

BEFORE THE ARCHITECTURAL EXAMINING BOARD
OF THE STATE OF IOWA

Department of Commerce
Professional Licensing Bureau
FILED July 27 2022 (Date)
Architectural
Board / Commission
Signature, Executive Officer

PHILLIP C. PECORD
Architect license 06800

IN RE: CASE NO. 22-01
DIA NO. 22PLBARCH0001

AutoZone Dept 8320
123 S. Front Street
Memphis, TN 38103,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

RESPONDENT

On March 15, 2022, the Architectural Examining Board of the State of Iowa (Board) found probable cause to file a Notice of Hearing and Statement of Charges against Phillip Pecord (Respondent). The Statement of Charges alleged that the Respondent: (1) repeatedly failed to report disciplinary action to the Board in violation of ICA 544A.13(i) and IAC 193B-4.1(5)(c) and 4.1(5)(d); and (2) provided erroneous information on his renewal application in violation of ICA 544A.13(c) and IAC 193B-2.9.

A prehearing conference was held on May 12, 2022. The hearing was held in-person on May 19, 2022 at 11:00 a.m. Assistant Attorney General Caroline Barrett represented the state of Iowa. The Respondent appeared pro se. The following Board members presided at the hearing: Scott Hatfield, Chairperson, architect member; Tandi Brannaman, architect member; Bobbi Jo Duneman, architect member; and Jerry Purdy, architect member. Administrative Law Judge Kathleen O'Neill assisted the Board in conducting the hearing. A certified court reporter recorded the proceedings. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1) (2022).

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The Board instructed the administrative law judge to draft Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes testimony of Respondent Phillip Pecord and State's Exhibits A-F. (See exhibit index for description).

FINDINGS OF FACT

1. The Respondent is licensed as an architect in Iowa (license 06800).
2. The Respondent has had a prior disciplinary sanction imposed against his license. (Ex. A). In June 2017, the Respondent applied for renewal of his license, and the disciplinary action followed this application:
 - a) As a part of the renewal application, the Respondent answered "no" to the question of whether there had been any disciplinary action against him since his last renewal. He also answered "no" as to whether there were any professional license investigations/disciplinary actions currently pending against him in any state. (Ex. A).
 - b) In March 2018, the Board received a letter from the National Council of Architectural Registration Boards (NCARB) informing the Board that the Mississippi State Board of Architecture had disciplined the Respondent. Upon reviewing the NCARB database, the Board learned the Alabama Board of Registration of Architects had also disciplined the Respondent. The Board found the Respondent failed to disclose this on his renewal application. (Ex. A).
 - c) On May 17, 2018, the Board approved a Statement of Charges and Consent Order for Case Number 18-04. The Respondent was charged with violating Iowa Code section 544A.25(2)(b), misstatement on an application. The Board reprimanded the Respondent for failing to disclose prior discipline and ordered him to obey all applicable Iowa laws and rules in the future. (Ex. A).
3. On November 21, 2018, the Board sent the Respondent a letter, informing him that upon review of case 18-21 and the NCARB database, Board staff found that in August 2018, the Respondent had been disciplined in New Mexico and failed to notify the Board within 30 days. The Board closed case 18-21 with a cautionary letter. However, any future instances of failing to notify the Board of discipline would be subject to discipline. The letter specifically warned the Respondent to disclose the New Mexico discipline on his next Iowa license renewal. (Ex. B).

4. On January 30, 2019, the Board sent the Respondent a certified letter, alerting him that the Board learned that he had additional disciplinary actions against his architecture license from the states of Colorado and South Dakota. The Board reminded the Respondent that he was required to contact the Board within 30 days of receiving discipline in another jurisdiction. The Board asked that the Respondent respond via certified letter to acknowledge receipt. Failure to respond within 30 days was grounds to initiate disciplinary action alleging a violation of 193 Iowa Administrative Code 4.1(8). (Ex. C).

- a) The Respondent emailed the Board on March 22, 2019, following a phone conversation with Lori SchraderBachar, Board Administrator. The Respondent explained that he received a complaint in Wisconsin and signed a consent order with Florida and South Carolina. These violations were based on a failure to report a Mississippi violation. (Ex. C).

