

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 Brookline Avenue, Suite 123
Baton Rouge, Louisiana 70809**

IN THE MATTER OF DESMOND C. SPRAWLS, P.E., P.L.S.

CASE NO. 2013-66

FINAL DECISION AND ORDER

The Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order were issued and forwarded to Desmond C. Sprawls, P.E., P.L.S., to Mr. Sprawls' attorney (John M. Madison, Jr.), and to the prosecuting attorney (Celia R. Cangelosi) on July 1, 2014. Mr. Madison subsequently submitted several requested changes to the Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order, and Ms. Cangelosi responded to Mr. Madison's requests. After due consideration of the above,

IT IS ORDERED, ADJUDGED AND DECREED THAT:

1.

The Final Findings of Fact and Conclusions of Law are adopted as final in this case, and the same is incorporated herein by reference as if set forth *in extenso*.

2.

The charges against Mr. Sprawls for gross misconduct under La. R.S. 37:698(A)(2) and for violations of La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(A) and (B) are sustained. The violations of La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(A) and (B), constitute "gross misconduct".

3.

Mr. Sprawls is assessed a fine in the amount of One Thousand and No/100 (\$1,000.00) Dollars, which shall be paid to LAPELS by certified check within ten (10) days of the issuance of this Final Decision and Order.

4.

Mr. Sprawls is assessed the actual costs incurred by LAPELS in connection with this case through the date of the hearing in the amount of Six Thousand Seven Hundred Sixty-Four and

90/100 (\$6,764.90) Dollars, which shall be paid to LAPELS by certified check within ten (10) days of the issuance of this Final Decision and Order.

5.

Mr. Sprawls shall avoid all conflicts of interest in the practice of engineering and land surveying, including any participation in or involvement with any project or other matter as a member or representative of a governmental agency when Mr. Sprawls and/or his employer participated in or was involved with the same project or matter on behalf of themselves or a client.

6.

The Final Findings of Fact and Conclusions of Law and this Final Decision and Order shall be published on LAPELS' website and a summary of this case shall be printed in the official journal of LAPELS, the *Louisiana Engineer and Surveyor Journal*, identifying Mr. Sprawls by name.

7.

The vote of LAPELS was unanimous.

THUS DONE at Baton Rouge, Louisiana, as of the 21st day of July, 2014.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

By: 
M. ERNEST GAMMON, SR., P.L.S., Chairman

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 Brookline Avenue, Suite 123
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IN THE MATTER OF DESMOND C. SPRAWLS, P.E., P.L.S.

CASE NO. 2013-66

PRESENT AT THE HEARING:

Board Members:

M. Ernest Gammon, Sr., P.L.S., Chairman
Theodore H. Thompson, P.E.
Ali M. Mustapha, P.E.
Kevin E. Crosby, P.E., P.L.S.
Paul N. Hale, Jr., Ph.D., P.E.
D. Scott Phillips, P.E., P.L.S.

Also Present:

Donna D. Sentell, Board Executive Director
Tyson Ducote, Board Investigator
Jeff Morgan, Board Investigator
D. Scott Landry, Board Counsel
Celia R. Cangelosi, Prosecuting Attorney
Desmond C. Sprawls, P.E., P.L.S., Respondent
John M. Madison, Jr., Attorney for Desmond C. Sprawls, P.E., P.L.S., Respondent
John M. Madison, III, Attorney for Desmond C. Sprawls, P.E., P.L.S., Respondent
Ann Forte Trappey, P.E., Representative of BBC Engineering, Inc.,
a Division of Forte and Tablada, Inc., Respondent
Jack K. Whitehead, Jr., Attorney for BBC Engineering, Inc.,
a Division of Forte and Tablada, Inc., Respondent
John T. Irving, P.E., Board Complaint Review Committee Member
Christopher P. Knotts, P.E., Board Complaint Review Committee Member
David L. Patterson, P.L.S., Board Complaint Review Committee Member
Alan D. Krouse, P.E., Board Member
Richard L. Savoie, P.E., Emeritus Board Member
Joe H. Harman, P.E., Board Technical Advisor

FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came on for hearing in Baton Rouge, Louisiana on May 19, 2014 at 1:36 p.m. After hearing the arguments of counsel and upon due consideration of the testimony and other evidence presented, the Louisiana Professional Engineering and Land Surveying Board (“LAPELS”) makes the following Final Findings of Fact and Conclusions of Law.

