

MARYLAND STATE BOARD OF ARCHITECTS

v.

DALE GLENWOOD GREEN,
Respondent

* **MARYLAND STATE BOARD OF ARCHITECTS**

* **CASE NO. 04-AR-23**
* **OAH CASE NO. LABOR-ART-52-23-23846**

* * * * *

OPINION AND FINAL ORDER

This matter came before the Maryland State Board of Architects ("Board") on August 28, 2024, as a result of written exceptions filed by the Respondent, Dale Glenwood Green, to the Board's Proposed Order of April 29, 2024. On November 6, 7, 8, and December 12, 2023, Administrative Law Judge ("ALJ"), Richard O'Connor convened a hearing by video ("ALJ Hearing") on the charges against Respondent. On March 1, 2024, the ALJ issued a Proposed Decision and Order in which he recommended the Respondent be found to have violated the Maryland Architects Act ("Act"), Md. Code Ann., Bus. Occ. & Profs., ("BOP")§ 3-101, *et seq.*, by practicing architecture without a license, providing architectural services through a business that does not hold a permit issued by the Board, misrepresenting himself to the public as authorized to practice architecture in the State, and misrepresenting to the public that he holds a permit to operate a business that practices architecture in the State. The ALJ's Proposed Order also recommended the Respondent be fined \$15,000.00.

On April 29, 2024, the Board issued the Proposed Order affirming the ALJ's Findings of Fact, partially amending the ALJ's Conclusions of Law with the respect to the amount of the civil penalty recommended by the ALJ. The Board agreed with the ALJ's Findings of Fact and Conclusions of Law with respect to the Respondent's violations, but the Board determined the amount of the civil penalty recommended by the ALJ should be increased.

On or about May 17, 2024, Respondent, through his attorney, filed written exceptions to

the Proposed Order. A virtual hearing on the exceptions was held on August 28, 2024, ("August Hearing") before the Board. Jessica B. Kaufman, Senior Assistant Attorney General, appeared as the Presenter of Evidence ("POE") on behalf of the Board. Respondent was represented by Paul E. Knupp, III.

SUMMARY OF THE EVIDENCE

On behalf of the Board, one exhibit, the Office of Administrative Hearings file containing the exhibits which were introduced at the ALJ Hearing, as well as the transcripts of the ALJ hearing (which Respondent requested), was admitted and entered into evidence:

EXCEPTION HEARING Ex. 1: The Board's hearing notice.

FINDINGS OF FACT

The Board amends paragraphs 15, 19, 51, and 53 and adopts paragraphs 1 through 14, 16 through 18, 20 through 50, 52, and 54 through 61 of the ALJ's Proposed Findings of Fact ("PFF"). The Board finds the following facts by a preponderance of the evidence:

1. The Board has never licensed Green as an architect. Board Ex. 3.
2. From 2011 until 2023, Green worked at SCB, an architectural firm in Baltimore Maryland. Board. Exs. 7 at 1 & 8 at 2; Stanford Britt ("Britt") Tr. at 400:9-18, 425:21-25, 435:7-19.
3. SCB is a professional corporation. Board Exs. 11, 12; Britt Tr. at 432:10-20.
4. Since 1996, Britt has been the president and treasurer of SCB. Board Ex. 12; Britt Tr. at 398:17-25, 399:1-8, 426:17-25.
5. Britt hired Green because of his marketing ability, historical preservation expertise, and knowledge of technology. Britt Tr. at 399:13-21, 404:16-24, 414:19-24, 427:15-20.
6. About two or three years ago, Britt became inactive in the firm and moved to Hampton,

Virginia to take a position at Hampton University. Board Ex. 15; Jerryn McCray ("McCray") Tr. at 105:18-25; Britt Tr. at 395-396.

7. Britt held a license to practice architecture in Maryland for many years, until the license expired on February 23, 2022. Board Ex. 3 at 2-3; Britt Tr. at 398:1-16.

8. Prior to February 23, 2022, Britt was the only Maryland-licensed architect at SCB. After that date, no one at SCB was licensed to practice architecture. Board Ex. 3 at 2-3; John Carter ("Carter") Tr. at 370:20-25, 371:1-6, 372:25, 373:1-21, 377:7-10, 380:10-20, 381:3-13; Britt Tr. at 398:1-16, 404:4-11, 415:6-22, 420:3-23, 421:5-25, 422:1-6; Calvin McCargo ("McCargo") Tr. at 462:22-25, 463-65, 468:19-25, 469-474.

9. Green was responsible for and controlled the content of SBC's website. Britt Tr. at 404:16-24, 405-408.

10. On SBC's website, Green identified himself as a partner and vice president of the firm. Board Ex. 11 at 2.

11. Green was not a partner at SCB. Britt Tr. at 406:7-10.

12. SCB forfeited its corporate charter on October 16, 2018, and filed Articles of Revival on September 9, 2022. Board Ex. 12; Britt Tr. at 400-403.

13. The Board has never issued a permit to SCB to conduct a business to practice architecture. Board Ex. 3 at 4.

14. In addition to his position at SCB, Green was also a professor in the School of Architecture and Planning at Morgan State University ("MSU"). Board Exs. 7, 8, & 9.

