

Department of Commerce  
Professional Licensing and Regulation Division

**FILED** 11/08/01 (Date)

**IELSEB**

**BEFORE THE ENGINEERING AND LAND SURVEYING EXAMINING BOARD  
OF THE STATE OF IOWA**

  
Signature, Executive Officer

IN THE MATTER OF :	)	
	)	Case No. 01-01
Kevin Jon Burt,	)	<b>Settlement Agreement and Consent Order</b>
	)	
Respondent.	)	

The Iowa Engineering and Land Surveying Examining Board (Board) and Kevin Jon Burt (Respondent) enter into this Settlement Agreement and Consent Order (Order), pursuant to Iowa Code section 17A.10 (2001) and 193C IAC 4.10:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (2001).
2. Respondent became licensed as a professional engineer in Iowa, license number 14540, on October 15, 1998.
3. On July 30, 2001, the Board filed a Statement of Charges.
4. By entering into this Consent Order, Respondent does not admit the allegations of the Statement of Charges.
5. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights by freely and voluntarily entering into this Order. This Consent Order is the final agency order in the contested case.
6. Respondent agrees the State's counsel may present this Order to the Board and may have ex parte communications with the Board solely for the purpose of presenting the Order.
7. This Order shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations. In addition, the Board shall advise the National Council for Examiners of

Engineering and Surveying of the disposition of this matter.

8. This Order and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2001).

9. Failure to comply with the provisions of this Agreement shall be considered prima facie evidence of a violation of Iowa Code section 542B.21(3) (2001) and 193C IAC 4.2, and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (2001). However, no action may be taken against Respondent for violations of these provisions without a hearing as provided in Iowa Code section 542B.22, or waiver of hearing.

10. This Order is subject to approval of the Board. If the Board fails to approve this Order, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall fully dispose of all issues in this case.

**IT IS THEREFORE ORDERED:**

**A. Reprimand**

Respondent is reprimanded for practicing professional engineering in an inappropriate manner as specified in the Statement of Charges.

**B. Suspension**

Respondent agrees to voluntarily cease practicing professional engineering. Respondent's professional engineering license is accordingly suspended with his consent upon entry of this Order. Respondent shall notify his clients and verify such notification with the Board as provided in Rule 193 IAC 7.30(3).

**C. Reinstatement**

Respondent may apply to reinstate his license on or after six months following the date this Consent Order is signed by the Board, pursuant to Rule 193 IAC 7.38. In addition to the provisions of Rule 7.38, Respondent must, as a condition for the entry of an order reinstating Respondent's license, comply

with the following:

1. Provide proof of successful completion of the intermediate (40 tested professional development hours) course on engineering ethics and professionalism offered by correspondence by the Murdough Center for Engineering Professionalism, College of Engineering, Texas Tech University, or such substantially equivalent course as the Board may pre-approve.

2. Submit an affidavit in which Respondent states under penalty of perjury that he has not practiced professional engineering during the period of suspension and that he agrees in the future to comply with all laws and rules governing the practice of professional engineering in Iowa, and, in particular, the practice restrictions described in section D. Respondent would not be prohibited from engaging in activities which may lawfully be performed by unlicensed persons pursuant to Iowa Code chapter 542B and, in particular, section 542B.26.

**D. Practice Restrictions**

1. Respondent is indefinitely prohibited from engaging in the practice of structural engineering, including, but not limited to, the design and analysis of loads, moments, shears, deflections, and structural stability, relating to existing structures or new construction in which members of the public may assemble or gather, or otherwise be at risk in the event of structural failure.

2. Respondent may apply to the Board for permission to practice structural engineering in the role of an engineering intern, and not as an engineer in responsible charge, if his license is reinstated and he provides sufficient information from which the Board can determine that Respondent's work performance will be adequately supervised. The Board may establish reasonable conditions to assure such supervision, including pre-approving a tutelage arrangement in which Respondent's work will be strictly supervised by a licensed professional engineer pre-approved by the Board. The licensee supervising Respondent's work must provide quarterly written reports to the Board describing the nature and quality of the work performed by Respondent, and the nature of the guiding, restraining and mentoring control the licensee has exercised over all professional engineering matters embodied in such work. Respondent may not seal or certify any engineering documents, as defined in Iowa Code section 542B.2(2), while acting in the role of an engineering intern in the practice of structural engineering.

3. Following an internship, as deemed satisfactory to the Board, and upon the recommendation of Respondent's selected mentor, Respondent may apply to the Board to lift the practice restriction. As a pre-condition, Respondent must verify that he has passed the NCEES Structural I professional examination.

**E. Probation**

1. Respondent's license shall be placed on probation for a period of two (2) years from the date his license is reinstated.