5. On May 29, 2020, the Board sent the Respondent a letter, alerting him that NCARB notified the Board that he had been disciplined by state architecture boards of Kentucky, Missouri, and Colorado. The Respondent failed to contact the Board within 30 days of the final action of receiving discipline in another jurisdiction. In lieu of disciplinary action, the Board sent the letter as a warning that any future failure to disclose discipline in another state may result in new disciplinary action. The letter also warned that when the Respondent completed his Iowa license renewal, he would be asked about discipline in another state the preceding two years, and failure to answer "yes" may result in rejection of the renewal. (Ex. D).

6. The Respondent completed his Iowa license renewal application. Question 3.4 stated: "[s]ince your last renewal, have you been subject to disciplinary action of any type by any state board or similar licensing body (including Iowa), a government agency before which you practiced, or any professional organization of which you are a member?" (Ex. E).

- a) The Respondent answered "yes" and commented, "I have been disciplined by Iowa and other states for not reporting disciplinary action taken by State of Mississippi in 2017. To date, the pending actions are from MO and SD." (Ex. E).

7. Question 3.8 stated: "[a]re there any professional license investigations/disciplinary actions currently pending against you in any state, including Iowa?"

- a) The Respondent answered “yes” and commented, “as noted above, pending action in SD, probation ending in MO in July.

8. The Respondent failed to disclose that he was under investigation in New Mexico. He later signed a settlement agreement with the Board of Examiners for Architects for the State of New Mexico for case 2020_02, which was accepted on June 21, 2021. (Ex. F).

9. The Board charged the Respondent with (1) repeatedly failing to report disciplinary action to the Board in violation of ICA 544A.13(i) and IAC 193B-4.1(5)(c) and 4.1(5)(d); and (2) providing erroneous information on his renewal application in violation of ICA 544A.13(c) and IAC 193B-2.9.

10. At hearing, Respondent Phillip Pecord explained that this all stemmed from a single case in Mississippi. After an initial consent agreement, the Respondent failed to notify all associated states and pay all fines. He had been trying to review various states’ renewal requirements and clean up the last pieces of associated cases. He had not realized how many times the Board had sent him warning letters, but appreciated the reminders. (Pecord testimony).

11. The Respondent had not worked in Iowa since 2018, and felt that he had done nothing to harm the public. He had been abiding by his continuing education requirements and had done everything he could recall to keep his license intact. He agreed that he had been disciplined in states that he failed to mention on his renewal application, explaining that he was licensed in over 20 jurisdictions, which involved significant paperwork and different requirements from each state. He faced one difficult situation and then it cascaded; he had not willfully ignored the requirements. (Pecord testimony).

CONCLUSIONS OF LAW

The practice of architecture affects the public health, safety, and welfare and is subject to regulation and control in the public interest. Only persons qualified by the laws of the state are authorized to engage in the practice of architecture in the state.¹

Iowa Code section 544A.13 provides, in relevant part:

¹ Iowa Code (ICA) section 544A.1 (2022).

1. A license to practice architecture may be revoked or suspended when the licensee is guilty of the following acts or offenses:

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

i. Willful or repeated violations of one or more rules of conduct adopted by the board.

Willful or Repeated Violations

By rule, an architect shall comply with the licensing laws and regulations governing the architect's professional practice in any United States jurisdiction.² A licensee is required to report to the board in writing any revocation, suspension, or other disciplinary action taken by a licensing authority in any other state or jurisdiction within 30 days of the final action.³

The Respondent entered into a consent order with the Board in May 2018, for failing to disclose a discipline action against his architecture license from the state of Mississippi, and later Alabama. In this order, the Respondent agreed to obey all applicable Iowa laws and rules. The consent order warned that failure to comply with the provisions of the order may be grounds for further disciplinary action. Following this consent order, the Respondent continually disregarded the requirement to report discipline to the Board. In November 2018, the Board issued the Respondent a cautionary letter based on his failure to disclose disciplinary action against his license in the state of New Mexico. In January 2019, the Board sent the Respondent a reminder letter after he failed to disclose disciplinary actions against his architecture license from the states of Colorado and South Dakota. In May 2020, the Board issued the Respondent a warning letter after he failed to disclose discipline in the states of Kentucky, Missouri, and Colorado.