15. On SCB's website biography, the Respondent used the initials AIA after his name, indicating membership in the American Institute of Architects, but did not clarify his membership with AIA. Board Exs. 7, 8, 9, & 11.

16. Green is an associate member of the AJA. Investigator Charles Corbin ("Corbin") Tr. at 74:8-16.

17. Within the architecture profession, use of the initials AIA is generally recognized as signifying that one is a licensed architect. McCray Tr. at 96-99; 103:1-5; 104-105; Britt Tr. at 406, 412-413; Churchill Banks ("Banks") Tr. at 320-321; Carter Tr. at 374; Julie Tice ("Tice") Tr. at 451:2-7; & McCargo Tr. at 475:14-18.

18. In 2020, Brandon Jones ("Jones") and Kristin Roy ("Roy") were aspiring architects who worked as interns at SCB. Board Ex. 22; Cassandra Walker ("Walker") Tr. at 179-185.

19. The National Council of Architectural Registration Boards ("NCARB") is an organization that collaborates with state licensing boards to facilitate the licensing of architects.

20. To become licensed, aspiring architects must complete 3740 AXP hours. Hours of experience can be in two categories: Setting A is work performed for an architectural firm, and Setting O is experiences that can be performed outside an architectural firm. Board Ex. 23; Walker Tr. at 187:11-18.

21. AXP hours must be reported to NCARB by the aspiring architect's supervisor. Board Ex.23.

22. For Setting A hours, the reporting supervisor must be an architect licensed in some jurisdiction. Board Ex. 23.

23. Green established a supervisory account with NCARB using registration number 3617, which was Britt's license number. Board Exs. 3 at 2 & 22 at 1; Walker Tr. at 179.

24. Green reported to NCARB that he supervised Jones for 16 AXP hours on September 28 and 29, 2020. Board Ex. 22 at 4-5.

25. Green reported to NCARB that he supervised Roy for 760 AXP hours between May 1

and September 25, 2020. Board Ex. 22 at 7.

26. NCARB subsequently performed an audit and discovered that Green was not a licensed architect. Board Ex. 22 at 6 & 8; Walker Tr. at 180.

27. NCARB disallowed the AXP hours Green reported for Jones and Roy. Board Ex. 22; Walker Tr. at 180 & 184.

28. In December 2022, Green began negotiating a consultant agreement with MCB HP Baltimore LLC ("MCB"), a real estate firm that had been chosen to renovate the Harborplace development on the Baltimore waterfront. Board Ex. 30 at 2-5.

29. Green negotiated on behalf of SCB and, in his communications with MCB, described himself as "PartnerNice President/Secretary" of SCB and used the initials "AIA APT LEED AP" after his name. Board Ex. 30 at 2-5.

30. Green's efforts culminated in a Consultant Agreement between MCB and SCB being signed on July 27, 2023, whereby SCB would provide historical evaluation and present-condition analysis and several aspects of design, including promenade and public park design and "Parcel D Vertical Design." Board Ex. 30 at 6-20.

31. Moody Nolan is a nationwide architectural firm. Banks Tr. at 312: 14-16.

32. In early 2023, Moody Nolan had been chosen to undertake the renovation of City College High School in Baltimore and was soliciting proposals from local firms to become part of the project. Banks Tr. at 313-314.

33. On or about April 10, 2023, Banks, a Senior Project Manager at Moody Nolan, contacted Green to inquire if Green would be interested in joining the project team to provide historical preservation services. Board Ex. 27 at 4-5; Banks Tr. at 315-316.

34. Green indicated a desire to become part of the project and communicated with Banks

over the next two to three weeks by email and text message. Board Exs. 27 & 28; Banks Tr. at 316-319.

35. On April 12, 2023, Banks began asking Green about his credentials. On April 20, 2023, Banks texted "Are you licensed in Maryland?" to Green. Board Ex. 28 at 1-3; Banks Tr. at 326 & 330-331.

36. Green replied that he could serve as a "MD registered design professional," was a "qualified historical architect," and that SCB was "a registered MD architectural firm." Board Ex. 28 at 2-3; Banks Tr. at 331.

37. On April 21, 2023, Banks again asked Green if he was licensed in Maryland. Green replied "Yes" by text message. Board Ex. 28 at 3; Banks Tr. at 331-332.

38. On or about April 21, 2023, Green emailed a packet of his credentials to Banks at Moody Nolan. Board Exs. 18, 19, 24, 27, & 28 at 4; Banks Tr. at 333.

39. The credentials included a document purported to be an architect's license issued by the Board to Green, license number 21388, with an expiration date of December 2, 2024, and a control number of 5673250. Board Exs. 19, 24, & 27 at 5; Joseph Petrosino ("Petrosino") Tr. at 152-155; Banks Tr. at 334.

40. The credentials also included documents purporting to be results from searches for active licensed architects on the Department's website, showing Green as holding license number 21388 and SBC with registration number 3617 in the category "Architect-Corporation." Board Exs. 18, 20, 24, & 27 at 5; Petrosino Tr. at 151-152, 157-160.

