's compliance with the continuing education [hereinafter "CE"] requirements of the Board for the periods January 1, 2016, through December 31, 2016; January 1, 2017, through December 31, 2017; and January 1, 2018, through December 31, 2018. In responding to this CE records request, Respondent admitted that he had failed to obtain the required CE credits.

Having failed again to renew his license by December 31, 2019, Respondent submitted to the Board his Louisiana architect license renewal application for 2020 on March 31, 2020, certifying thereon that he had completed twelve (12) CEH during CY2019, such CEH required for the license period of January 1, 2020, to December 31, 2020. On June 11, 2020, the Board requested proof of Respondent's compliance with the CE requirements of the Board during CY2019. In responding to this CE records request, Respondent produced evidence of twelve (12) CEH during CY2019, ten (10) of which were in HSW subjects, two (2) of which were not.

Violations

La. R.S. 37:152(B), La. R.S. 37:153(A)(2), and La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1313(A)(1)(a-e) prohibit licensees from affixing their seal or stamp or permitting it to be affixed to any specification, drawing, or other related document which was not prepared by them or under their responsible supervision.

If plans, specifications, or drawings are prepared outside the architect's office, LAC Title 46: I §1313(A)(1)(c) provides that the architect shall maintain evidence of his responsible supervision including time records, check prints, telephone logs, site visit logs, research done for the project, calculations, changes, and written agreements with any persons preparing the documents outside the architect's offices accepting professional responsibility for such work. Such plans, specifications, and drawings will be deemed to have been prepared either by the architect or under the architect's responsible supervision only when such evidence and the other criteria set forth in LAC Title 46: I §1313(A)(1)(a)-(e) are satisfied. Despite requests for any records showing Respondent's responsible supervision of the preparation of plans for the Abundant Life project, Respondent produced no records at all. For the Swilling project, despite requests for any records showing Respondent's responsible supervision of the preparation of plans, Respondent produced only a few drawings containing a few red-line mark-ups, and nothing more. Specifically, no time records, telephone records, site visit records, correspondence while the project was being designed and built, research,

calculations, agreements, or anything else for either project was produced. Respondent admitted that no monies were paid to or received by him for any of his work on either of these two projects.

La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1315(D)(2) and (3) require architect licensees to obtain a minimum of twelve (12) CEH in HSW subjects each calendar year. La. R.S. 37:153(A)(7) prohibits licensees from practicing any fraud, deceit, material misstatement, or perjury in applying for any renewal certificate.

La. R.S. 37:153 authorizes the Board to take disciplinary action against persons who violate La. R.S. 37:152(B); La. R.S. 37:153(A)(2); La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1313(A)(1)(a-e); La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1315(D)(2) and (3), and La. R.S. 37:153(A)(7), upon finding of guilt following notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:152(B), La. R.S. 37:153(A)(2), (6) and (7), and LAC Title 46: I §1313(A)(1)(a-e) and 1315(D)(2) and (3) were in effect at all times material hereto.

Findings of Fact

It is undisputed that (a) in late 2018, Respondent sealed and issued architectural plans for two (2) projects in Louisiana, (b) the plans were prepared by an unlicensed individual who was not employed by Respondent, (c) Respondent did not exercise responsible charge over the preparation of the plans by the unlicensed individual, (d) the plans were submitted to the OSFM on the unlicensed individual's title block only, (e) on or about January 14, 2017, Respondent submitted to the Board his Louisiana architect license renewal application for 2017, which certified that he had completed the Board's CE requirements for CY2016, such CE required for the 2017 renewal period, (f) on or about March 22, 2018, Respondent submitted to the Board his Louisiana architect license renewal application for 2018, which certified that he had completed the Board's CE requirements for CY2017, such CE required for the 2018 renewal period, (g) on or about January 29, 2019, Respondent submitted to the Board his Louisiana architect license renewal application for 2019, which certified that he had completed the Board's CE requirements for CY2018, such CE required for the 2019 renewal period, (h) Respondent failed to earn (and falsely stated that he had earned) the required CEH for the annual licensure renewal periods of January 1, 2017, to December 31, 2017; January 1, 2018, to December 31, 2018, and January 1, 2019, to December 31, 2019, (i) on or about March 31, 2020, Respondent submitted to the Board his Louisiana architect license renewal application for 2020, which certified that he had completed the Board's CE requirements for CY2019, such CE required for the 2020 renewal period, and (j) Respondent failed to earn 12 CEH in HSW subjects for the annual licensure renewal period of January 1, 2020, to December 31, 2020.

By letter dated October 2, 2020, the Board gave notice to Respondent that it was considering the prefferal of charges against him on the grounds that he may have violated (a) La. R.S. 37:152(B), La. R.S. 37:153(A)(2), and La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1313(A)(1)(a-e), relative to sealing,

stamping or permitting his seal to be affixed to any specification, drawing, or other related document which was not prepared either by the licensee or under his responsible charge, (b) La. R.S. 37:153(A)(6), *to wit* LAC Title 46: I §1315(D)(2) and (3), relative to the Board's CEH requirements, and (c) La. R.S. 37:153(A)(7) relative to fraud, deceit, material misstatement, or perjury in applying for a renewal certificate with the Board.