The preponderance of the evidence established that the Respondent repeatedly violated the Board's rules when he failed to disclose discipline by state architecture boards in other states within 30 days of the final action.

² 193B Iowa Administrative Code (IAC) 4.1(5)(c).

³ 193B IAC 4.1(5)(d).

Untrue or Fraudulent Representations

When the Respondent applied for renewal of his architecture license, the application required that he provide a list of any professional license investigations/disciplinary actions currently pending, and he failed to do so. The Respondent admitted to a pending action in South Dakota and Missouri, but failed to disclose that he was under investigation in state of New Mexico.

The requirement for disclosure is far from onerous. The Respondent is a licensed professional with an expectation to manage the requirements of his licenses. The Respondent's failure involves more than procrastination and lack of attention to detail. He has demonstrated a pattern of disregard for the Board and for his legal obligations as a licensed architect in the state of Iowa. As noted above, three times the Board reminded the Respondent of his previous discipline and the requirement to report any future discipline, and he failed to heed those warnings or change his behavior. Even at hearing, the Respondent listed additional states from which he received discipline, beyond those listed in the record of evidence.

The Board and its staff have been forced to commit an inordinate amount of time and effort to enforce the consent order and regulate the licensing laws and regulations of the state of Iowa. It was the Respondent's responsibility to timely inform the Board of any new discipline and he failed to do so. The preponderance of the evidence established that the Respondent knowingly made misleading representations when he provided erroneous information on his license renewal application.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Iowa architect license number 06800, issued to Phillip C. Pecord, is hereby SUSPENDED for thirty (30) days, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that pursuant to 193B IAC 6.6(4), the Respondent shall pay a civil penalty of \$750.00.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing. If the Board issues a separate order assessing additional costs or expenses, the Respondent shall promptly comply with the terms of that order.

Dated this ²⁷th day of July, 2022.

SCOTT HATFIELD

Scott Hatfield, Chairperson
Architectural Examining Board

cc: Respondent – Phillip C. Pecord [CERTIFIED]
Assistant Attorney General – Caroline Barrett

Judicial review of the Board's action may be sought in accordance with the Iowa administrative procedure act, from and after the date of the Board's order. If a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the Board's final decision. 193 IAC 7.37.

Department of Commerce
Professional Licensing Bureau
FILED 3.15.22 (Date)
Architecture
Board / Commission
Signature, Executive Officer

**BEFORE THE ARCHITECTURAL EXAMINING BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF:)	Case No. 22-01
)	
Phillip C. Pecord)	
Architect license 06800)	NOTICE OF HEARING AND
)	STATEMENT OF CHARGES IN A
AutoZone Dept. 8320)	DISCIPLINARY CASE
123 S. Front Street)	
Memphis, TN 38103)	
)	
Respondent.)	

The Iowa Architectural Examining Board (Board) issues this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 272C.6, 544A.13, and 544A.29 (2022), and Iowa Administrative Code chapters 193—7 and 193B—6. Licenses issued by the Board are subject to the laws of the state of Iowa and to the administrative rules of the Board.

The Board issued Phillip C. Pecord (Repondsent) architect license number 06800 on July 2, 2013. Respondent’s license is active and in full force and effect through June 30, 2023.

NOTICE OF HEARING

1. **HEARING.** A disciplinary contested case hearing concerning the below-stated disciplinary charges before the Iowa Architectural Examining Board on the **19th day of May, 2022 at 11:00 a.m.** at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309 either in person or virtually.

2. **ACKNOWLEDGMENT.** The Board requests that you file a statement to acknowledge receipt of the notice of hearing within 10 days of the date you are served with this Notice.

3. **ANSWER.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in Iowa Administrative Code rule 193—7.9.

4. **PREHEARING CONFERENCE.** A prehearing conference will be held by telephone on the **12th day of May, 2022 at 11:00 a.m.** before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (“ALJ”). You are responsible for notifying the Board office of the telephone number at which you or your counsel can be reached. Board rules on prehearing conferences may be found at Iowa Administrative Code rule 193—7.21.