41. Green also provided a Certificate of Liability Insurance issued by The Hartford and a letter purporting to be from Daniel J. Bagge ("Bagge") of The Hartford stating that The Hartford had issued surety bonds to SCB in the past and highly recommending the firm. Board Exs. 21, 24,

& 27 atp. 5.

42. The Hartford has not issued surety bonds to SCB in the past. Bagge Tr. at 173-174.

43. Banks noticed that the fonts on parts of the license that Green had sent him did not match. He entered the license number, 21388, in the Board's search engine, and the result showed that the license number had been issued to an architect named Viviane Hutt ("Hutt"). Banks Tr. at 334-335.

44. Banks tried the search again with the same result. He forwarded the information to an acquaintance, McCray, also a licensed architect, who was familiar with Green. McCray attempted the search and found that license number 21388 belonged to Hutt. Banks Tr. at 334-336; McCray Tr. at 88-90.

45. Hutt is a Maryland-licensed architect who lives in Georgia. She has no connection with Green, does not know him, and has never given him permission to use her license number. Board Ex. 20; Hutt Tr. at 78-9.

46. McCray contacted Hutt by telephone and learned that Green had used her license number without permission. Hutt Tr. at 79.

47. Hutt and McCray both filed complaints against Green with the Board. Board Exs. 4 & 5; Hutt, Tr. at 79; McCray, Tr. at 86.

48. Upon discovering that Green had given Moody Nolan false credentials, Banks reported the matter to Moody Nolan's compliance office. Board Exs. 26, 29; Banks Tr. at 337-339.

49. Banks also sent copies of the false credentials to Green's superiors at MSU. Board Ex. 34.

50. On April 28, 2023, Green emailed Siddhartha Sen, Associate Dean, and Samia Kirchner, Interim Department Chair, at MSU with his explanation of how the falsified credentials

were produced and disseminated. Board Ex. 26 at 3-4.

51. On April 29, 2023, the Respondent emailed Mr. Banks with a similar explanation. Mr. Banks responded on May 1, 2023. Board Ex. 26 at 2-3.

52. To each email, Green attached two emails, both dated April 28, 2023: one at 2:18p.m. from kbs@sultancampbellbritt.com purporting to be from Khalil Scott ("Scott"), admitting that he produced fictitious credentials for Green because he misunderstood Green's request; and the second at 3:09 p.m. from Green purporting to be to Scott at kbs@sultancampbellbritt.com, admonishing him for producing a fictitious license and clarifying that Green had expected him to produce Britt's license to be forwarded to Moody Nolan. Board Ex. 26 at 4-6.

53. Mr. Scott had been an intern at SCB, primarily under the Respondent's direction, from about May 2018 until September 2020. His employment was terminated in September 2020 by the Respondent. Scott Tr. at 211, 215-223.

54. As of April 28, 2023, Scott did not have access to his SCB email account or the email address kbs@sultancampbellbritt.com. Scott Tr. at 223-225.

55. Green created the emails from and to kbs@sultancampbellbritt.com dated April 28, 2023. Board Ex. 26; Scott Tr. at 237-238.

56. After Scott left SCB in September 2020, he received two cashier's checks from Green: \$4367.00 on June 28, 2021, and \$5209.00 on August 10, 2021. Green Ex. 11; Scott Tr. at 302-305.

57. In January, March, April, and May 2023, Green made payments to Scott totaling \$9200.00, including a payment of \$5000.00 on April 18, 2023. Green Ex. 9; Scott Tr. at 260,262, 286-291.

58. On January 17, 2023, Scott asked Green about returning to employment at SCB. However, on January 16, 2023, Heffner Architects PC had mailed an offer of employment to Scott,

which he accepted when he received it. Green Ex. 8; Board Ex. 32 at 1-2; Scott Tr. at 212, 282, 284-285, 295.

59. Scott worked at Heffner Architects PC for several months, but thereafter left the field of architecture to pursue a career as a barber. He is currently licensed as an apprentice barber. Board Ex. 32 at 3 & 5; Scott Tr. at 212-214.

60. Scott did not produce the fictitious license and false Board search results that Green sent to Moody Nolan. Board Exs. 24 & 25; Scott Tr. at 226-236, & 295.

61. Green produced the fictitious license and false Board search results that he sent to Moody Nolan. Board Exs. 24 & 25; Scott Tr. at 230-236.

DISCUSSION

The ALJ set forth the facts in detail in his recommended decision and his Findings of Fact and are incorporated herein, except where amended above and below.

The ALJ found the Board met its burden of proving Respondent violated §§ 3-601, 3-602, 3-603, and 3-604 of the Act. PFF at 25-26. As a result, the ALJ recommended Respondent be subject to a \$5,000.00 penalty for violating section 3-601 of the Act, a \$5,000.00 penalty for violating section 3-602 of the Act, a \$2,500.00 penalty for violating section 3-603 of the Act, and a \$2,500.00 penalty for violating section 3-604 of the Act. *Id.* at 27-28.

