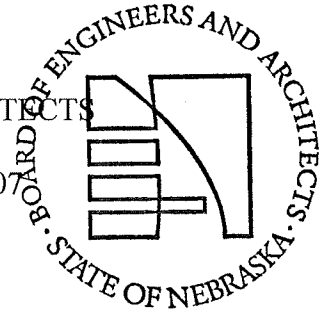


BEFORE THE NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS



IN THE MATTER OF:)
NEBRASKA BOARD OF ENGINEERS)
AND ARCHITECTS,)
)
Complainant,)
)
v.)
)
TOBIAS S. GAY,)
)
Respondent.)

CASE NO.: 24.07

**ORDER OF
DISCIPLINARY ACTION**

This matter comes on for hearing on May 17, 2024. Testimony was heard and evidence was received. Based on the testimony and evidence received, the Nebraska Board of Engineers and Architects (the “Board”) finds and rules as follows:

The Parties

1. Respondent, Tobias S. Gay (“Gay”) is an individual who is a licensed professional engineer (E-9749) and a licensed architect (A-2159) in the State of Nebraska.
2. The Board of Engineers and Architects was created to administer the Engineers and Architects Regulation Act, Neb. Rev. Stat. §§81-3401 to 81-3455.

The Hearing

- 3 On or about October 2, 2023, Respondent submitted an online request for renewal of his architectural license and payment of the biennial fee.
- 4 Pursuant to the renewal application, Respondent answered questions regarding the status of his license to practice architecture, the existence of any disciplinary actions, criminal complaints or civil actions and confirmed that Respondent had “satisfied the mandatory continuing education requirements.”

5. Pursuant to Neb. Admin. Code Title 110 9.7.1 Respondent's license renewal was randomly selected for a continuing education audit, which required Respondent to submit a Continuing Education Log ("CE Log") and attendance verification detailing the continuing education Respondent completed during the required timeframe.

6. Notice of the Continuing Education Audit was provided to Respondent on February 1, 2024.

7. On March 22, 2024, a Petition for Disciplinary Action was served on Respondent with a Notice of Hearing scheduled for May 17, 2024.

8. The hearing was held on May 17, 2024. A quorum of the Board was present. The Board was represented through counsel, Special Assistant Attorney General Sean Minahan. The Respondent appeared but was not represented by counsel at the hearing.

Findings of Fact

9. Respondent Gay is an individual who is a licensed professional engineer (E-9749) and a licensed architect (A-2159) in the State of Nebraska.

10. Upon the evidence presented, on or about October 2, 2023, Respondent submitted an online request for renewal of his architectural license and payment of the biennial fee. Within renewal request, Respondent answered questions regarding the status of his license to practice architecture, the existence of any disciplinary actions, criminal complaints or civil actions and confirmed that Respondent had "satisfied the mandatory continuing education requirements."

11. Respondent's license renewal was randomly selected for a continuing education audit, which required Respondent to submit a Continuing Education Log ("CE Log") and attendance verification detailing the continuing education Respondent completed during the

required timeframe. Notice of the Continuing Education Audit was provided to Respondent on February 1, 2024.

12. On February 23, 2024, Respondent submitted a CE Log for the 2022-2023 renewal period. Respondent's submittal identified 19 CE courses sponsored by Leo A. Daly/Lockwood Andrews Newman, Inc. regarding 2023 NEC Code Changes which amounted to 32.5 hours. Respondent confirmed that each course was a web-based course that included a certificate of completion. Respondent's submission also included the 19 unsigned Certificates of Completion ("Certificates") for each course Respondent allegedly attended. In addition to several of the courses provided, Respondent's CE Log and Certificates indicated that Respondent attended CE courses on February 27, 2023, March 6, 2023, and May 1, 2023. Respondent submissions represented total Professional Development Hours ("PDH") which were twice the PDH's listed in the Certificates.