5. **PRESIDING OFFICER.** The full Board shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and Iowa Administrative Code rule 193—7.10(1). The Board may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in Iowa Administrative Code rule 193—7.10(4).

6. **HEARING PROCEDURES.** Board rules on hearing procedures may be found at Iowa Administrative Code chapter 193—7. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally and be represented by counsel at your own expense. Consult rule Iowa Administrative Code 193—7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

7. **DEFAULT.** If you fail to appear at hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and Iowa Administrative Code 193—7.27.

8. **STATE'S COUNSEL.** Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Commission, with copies mailed to:

Caroline Barrett
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Phone: 515-281-6839
Email: caroline.barrett@ag.iowa.gov

9. **SETTLEMENT.** The procedural rules governing the Board's settlement process are found at Iowa Administrative Code 193—7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General Caroline Barrett.

10. **COMMUNICATIONS.** You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General Caroline Barrett at 515-281-6839, or the Boards Executive Officer at 515-725-9030.

11. **ADA NOTICE.** If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call or e-mail the Board's Executive Officer at

515-725-9030. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.

STATEMENT OF CHARGES

COUNT I

12. The Respondent is charged with repeatedly failing to report disciplinary action to the Board in violation of Iowa Code section 544A.13(i) and Iowa Administrative Code rule 193B—4.1(5)(c) and 4.1(5)(d).

COUNT II

13. The Respondent is charged with providing erroneous information on his renewal application in violation of Iowa Code section 544A.13(c) and Iowa Administrative Code rule 193B—2.9.

CIRCUMSTANCES

14. Respondent entered into a consent order with the Board on May 17, 2018, for failing to disclose discipline from the Mississippi State Board of Architecture Alabama Board for Registration of Architects on this 2017 license renewal and providing erroneous information on his application, which is a violation of Iowa Code section 544A.25(2)(b). As part of the consent order, Respondent was ordered to obey all applicable Iowa laws and rules in the future.

15. Respondent was disciplined by the New Mexico Board of Examiners for Architects - Case 2018-09 but did not notify the Iowa Board within 30 days per Iowa Administrative Code 193B—4.1(5)d. At the November 15, 2018 Iowa Board meeting, the Board closed the complaint case with a letter, directing the respondent of his duty to notify the Board regarding discipline in other jurisdictions.

16. On January 30, 2019, the Respondent was sent a certified letter alerting him the Board was aware of the additional disciplinary actions from the Colorado Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors - Case 2017-4545 and the South Carolina Board of Architectural Examiners - Case 2018-7 and his failure to notify the Iowa Board within 30 days per Iowa Administrative Code 193B—4.1(5)d. The letter was delivered and signed for on February 4, 2019.


17. Respondent was disciplined by Kentucky Board of Architects and Certified Interior Designers - Case 19-015; Missouri - Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects - Probation Violation in Case 2018-000798; and Colorado Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors - Case 2020-1455 but did not notify the Iowa Board within 30 days per Iowa Administrative Code 193B—4.1(5)d. At the May 21, 2020 Iowa Board meeting, the Board closed the complaint case with a letter, again directing the respondent of his duty to notify the Board regarding discipline in other jurisdictions.

18. Respondent was under investigation by the New Mexico Board of Examiners for Architects and did not disclose the investigation on his 2021 renewal application. Respondent answered "Yes" to the question "Are there any professional license investigations/disciplinary actions currently pending against you in any state, including Iowa? Comments: "as noted above, pending action in SD, probation ending in MO in July. Respondent did not disclose the New Mexico investigation.

19. Respondent was disciplined by the New Mexico Board of Examiners for Architects - Case 2018-09 but did not notify the Iowa Board within 30 days per Iowa Administrative Code 193B—4.1(5)d.

20. The Board found Probable Cause to issue this Notice of Hearing and Statement of Charges on January 20, 2022.

This Notice of Hearing and Statement of Charges is Filed and Issued on 15 day of March, 2022.



Lori M. SchraderBachar, Board Executive
Iowa Architectural Examining Board

Copies to:
Assistant Attorney General Caroline Barrett
Department of Inspections and Appeals, assigned Administrative Law Judge