In its Proposed Order, the Board adopted the ALJ's Proposed Findings of Fact, but partially amended the ALJ's Conclusions of Law with respect to the amount of the civil penalty. The Board agreed with the ALJ's findings of fact and conclusions of law regarding Respondent's violations. However, the Board determined the amount of the civil penalty recommended by the ALJ should be increased from a total of \$15,000.00 to \$20,000.00 based upon Respondent's incessant bad faith, the Respondent's at minimum seventeen-year history of violating the Act, and the incredible

lengths the Respondent took to hide his bad acts. *See* Proposed Order at 1.

In Respondent's exceptions filing and at the August Hearing, Respondent made several arguments regarding the ALJ's findings. With respect to the finding Respondent attempted to practice architecture without a license, Respondent argued he only provided Historic Preservation consultation, and at no point did Respondent practice architecture, attempt to practice architecture or offer to practice architecture. *See* Exceptions and Request for a Hearing ("ERH"). He offered Historic Preservation consultation services, not architecture services *Id.* at 3. Historic Preservation, Respondent argued, does not require an architecture license. *Id.* at 2. Because Respondent only provided Historic Preservation consultation services, which is not architecture, he could not have violated section 3-601 of the Act. *Id.* at 3. Both consulting agreements Respondent negotiated on behalf of SCB were limited in scope to only historic preservation. Respondent argued other firms were providing the architecture for those two projects. *Id.* Respondent argued there is no evidence of him producing or signing and sealing architectural documents. *Id.*

Respondent further argued the Board is attempting to discard the federally recognized profession of Historical Architecture and prohibiting Respondent from practicing Historical Architecture. Such an action, Respondent argued, would be preempted by federal law. *Id.* at 6-7.

With respect to finding Respondent operated a business through architecture was practiced without a permit, Respondent argued the ALJ erred in finding Respondent violated section 3-602 because Respondent was only an employee at SCB. *Id.* at 4-6. Britt was and continues to be, Respondent argued, the president of SCB and the only director for the corporation. *Id.* at 8 Britt is responsible for managing the business and affairs of SCB, not Respondent. *Id.* Respondent argued he is an employee or an agent of SCB and, thus a different entity than SCB and should not be personally liable for SCB's corporate acts. *Id.* Further, SCB does not have a valid permit issued

by the Board, predating Respondent's employment at SCB, and the lack of permit was not caused by Respondent. *Id.* at 9-10. If anything, Respondent argued, SCB is a sole proprietorship, owned by Britt, which is exempt from the permit requirement under the Act. *Id.* at 10.

Respondent further listed an alleged fifteen Errors of Fact across both the Board's Proposed Order and the ALJ's Findings of Facts and Conclusion:

Error of Fact 1: Respondent argued the Board's allegation that Respondent violated the Act for a minimum of seventeen years lacks substantial evidence. *Id.*

Error of Fact 2: Respondent argued SCB is not Respondent's firm, as the Board named it, because Britt is the sole owner and director of SCB. *Id.*

Error of Fact 3: As to the Consultant Agreement with MCB, Respondent argued the ALJ was incorrect to find that "[n]o witness testified on the issue of whether the work called for in the Consultant Agreement constitutes the practice of architecture," because multiple witnesses testified that all architecture work for the project would be performed by another firm, and Respondent would only provide historic preservation services. *Id.* at 11.

Error of Fact 4: Respondent similarly argued the ALJ was incorrect to find Respondent offered and attempted to practice regarding the Consulting Agreement with Moody Nolan because Banks testified only historic preservation would be performed by SCB. Moody Nolan would perform all architecture on the project. *Id.*

Error of Fact 5: Respondent argued the ALJ's finding that Roy's status, for whom Respondent approved AXP hours, is not unknown is incorrect because she has been approved for licensure. *Id.*

Error of Fact 6: Respondent argued, contrary to the ALJ's finding, Mr. Banks is not an architect. *Id.*

Error of Fact 7: Respondent argued the ALJ was incorrect to find that Banks forwarded the

fraudulent credential package to McCray because the ALJ omits that Banks perjured himself. Respondent argued Banks committed perjury when he testified that he never forwarded Respondent's fraudulent credential package to McCray, despite an email from Banks showing him do exactly that in Board Exhibit 12. Respondent argued this made Banks' testimony unreliable because of this perjury. *Id.* at 11-12.

Error of Fact 8: Respondent argued the ALJ incorrectly found that Scott "endured difficult cross-examination without faltering or becoming unsure of the facts he related," because Scott's credibility must be questioned as he was caught reading from notes and, as the ALJ acknowledged, Scott's testimony was superficial and incomplete regarding his explanations why he was receiving payments from Respondent. Respondent argued Scott's testimony cannot be relied upon for these reasons and, thus, the Board failed to meet its burden of proof. *Id.* at 12-13.

Error of Fact 9: Respondent disputed that there is substantial evidence to support the finding Respondent sent the false credentials to Moody Nolan because the conclusion is based on Banks' testimony and, as Respondent argued above, Banks perjured himself and his testimony cannot be relied upon. *Id.* at 13.

Error of Fact 10: Respondent argued the ALJ's conclusion that Scott could not have been the source of the explanatory emails is not supported by substantial evidence because Scott has credibility issues, as discussed above, which makes his testimony unreliable and cannot be substantial evidence to support any factual conclusion. Respondent argued Scott's refusal to confirm dates of the text exchange between himself and Respondent about returning to work at SCB created further serious questions about Scott's credibility. *Id.* at 13-14.