Resolution

Wishing to dispense with the need for further disciplinary action and to conclude the instant proceeding without further delay and expense, and for the purpose of this proceeding only, Respondent and the Board do hereby enter into this Consent Order, in which Respondent of his own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to

(a) the suspension of his Louisiana architect license for a period of one (1) year [hereinafter the "Suspension Period"];

(b) immediately cease and desist the practicing of and/or offering to practice architecture in Louisiana until the Suspension Period is over;

(c) return his Louisiana certificate of architectural licensure and any and all architectural seals to the Board;

(d) upon completion of the Suspension Period, he and his Louisiana architect license being placed on probation for a period of one (1) year [hereinafter the "Probation Period"];

(e) during the Probation Period, submit to the Board on a quarterly basis, a complete and detailed list of the projects on which he provided architectural services during the preceding quarter;

(f) submit to the Board, within five (5) business days of a Board request, all requested documents relating to any project listed on any of said quarterly lists of projects;

(g) during the Probation Period, the immediate suspension of his Louisiana architect license if he fails to comply with any portion of this Consent Order, with said suspension continuing until he so complies;

(h) pay a fine of six thousand seven hundred fifty and no/100 (\$6,750.00) dollars;

(i) pay administrative costs of two thousand one hundred ten and 41/100 (\$2,110.41) dollars;

(j) within sixty (60) days of the ratification of this Consent Order by the Board, earn 2 CEH in HSW and forward proof of earning such to the Board;

(k) publication of this Consent Order on the Board's website and a summary of this matter in the Board's official newsletter, *Louisiana Architect*, and the reporting of this matter to the National Council of Architectural Registration Boards (NCARB), all identifying Respondent by name.

Respondent admits that his conduct as set forth above constitutes violations of the above-referenced laws and/or rules as stated herein. Respondent acknowledges awareness of said laws and/or rules and states that he will comply with all applicable laws and rules henceforth. Respondent has been advised of his right to be represented by counsel before the Board and/or to appear at any hearing personally or by counsel and

present witnesses and evidence in his own behalf, he hereby waives this right and his right to appeal, and he states affirmatively that he has been afforded all administrative remedies due him under the law. Respondent further acknowledges awareness of the fact that the signed original of this Consent Order will remain in the custody of the Board as a public record and will be made available for public inspection and copying upon request.

Therefore, in consideration of the foregoing and by signing this Consent Order, Respondent does hereby waive his right to a hearing before the Board, to the presenting of evidence and witnesses in his behalf, to Findings of Fact and Conclusions of Law in this case, and to judicial review of this Consent Order.

Respondent hereby represents that (a) he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect; (b) he has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with him by any person whatsoever to cause the execution of this instrument, and (c) the sanctions set forth in this Consent Order do not prevent the Board from taking further disciplinary or enforcement action against Respondent on matters not specifically addressed in this Consent Order.

WHEREFORE, the Louisiana State Board of Architectural Examiners and Respondent agree that:

1. Respondent's Louisiana architect license, number 1527, shall be suspended for a period of one (1) year from the effective date of this Consent Order; and
2. Respondent shall immediately cease and desist from the practicing of and/or offering to practice architecture in Louisiana; and
3. Respondent shall return his Louisiana certificate of architectural licensure and any and all architectural seals to the Board within ten (10) business days of the effective date of this Consent Order; and
4. Upon completion of the Suspension Period, Respondent and his Louisiana architect license, number 1527, shall be placed on probation for a period of one (1) year; and
5. During the Probation Period, Respondent shall submit to the Board, on a quarterly basis, a complete and detailed list of projects of which he provided architectural services during the preceding quarter, including permits received and submittals to the SFMO and/or the local municipality permitting office; and
6. Respondent shall submit to the Board, within five (5) business days of a Board request, all requested documents relating to any project listed on any of the said quarterly lists of projects; and
7. During the Probation Period, Respondent and his Louisiana architects license, number 1527, shall be immediately suspended if he fails to comply with any portion of this Consent Order, with said suspension continuing until he so complies; and
8. Respondent shall pay a fine of six thousand seven hundred and fifty and no/100 (\$6,750.00) dollars, which shall be tendered to the Board by a certified check payable to the Treasurer, State of Louisiana, due upon the signing of this Consent Order; and

9. Respondent shall pay administrative costs of two thousand one hundred ten and 41/100 (\$2,110.41) dollars, which shall be tendered to the Board by a certified check payable to the Louisiana State Board of Architectural Examiners, due upon the signing of this Consent Order; and

10. Respondent shall, within sixty (60) days of the ratification of this Consent Order by the Board, earn two (2) HSW CEHs and forward proof of earning such to the Board; and

11. This Consent Order shall be published on the Board's website and a summary of this matter shall be printed in the official newsletter of the Board, *Louisiana Architect*, and reported to the National Council of Architectural Registration Boards (NCARB), all identifying Respondent by name; and

12. This Consent Order shall not become effective unless and until it is accepted and signed by and on behalf of the Board. Should the Board not accept and sign this Consent Order, it is agreed that presentation of this matter to the Board shall not prejudice the Board or any of its members, staff, attorneys or representatives from further participation, consideration, or resolution of any further proceedings herein.

LOUISIANA STATE BOARD OF
ARCHITECTURAL EXAMINERS

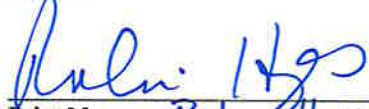
DATE: 12/11/2020

BY: 
KATHERINE E. BILLEGAS, Executive Director

DATE: 10.23.20

BY: 
CLIFTON C. JAMES, Respondent

Witnesses to the signature of
Clifton C. James


Print Name: Robin Hayes


Print Name: Clifton James Jr.