FINAL FINDINGS OF FACT

1.

At all times material hereto, Desmond C. Sprawls, P.E., P.L.S. was licensed in the State of Louisiana with LAPELS as a professional engineer, number PE – 15665, and as a professional land surveyor, number PLS – 4382. See Hearing Transcript, p. 40-41 and 116; LAPELS Exhibits 8, 10 and 23.

2.

At all times material hereto, BBC Engineering, Inc., a Division of Forte and Tablada, Inc. (“BBC”), was licensed in the State of Louisiana with LAPELS as a professional engineering firm, number EF – 1115, and as a professional land surveying firm, number VF – 180. See Hearing Transcript, p. 41, 116-117 and 196-197; LAPELS Exhibit 8 and 10.

3.

At all times material hereto, Mr. Sprawls was an officer, employee and supervising professional of BBC. See Hearing Transcript, p. 43, 45, 49, 113-115, 117, 171 and 197; LAPELS Exhibits 1-3, 7-10 and 23; Sprawls Exhibit 1.

4.

From 1987 to March 20, 2013, Mr. Sprawls served as an appointed member of the Shreveport Metropolitan Planning Commission of Caddo Parish (“SMPC”), including serving as its Vice Chairman during 2012 and 2013. See Hearing Transcript, p. 43, 45, 48-49, 53, 89-91, 113-115, 118-120, 134-135, 143-145, 172-173 and 178; LAPELS Exhibits 1-3, 14-18 and 25-26; Sprawls Exhibits 1 and 10.

5.

In 2012, Mr. Sprawls and BBC prepared a site development plan and a related rezoning application for an office park on Ellerbe Road in Little Mike Subdivision in Shreveport, Louisiana for their client, Arnold Castellano, Jr. See Hearing Transcript, p. 43, 45, 50-52, 72-74, 75-82, 83-85, 89-91, 113-115, 123-125, 134-135, 145-148, 201-202 and 211; LAPELS Exhibits 1, 5, 7, 12-14 and 19; Sprawls Exhibit 10.

6.

On October 31, 2012, Mr. Sprawls and BBC billed Mr. Castellano for the services rendered in the amount of \$1,465. The invoice described their work as follows:

For professional services rendered to date in providing courthouse research and preparation of site plan and rezoning application for a potential office park on Ellerbe Road in Little Mike Subdivision.

Payment in full was received by Mr. Sprawls and BBC on November 12, 2012. (However, the payment was later refunded to Mr. Castellano on or about January 27, 2014). See Hearing Transcript, p. 75-79, 83-85, 89-81, 113-115, 128, 134-135, 146-148, 151-152, 156, 159, 171, 201-202 and 218; LAPELS Exhibits 7, 12-14 and 23; Sprawls Exhibits 2 and 10.

7.

In 2012, Mr. Castellano submitted the site development plan and rezoning application to the SMPC for approval. They were considered by the SMPC during public hearings on three separate occasions: December 5, 2012, January 2, 2013 and February 6, 2013. See Hearing Transcript, p. 43, 45, 50-69, 72-74, 80-85, 89-91, 113-115, 134-135, 150-156, 173-176, 179-180, 183-184 and 186-188; LAPELS Exhibits 1-2, 5, 7, 14, 16-19 and 25-26; Sprawls Exhibits 1 and 10.

8.

In order to avoid the appearance of a conflict of interest caused by his work for Mr. Castellano and the matter then pending before the SMPC, Mr. Sprawls purposefully did not attend the SMPC meetings on December 5, 2012 and January 2, 2013 when the rezoning application was considered and approval was recommended by the SMPC (subject to compliance with certain stipulations). See Hearing Transcript, p. 43, 45, 50-69, 83-85, 113-115, 149-156, 173-176, 179-180, 183-184 and 186-188; LAPELS Exhibits 1- 2, 7, 16-17 and 23; Sprawls Exhibit 1.

9.