Error of Fact 11: Respondent argued that, despite the ALJ's finding Respondent falsified emails, the only evidence that Respondent falsified the email is Scott's unreliable testimony, which should

be discounted for the reasons discussed above. *Id.* at 14.

Error of Fact 12: Respondent argued that the ALJ's finding that the instructions Respondent gave Scott for the interview with the Board's investigator was strong evidence of wrongdoing incorrect because Board Exhibit 25 does accurately portray the entire conversation between Respondent and Scott. Board Exhibit 25 is only a portion of a conversation, and thus cannot be relied upon. *Id.* at 14-15.

Error of Fact 13: Respondent argued he did not use AIA alongside his name on his Morgan State University biography or his CV, contrary to the ALJ's finding. *Id.* at 15.

Error of Fact 14: Respondent argued Jones' and Roy's time at SCB was not a waste of time, as the ALJ found, because both did work with Britt, who was a licensed architect, and gained experience from him. *Id.*

Error of Fact 15: Respondent argued the ALJ needlessly discussed Respondent listing he has a Ph.D. on the SCB website is indicative of the defamatory treatment Respondent has received throughout this process because it is completely unrelated to any of the charges brought against Respondent, which leads into Respondent's final argument. *Id.* at 15-16.

Respondent argued the Board is more interested in "getting" him, than actually uncovering the truth of the matter at hand. *Id.* at 16. Respondent questioned the Board's internal procedures for handling and investigating complaints, argued the Board uses over the top language and that he has not received the full record for this matter, requesting a memorandum and also a Proposed Decision including a findings of fact and conclusions of law proposed by Respondent. *Id.* at 17.

The POE responded to these arguments that although Respondent may not have signed, sealed, and dated architectural documents, the ALJ's conclusion that Respondent attempted to and offered to practice architecture under the Act's definition of practice architecture is supported with

substantial evidence. Board's Response to Respondent's Exceptions ("BRE") at 10-13. POE pointed to the Consultant agreement Respondent prepared and submitted to MCB as evidence of this violation. *Id.* at 11-12. POE argued the Consultant Agreement offered creative work outside the scope of historic preservation. *Id.* POE also pointed to the text message "yes" Respondent sent to Banks in response to Banks asking if Respondent is a licensed architect. *Id.* at 13. POE also argued the fraudulent credentials submitted to Moody Nolan was an offer and an attempt to practice architecture, arguing Respondent unambiguously represented to Moody Nolan he was licensed by this Board as an architect in an attempt to secure a role on a project. *Id.*

POE argued Respondent operated a business through which architecture is practiced without a permit because, as the ALJ found, Respondent was the person in charge of the day-to-day business of SCB, which did not have a permit issued by the Board. *Id.* at 15. POE lists all the tasks Respondent performed on SCB's behalf which detail how Respondent operated SCB, violating the Act *Id.* at 15-16. POE argued during the August Hearing that, despite Respondent not causing SCB's failure to have a permit, Respondent had the authority to revive the corporation with the State Department of Assessments and Taxation and could have also applied for a permit with this Board while Britt's license was in good standing. Instead, Respondent did not and after Britt's license expired, continued to practice architecture through SCB without the required permit. At the August Hearing, POE pointed to Respondent identifying himself on multiple websites and documents as Vice President/Partner of SCB. POE further argued Respondent sought to practice architecture through SCB, something he could not do without SCB because he was not licensed.

In response to Respondent's argument federal regulations preempt this Board from sanctioning Respondent for practicing "Historical Architecture", POE argues Respondent was sanctioned for offering to practice architecture or attempting to practice architecture without a

license, not for providing historic preservation services. *Id.* at 18.

POE addressed Respondent's list of alleged Errors of Fact as follows:

Error of Fact 1: POE cited to testimony and multiple exhibits to support the seventeen-year claim. *Id.* at 18-19.

Error of Fact 2: POE argued the Board's reference to SCB as "his [Respondent's] firm" was merely a colloquial use as Respondent's place of employment. But there is substantial evidence that Respondent represented himself as more than just an employee of SCB. *Id.* at 19-20.

Error of Fact 3: POE disagreed with Respondent that because a witness testified SCB would not be performing architecture under the Consultant Agreement with MCB meant that SCB would not be practicing architecture, or the consultant agreement was not an offer to practice architecture. POE argued the consultant agreement itself describes the services to be provided, many of which fall within the statutory definition of "practice architecture." *Id.* at 20.

Error of Fact 4: POE argued against Respondent's assertion that in the agreement with Moody Nolan, only Moody Nolan would practice architecture, thus Respondent was not offering or attempting to practice architecture by pointing to the ALJ's finding that Respondent provided fabricated credentials to Moody Nolan hoping to profit and was an offer and attempt to practice architecture without a license. *Id.* at 20-21.

Error of Fact 5: POE argued the ALJ's finding that Roy's status is unknown is not an error of fact, as asserted by Respondent, because despite her being approved by this Board to sit for the Architectural Registration Exam, Ms. Roy's AXP hours had to be made-up, and there is no evidence in the record as to how that was accomplished, making her status unknown. *Id.* at 21-22.