2. Respondent shall submit written reports to the Board generally describing the nature of his engineering practice and stating, under penalty of perjury, that he is fully complying with all applicable laws, rules, and professional standards, and the terms of this Consent Order, including the practice restriction described in section D. Such written reports shall be filed not later than January 10, April 10, July 10, and October 10 of each year of Respondent's probation. Additionally, Respondent shall respond in writing within 20 calendar days of the Board's written request for specific information about his practice or reports.

3. If Respondent leaves Iowa to reside or practice in another state, Respondent shall notify the Board of the dates of departure and return. Periods of residence or practice outside the state of Iowa shall not apply to the period of probation.

4. Upon satisfactory completion of the probationary period, the Board shall release Respondent from probation. The practice restriction described in section D shall continue in full force unless released by its terms by the Board. In the event the Board receives credible evidence that Respondent is acting in violation of the terms of probation or more generally the terms of this Consent Order, the Board may initiate action to suspend or revoke Respondent's license or otherwise impose additional discipline.

**AGREED AND ACCEPTED:**

**The Respondent**

[Redacted Signature]

Kevin Jon Burt ✓

**The Iowa Engineering and Land  
Surveying Examining Board**

[Redacted Signature]

By: Randall R. Beavers, Chair [Redacted]

02 Nov 01  
Date

08 November 01  
Date



- d. failing to appropriately respond as serious design errors emerged during and after construction;
- e. performing outside his area of competence; and,
- f. approving or certifying engineering designs and documents which were harmful to the public life, health or property, and not in conformity with acceptable engineering standards.

### **Circumstances of Charges**

5. In January 2001, the Board received a complaint alleging that Respondent committed serious design errors while in responsible charge of the structural design of three facilities between 1998 and June, 2000.

6. The complaint, filed by five professional engineers, concerned the IMAX Theater in Cedar Rapids, Iowa, a school building in Brooklin, Iowa, and the Tuma Soccer Pavilion in Cedar Rapids, Iowa.

7. The complaint alleged with respect to all three structures that the safety of the public would have been at risk had other engineers not discovered and corrected the design errors.

8. The Board, in January 2001, retained an independent structural engineer to conduct a factual investigation and provide professional opinions to the Board.

9. The Board's retained expert submitted his report in June, 2001, concluding that the material allegations of the complaint were founded and that the Respondent is not competent to practice structural engineering in the capacity of a licensed professional engineer in responsible charge of structural engineering design and associated professional practice.

10. As more fully detailed in the consultant's report, Respondent made multiple design errors both directly and through faulty supervision, demonstrating intolerable deficiencies in technical skills and professional judgment, and performance well below the standard of care reasonably necessary to safeguard the public.

11. Serious design errors include:

a. failure to appropriately consider wind load in the design of a 30-foot tall cantilevered exterior wall which as initially designed could have collapsed, thereby endangering construction workers or the general public (theater);

b. failure to incorporate sufficient lateral bracing in the design of a major load bearing concrete masonry wall, which if constructed as initially designed, could have collapsed, thereby endangering building occupants (school); and,

c. failure to employ reasonable design calculations or theory in the design of roofing structures, columns and foundations systems, subjecting the structure to potential collapse under snow load conditions if uncorrected (pavilion).

12. Additional errors include over-stressed structural items, inaccurate or inadequate load calculations, failure to update calculations as design changes emerged, failure to properly check computer calculations, and failure to properly respond as errors were discovered. Respondent also failed to properly factor in additional equipment loads in the design of a school in Durant, Iowa, causing additional design work by another engineer to correct Respondent's error.

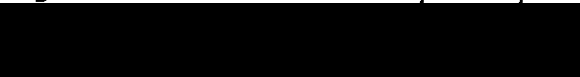
13. Respondent was licensed in Iowa as a civil engineer. While licensed civil engineers may legally practice structural engineering in Iowa, they must do so only as qualified by education and experience in the specific technical field of professional engineering involved.

14. Respondent has performed in areas in which he is apparently not qualified by education or experience, particularly when placed in responsible charge of structural engineering design.

15. Respondent no longer works for the engineering firm which discovered the errors described above. His current responsibilities are uncertain, but likely do involve the practice of professional engineering. Given the serious nature of the charges, this matter should be set for prompt hearing and continuances should not be granted absent very compelling circumstances.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it deems appropriate under the law.

Signed and dated this 30<sup>th</sup> day of July 2001

  
Gleean M. Coates, Executive Secretary

Iowa Engineering and Land Surveying Examining Board



**FINDING OF PROBABLE CAUSE**

On <sup>July 26, 2001</sup> ~~June 21, 2001~~ [REDACTED] the Iowa Engineering and Land Surveying Examining Board found probable cause to file this Statement of Charges and to order a hearing be set in this case.

[REDACTED]  
Randall R. Beavers, Chair [REDACTED]

cc: Engineering and Land Surveying Examining Board

Pamela Griebel, Assistant Attorney General

Department of Inspections and Appeals