However, Mr. Sprawls did attend and participate in the SMPC's February 6, 2013 public hearing, at which time he voted to approve Mr. Castellano's site development plan (subject to compliance with certain stipulations). This vote by the SMPC was necessary in order to effectuate the SMPC's recommendation of approval of the rezoning application. At no time prior

to or during the February 6, 2013 hearing did Mr. Sprawls inform the other members of the SMPC or the public that he and BBC had prepared the site development plan and rezoning application for Mr. Castellano. Mr. Sprawls and BBC now admit that Mr. Sprawls had a conflict of interest with regard to Mr. Castellano's site development plan and rezoning application and, therefore, he should not (as a member of the SMPC) have participated in the discussion or voted in connection with those matters during the February 6, 2013 hearing. See Hearing Transcript, p. 43, 45, 50-69, 83-85, 113-115, 133, 150-156, 173-176, 179-180, 182-184, 186-188, 199, 202 and 218-219; LAPELS Exhibits 1-2, 7, 18, 25-26; Sprawls Exhibit 1.

10.

Mr. Sprawls and BBC admit that the February 6, 2013 vote was only one of "numerous instances" in which they have assisted clients in the preparation of applications to the SMPC for rezoning and site approval while Mr. Sprawls served on the SMPC and participated in the consideration of those applications. See Hearing Transcript, p. 49-50, 113-115 and 176; LAPELS Exhibits 2 and 3; Sprawls Exhibit 1.

11.

BBC claims it was unaware that Mr. Sprawls was not recusing himself from voting on issues presented to the SMPC which could have presented a conflict of interest, such as in the present case where Mr. Sprawls assisted Mr. Castellano in the preparation of applications to the SMPC for rezoning and site approval and then participated in the consideration of those applications and voted to approve them as a member of the SMPC. See Hearing Transcript, p. 89-91, 211 and 218-219; LAPELS Exhibits 3 and 15.

12.

On approximately March 20, 2013, LAPELS received letters from Mr. Sprawls and BBC self-reporting allegations from Byron E. Trust that in 2013 Mr. Sprawls had a conflict of interest in connection with Mr. Castellano's site development plan and rezoning application and Mr. Sprawls' participation and vote during the SMPC's February 6, 2013 public hearing. The letters stated that Mr. Sprawls and BBC had also reported the matters to the Louisiana Board of Ethics. See Hearing Transcript, p. 47-52, 69-70, 113-115, 127-128, 197-201 and 216-218; LAPELS Exhibits 2-3 and 23-24; Sprawls Exhibit 1.

13.

In April 8, 2013, LAPELS received a sworn Affidavit of Complaint and documents from Byron E. Trust which alleged that in 2013 Mr. Sprawls engaged in conduct which violated LAPELS' rules on conflicts of interest in the practice of engineering or land surveying in Louisiana. The conduct referenced by Mr. Trust related to Mr. Castellano's site development plan and rezoning application and Mr. Sprawls' participation and vote during the SMPC's February 6, 2013 public hearing. See Hearing Transcript, p. 43-47; LAPELS Exhibit 1.

14.

On January 31, 2014, LAPELS staff sent a letter to Mr. Sprawls (and his attorney) by certified mail (return receipt requested) advising him that a complaint review committee of LAPELS was considering preferring charges against him involving possible violations of (a) La. R.S. 37:698(A)(2), which prohibits licensees from committing any material misrepresentation or gross misconduct in the practice of engineering or land surveying in Louisiana, (b) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(A), which requires licensees to act in professional matters for each employer or client as faithful agents or trustees and to avoid conflicts of interest in Louisiana and (c) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(B), which requires licensees to disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services. The complaint review committee also attempted to resolve the matter informally, by including with the letter a proposed Consent Order and a notification to Mr. Sprawls of his right to request an informal conference. The letter and proposed Consent Order were received by Mr. Sprawls on February 11, 2014 and by his attorney on February 3, 2014. See Hearing Transcript, p. 82-83; LAPELS Exhibit 6.

15.

Mr. Sprawls subsequently declined the complaint review committee's offer of an informal conference and the parties were unable to resolve the matter through a Consent Order or otherwise. See Hearing Transcript, p. 86-87; LAPELS Exhibits 7-9.

16.

On March 31, 2014, pursuant to La. R.S. 37:698(D)(2), by a unanimous vote the complaint review committee preferred charges against Mr. Sprawls, involving alleged violations of La. R.S. 37:698(A)(2) (which prohibits licensees from committing any material misrepresentation or gross misconduct in the practice of engineering or land surveying in Louisiana), La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(A) (which requires licensees to act in professional matters for each employer or client as faithful agents or trustees and to avoid conflicts of interest in Louisiana) and La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(B) (which requires licensees to disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services). The complaint review committee also directed that a disciplinary hearing be set to consider the charges against Mr. Sprawls on May 19, 2014 at 1:30 p.m. at the LAPELS office. A copy of the Notice of Charges and Hearing was sent to Mr. Sprawls by certified mail (return receipt requested) and his attorney on April 4, 2014. The letter and Notice of Charges and Hearing were received by Mr. Sprawls on April 8, 2014. See Hearing Transcript, p. 87-89; LAPELS Exhibit 10.