Error of Fact 6: POE agreed with Respondent that Mr. Banks is not a licensed architect, and this fact should be amended. *Id.* at 22.

Error of Fact 7: Regarding Banks perjuring himself, the POE agreed Banks' and McCray's testimony conflicted as to how McCray came into possession of Respondent's fabricated credentials, the ALJ resolved the conflict, finding Banks did forward the fabricated credentials. POE argued the Board should give deference to an ALJ's determination of credibility, absent a strong reason to do so. POE argued Banks merely forgot he sent the credentials to McCray. *Id.* at 22-23.

Error of Fact 8: As to Respondent's questions of credibility, POE again argues deference should be given to the ALJ's determination. *Id.* at 23-26.

Error of Fact 9: As to Respondent's argument the ALJ's finding Respondent produced and sent fabricated credentials to Moody Nolan is an error of fact because the only evidence is Banks alleged perjury, POE countered that the ALJ's finding is the factual conclusion a reasoning mind could have reached and is supported by substantial evidence. *Id.* at 26-27.

Error of Fact 10: As to Respondent's arguments regarding Scott's credibility regarding access to his SCB email, POE referred to her analysis for the ALJ's credibility determination discussed above. *Id.* at 27.

Errors of Fact 11 & 12: For Respondent's errors of facts 11 & 12, where Respondent argued the ALJ's finding Green created emails sent from Scott's SCB email address and sought to place blame on Scott for producing fabricated credentials constitute an error of fact because it is based on Scott's unreliable testimony and a partial text conversation between Respondent and Scott, POE again referred back to her analysis for the ALJ's credibility determination and also points to testimony and evidence in the record to support the ALJ's determination. *Id.* at 27-36.

Error of Fact 13: POE agreed it was an error of fact that the ALJ found Respondent used AIA after his name on Respondent's LinkedIn and Morgan State University biography. *Id.* at 37.

Error of Fact 14: As to Respondent's argument the ALJ erred in finding Respondent damaged careers of Jones' and Roy's by approving AXP hours he was not qualified to approve, POE argued the ALJ was correct because they were not gaining the hours needed to advance their careers. *Id.* at 38.

Error of Fact 15: POE agreed Respondent did not describe his education on SCB's website as including a Ph.D., but the ALJ was referring to the fraudulent credential package Respondent sent Moody Nolan- not SCB's website. *Id.* at 39-40.

As to Respondent's argument he has been treated unfairly, POE argued all the proceedings have been held in accordance with the Administrative Procedure Act and the Respondent has had ample opportunity to argue against the charges against him. *Id.* at 40-42. POE further argued Respondent misunderstands what documents need to be included in the record and all required documents have been included. *Id.* at 42-44.

After hearing each parties' arguments, and reviewing the record in its entirety, the Board affirms the ALJ's conclusions that the Respondent violated sections 3-601, 3-602, 3-603, and 3-604 the Act. The Board's reasoning is as follows:

Respondent attempted and offered to practice architecture without a license.

The ALJ found the Respondent violated 3-601 when Respondent negotiated and signed a Consultant Agreement with MCB and submitted false credentials to Moody Nolan.

The Act defines "practice architecture" as "provid[ing] any service or creative work [regarding] an addition to, alteration of, or construction of a building or integral part of a building; and that requires education, training, and experience. BOP § 3-101(1)(1). "Practice architecture includes architectural design and preparation of related documents, consultation, design coordination, evaluation, investigation, and planning." *Id.* § 301(1)(2). Further, Section 3-601 of

the Act prohibits not only the actual practice, but also the attempt to practice and the offer to practice architecture.

There may be no evidence of Respondent producing, signing or sealing documents, but there is substantial evidence in the record of Respondent attempting and offering to provide services within the Act's definition of "practice architecture." The Consultant Agreement entered in the record as Board's Exhibit 30 is filled with instances of the Respondent attempting or offering to practice architecture. The agreement itself is on the letterhead of a firm purporting to offer architecture services. It claims "SCB specializes in Architecture" with Respondent being "the Partner-In-Charge" assisted by interns. The Agreement offers design staff, preparation of graphic deliverables, and renderings pertaining to the project - under Respondent's supervision. Respondent even signed the agreement with AIA after his name - a professional designation typically signifying licensure.

There is no statement in the agreement limiting the scope of work offered to only Historic Preservation, rather the agreement offers "Existing Condition Analysis; Promenade and Public Park Design; Parcel D. Vertical Design; and Master Plan Coordination." Board Ex. 30. As POE argues, these are services that fit squarely in the statutory definition of what is included in the practice of architecture.

The evidence also shows Respondent offered or attempted to practice architecture by providing false credentials to Moody Nolan. The ALJ concluded Respondent offered the fraudulent credentials in the hopes of being perceived as a licensed architect so that SCB could join Moody Nolan's project and profit.