13. Upon the evidence presented, Respondent did not complete CE Courses on February 27, 2023, March 6, 2023, or May 1, 2023, and was entitled to 13.25 PDH's rather than the 32.5 PDH's which Respondent originally represented.

14. On March 1, 2024, Respondent represented he had spoken with the 2023 NEC Code Changes sponsor, Denny Howard, and that Denny Howard had agreed to fix the discrepancy in PDH's originally represented by Respondent, and forward signed Certificates.

15. On March 8, 2024, Respondent submitted a revised CE Log and 19 Certificates which included wet signatures of Denny Howard's name. The revised CE Log and Certificates misrepresented that Respondent had attended CE courses on February 27, 2023, March 6, 2023, and May 1, 2023, and misrepresented that Respondent had earned 32.5 PDH's.

16. Upon the evidence presented, Denny Howard had not wet signed the 19 Certificates submitted by Respondent and had not spoken with Respondent as to forwarding the 19 signed Certificates or fixing the PDH discrepancy. Respondent admitted to forging Denny Howard's signature.

17. On or about August 5, 2022, the Respondent and this Board executed a Settlement Agreement for Disciplinary Action. Pursuant to the Settlement Agreement, Respondent stipulated that he had violated Title 110 Neb. Admin Code Rule 5.1.1, 5.1.3 and 5.1.6, and Neb. Rev. Stat. §81-3436. Respondent also stipulated that if Respondent was found to violate any other separate provision of Nebraska law or regulation which govern the activities of licensed architects and professional engineers in the State of Nebraska within a five (5) year period of executing the Settlement Agreement, the Board may consider the matters reference in the Settlement Agreement in imposing any subsequent penalty.

Conclusions of Law

18. Respondent provided 19 falsified and forged Certificates to the Board in order to obtain or maintain a certificate of licensure which constitutes 19 separate violations of Neb. Rev. Stat. §81-3442(1)(f) and (j).

19. Respondent's actions constitute 19 separate violations of Neb. Admin. Code Title 110 5.4.1.

20. Respondent's actions constitute 19 separate violations of Neb. Admin. Code Title 110 5.4.3.

21. Respondent's actions constitute 19 separate violations of Neb. Admin. Code Title 110 5.5.3.

22. Respondent's actions constitute 19 separate violation of Neb. Admin. Code Title 110 5.5.7.

23. Respondent's actions constitute 19 separate violations of Neb. Admin. Code Title 110 5.5.8.

24. Respondent's actions constitute violations within a five (5) year period of executing the 2022 Settlement Agreement and such matters referenced in the Settlement Agreement may now be considered in imposing a subsequent penalty.

25. Respondent is subject to disciplinary action under Neb. Rev. Stat. §81-3444.

Order

UPON THE EXECUTION OF THIS ORDER BY EXECUTIVE DIRECTOR JON WILBECK AS AUTHORIZED BY THE BOARD, THE BOARD DOES HEREBY ORDER THE FOLLOWING:

26. Respondent's licenses to practice architecture and professional engineering in the State of Nebraska are hereby revoked, effective immediately upon the execution of this Order.

27. The Board further finds that Respondent is ineligible to apply for licensure to practice architecture or professional engineering in the State of Nebraska for a period of five (5) years.

28. The Board further orders that any subsequent application or request for reissuance of an architectural or professional engineering license must meet any and all requirements as established by the then Board as set forth in Neb. Rev. Stat. §81-3443(5).

DATED this Twenty-Ninth day of May, 2024.

THE NEBRASKA BOARD OF ENGINEERS
AND ARCHITECTS, Petitioner

By: Jon Ains

Its: Executive Director, as authorized to execute
by the Board

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above Order Of Disciplinary Action was served by regular United States first class mail, postage prepaid, on this _____th day of _____, 2024:

Tobias Gay
1470 31st Avenue
PO Box 607
Columbus, NE 68602

/s/ Sean A. Minahan
Sean A. Minahan

4875-8399-9169, v. 1