17.

Mr. Sprawls subsequently submitted a response to the Notice of Charges and Hearing, in which he admitted all of the factual allegations in the Notice of Charges and Hearing and claimed that his actions amounted to an inadvertent apparent conflict of interest. See Hearing Transcript, p. 94; LAPELS Exhibit 23.

18.

The actual costs incurred by LAPELS in connection with this case through May 16, 2014 (which is prior to the date of the hearing) amounted to \$5,227.40. See Hearing Transcript, p. 91-94; LAPELS Exhibits 21 and 22.

19.

The actual costs incurred by LAPELS in connection with this case from May 17, 2014 through the date of the hearing amounted to \$1,537.50.

FINAL CONCLUSIONS OF LAW

1.

LAPELS has jurisdiction over these matters because (a) Mr. Sprawls is licensed by LAPELS as a professional engineer and as a professional land surveyor, (b) Mr. Sprawls and BBC have maintained offices and conducted business in Louisiana and (c) all of the conduct described above occurred in Louisiana.

2.

La. R.S. 37:698 has at all relevant times provided, in pertinent part, as follows:

§698. Disciplinary proceedings against licensees and certificate holders; procedure

A. The board shall have the power to take disciplinary action against any licensee or certificate holder found by the board to be guilty of any of the following acts or offenses:

. . . .

(2) Any . . . material misrepresentation . . . or gross misconduct in the practice of engineering or land surveying.

. . . .

(6) Violation of any provision of this Chapter or any rules or regulations adopted and promulgated by the board.

. . . .

3.

LAC Title 46:LXI§105 has at all relevant times provided, in pertinent part, as follows:

Chapter 1. General Provisions

§105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

. . . .

Fraud, Deceit, or Misrepresentation—intentional deception to secure gain, through attempts to deliberately conceal, mislead, or misrepresent the truth with the intent to have others take some action relying thereupon, or any act which provides incorrect, false, or misleading information, upon which others might rely.

. . . .

Gross Misconduct—as used in R.S. 37:698(A)(2), shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes any omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the professions of engineering or land surveying. Gross misconduct as used herein shall also include any act or practice in violation of the board's rules of professional conduct or use of seals.

. . . .

4.

LAC Title 46:LXI§2507 has at all relevant times provided, in pertinent part, as follows:

Chapter 25. Professional Conduct

§2507. Conflicts of Interest

A. Licensees shall further act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

B. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services.

. . . .

5.

Louisiana law gives LAPELS authority to take disciplinary action against Mr. Sprawls based on the facts in this case.

6.

Pursuant to La. R.S. 37:698(A), (B) and (J), the disciplinary action which LAPELS can take against any person found by LAPELS to be guilty of any of the acts or offenses listed in La. R.S. 37:698 includes, but is not limited to, reprimand, probation, suspension, revocation, fine (in an amount not to exceed \$5,000 per violation) and all reasonable costs.

7.

By virtue of (a) Mr. Sprawls' preparation of Mr. Castellano's site development plan and rezoning application, (b) his (and BBC's) billing to and receiving payment from Mr. Castellano for those services, (c) his participation (as a member of the SMPC) in the consideration Mr. Castellano's site development plan during the SMPC's February 6, 2013 public hearing, (d) his voting (as a member of the SMPC) to approve Mr. Castellano's site development plan during the hearing and (e) his failure to inform the other members of the SMPC, the public or BBC prior to

or during the hearing that he had prepared the site development plan and rezoning application for Mr. Castellano, Mr. Sprawls committed gross misconduct and failed to avoid and properly disclose a known or potential conflict of interest in connection with the practice of engineering in Louisiana in violation of La. R.S. 37:698(A)(2) and La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2507(A) and (B).

8.

A Final Decision and Order will issue this date assessing appropriate disciplinary action against Mr. Sprawls.

THUS DONE at Baton Rouge, Louisiana, as of the 21st day of July, 2014.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

By: 
M. ERNEST GAMMON, SR., P.L.S., Chairman