As to Respondent's argument that this Board is preempted from disciplining Respondent for practicing Historical Architecture, the Board does not agree that is what is occurring here. The

record shows Respondent offered to and attempted to practice architecture. The services offered in the Consulting Agreement with MCB goes beyond the scope of Historical Architecture and into practicing architecture. Respondent's communications with Banks representing himself as an architect during negotiations to join a project violate the Act, regardless of whether Respondent's participation would be limited to Historical Architecture or historic preservation. Respondent sending text messages to Banks affirming that he is a licensed architect and then sending Banks fraudulent credentials in hopes of joining the project with Moody Nolan has is an attempt to practice architecture.

The Board is unmoved by Respondent's arguments of a lack of evidence that Respondent sent the fraudulent credentials or that Scott's testimony was not credible. The reasonable conclusion based on the record, as the ALJ found, is that Respondent both fabricated and sent the fraudulent credentials and then created fake emails to cover his tracks. The Board must adopt the ALJ's conclusion that Respondent violated 3-601 of the Act.

Respondent operated a business through which architecture is practiced without a permit.

The ALJ found the Respondent violated section 3-602 of the Act by negotiating agreements for architectural projects on behalf of SCB, a business that did not have a permit issued by the Board to practice architecture. The Act prohibits a person from "operat[ing] a business through which architecture is practice, unless...the [business entity] holds a permit issued by the Board.

Respondent makes many arguments that he was not operating SCB. But the roles Respondent filled at SCB, combined with the positions he claimed to hold at SCB, bely each of his arguments. The Board agrees Britt was at all times the President of SCB. However, it is clear from the record Britt's role at SCB diminished as he entered retirement and Respondent expanded

his own role and assumed a larger, though perhaps unofficial, leadership role.

The record shows overt actions taken by Respondent that make clear he was operating SCB on a day-to-day basis, as the ALJ found. For example, when Respondent revived the corporation with the State Department of Assessments and Taxations, when Respondent negotiated and signed agreements on SCBs behalf without Britt's knowledge, Respondent was operating SCB. As to Respondent's argument that SCB is a sole proprietorship and thus statutorily exempt from the permitting requirement, the record clearly indicates SCB is a corporation, not a sole proprietorship and not exempt. Board Ex. 12.

It is undisputed that SCB did not have a permit to operate a business. Respondent could have also applied for a firm permit with this Board while Britt's license was active. Respondent failed to do so. Respondent was operating SCB at the time it was discovered SCB did not have a permit, thus Respondent's operation of SCB was a violation of the Act and Respondent is responsible for that violation. Therefore, the Board must adopt the ALJ's conclusion.

Respondent misrepresented himself to the public that he was a licensed architect.

The ALJ found the Respondent violated 3-603 of the Act by misrepresenting himself to the public that the Respondent was licensed to practice architecture through using the "AIA" after his name in proposals and professional profiles, when he offered to provide architectural services to Moody Nolan and MCB, when he created an architect account with NCARB in an attempt to approve AXP hours interns at SCB pursuing licensure, when he sent a text message to Banks affirming he was a licensed architect, and, by submitting fraudulent credentials and falsified documents to Moody Nolan. Respondent argues there is not substantial evidence to support such a finding, but the Board disagrees. For all the reasons cited, the Board adopts the ALJ's conclusion Respondent violated section 3-603 of the Act.

Respondent misrepresented to the public that SCB had a permit to practice architecture.

Finally, the ALJ found the Respondent violated section 3-604 of the Act by misrepresenting that SCB had a permit to practice the business of architecture by publishing on the firm's website that SCB was licensed to practice in several jurisdictions, including Maryland, when it was not; and by stating to MCB in its proposal for that, "SCB specializes in Architecture, Historic Preservation, Planning and Leadership in Energy and Environmental Design consulting." A firm that holds no permit from the Board and employs no licensed architects cannot "specialize" in architecture in Maryland. Therefore, the Board adopts the ALJ's conclusion that Respondent violated section 3-604 of the Act.

As to Respondent's purported errors in fact, the Board finds as follows:

Error of Fact 1: The Board agrees there is not substantial evidence supporting the allegation in its Proposed Order that Respondent violated the statute for 17 years and retracts that allegation.

Error of Fact 2: The Board amends its Proposed Order not to include the language of "his firm."

Error of Fact 3: The Board affirms there is substantial evidence supporting ALJ's finding that the Consultant Agreement with MCB constitutes the practice of architecture based on the services offered in the Consultant Agreement.

Error of Fact 4: The Board affirms there is substantial evidence supporting the ALJ's finding that Respondent offered and attempted to offer to practice architecture to Moody Nolan because, as the ALJ found, Respondent produced fraudulent credentials claiming to be an architect in order to profit from joining Moody Nolan's project and practice architecture without a license.

Error of Fact 5: The Board affirms there is substantial evidence supporting the ALJ's finding that Roy's status is unknown. Contrary to Respondent's argument that Roy is now licensed, the issue

is not whether Roy is now licensed. The issue is Roy's suffered by loss AXP and how those hours were regained in order to sit for the exam. What is unknown is how Roy regained those house, what expense Roy expended to regain those hours to be approved by this Board to sit for the exam.

Error of Fact 6: The Board agrees to amend the ALJ's finding to reflect that Mr. Banks is not a licensed architect.

Error of Fact 7: The Board cannot come to Respondent's conclusion that Banks lied under oath for this error of fact. The Board agrees with POE's analysis that case law should give deference to the ALJ's determination of credibility of witnesses, and only reject the ALJ's determination of credibility if there is a strong reason for doing so. *See Para v. 1961 Ltd. Partnership*, 211 Md. App. 335, 355 (2013); *Neutron Products, Inc. v Dept. of the Environment*, 166 Md. App. 549, 583 (2006); *State Com 'non Human Relations v. Kaydon Ring & Seal, Inc.*, 149 Md. App. 666, 693-94 (2003); and *Dept. of Health and Mental Hygiene v. Shrieves*, 100 Md. App. 283 (1994). While it is clear Banks' testimony conflicts with the documentary evidence, the ALJ weighed Banks credibility and resolved the conflict in favor of the documentary evidence. The Board does not have a strong reason to reject ALJ's determination of credibility and therefore adopts the ALJ's finding of fact.

Error of Fact 8: Similar to Error of Fact 7, the Board cannot come to the same conclusion that Scott's testimony was not credible, for nearly the same reasons stated above. The ALJ determined Scott's testimony was credible. Without a strong reason, this Board cannot reject the ALJ's determination of credibility and therefore adopts the ALJ's finding of fact.

Error of Fact 9: The Board adopts the ALJ's finding that Respondent produced and sent falsified credentials to Moody Nolan. Respondent bases this error on its supposition that Banks lied under oath and thus his testimony is not credible. As explained above, the Board adopts the ALJ's

determination that Banks' testimony was credible and therefore adopts the same factual conclusion as the ALJ, that the Respondent produced and sent falsified credentials, then tried to blame Scott for the mix up.

Error of Fact 10: Respondent's argument that ALJ's finding is incorrect is, again, based on Scott's credibility. For the same reasons discussed above, the Board adopts the ALJ's determination that Banks' testimony was credible and adopts the ALJ's finding of fact.

Errors of Fact 11 & 12: Both of these alleged errors of fact center, again, around Scott's credibility due to the use of notes during his testimony and superficial and incomplete explanations for payments. As discussed above, the Board adopts the ALJ's determination that Scott's credibility, and his conclusions that Respondent produced the falsified emails. Regarding the instructions Respondent sent Scott for his interview with the Board's investigator, the Board agrees with the ALJ, this is the strongest evidence in the case of Respondent's wrongdoing. Respondent argues the text thread does not accurately portray the entire conversation. However, Scott testified to the context of the conversation: Respondent asked him to lie. The Board adopts the ALJ's finding of fact.

Error of Fact 13: The Board agrees Respondent only used AIA in his LinkedIn profile, and not in his Morgan State University biography or CV and amends the finding of fact accordingly.

Error of Fact 14: Respondent argues that the time interns spent at SCB was not a "waste of time," as the ALJ frames it, because the interns did spend time under Britt. However, the issue here again is the AXP hours required for licensure that were not accrued due to Respondent's misrepresentations. In that sense, the Board agrees it was a waste of time for interns hoping to fulfill requirements licensure. The Board adopts the ALJ's finding of fact.

Error of Fact 15: The Board agrees with Respondent that he did not state he had a Ph.D. on the

SCB website, but Respondent did claim a Ph.D. in other parts of the record. However, this is unrelated to the charges.

As to Respondent's accusations of "procedural irregularities," these are wholly without merit. First, Respondent points to a member of this Board being unaware of these proceedings "until the past two weeks." The Board purposefully sequesters the full membership of the Board from details of complaints until an evidentiary hearing to provide respondents with a Board unprejudiced in either direction.

This Board has a complaint committee, comprised of one licensed architect Board member and one non-architect, consumer Board member. This two-person committee reviews all complaints filed with the Board. The Committee offers Department of Labor staff technical expertise during investigations and then makes recommendations to the full Board on the disposition of complaints. Details of complaints or investigations are not provided to the rest of Board until either at an evidentiary hearing before the Board or, if the hearing goes before an ALJ, when the ALJ issues a proposed decision. At that point, the full record is provided to each member of the Board. The Board then reviews the record and proposals from the ALJ and deliberates on the matter, then issues its own proposed decision. This procedure was followed in the instant matter.

Respondent also claims the record is incomplete, lacking a memorandum authored by "an official or employee of the agency who is not authorized to participate in the decision making process" "submitted to an individual who is involved in the decision making process of the contested case." Md. Code Ann., State Gov't § 10-218(4). The Board is unaware of any such memoranda. Any documents drafted by Board members during their deliberations on the instant matter would not be subject to this statute as Board members are participants in the decision

making process. Furthermore, any such documents would be privileged under the Deliberative Process Privilege. *See Stromberg Metal Works, Inc. v. University of Maryland*, 382 Md. 151, 161-63 (2004); *Office of the Governor v. Washington Post Co.*, 360 Md. 520, 557-65 (2000); *Hamilton v. Verdow*, 287 Md. 544, 553-67 (1980); *Laws v. Thompson*, 78 Md. App. 665, 690-93 (1989).

As to whether the Proposed decision not including findings of fact or conclusions of law proposed by Respondent. As POE states in her response, the full section reads "the presiding officer hearing a contested case shall make a record that includes...each finding of fact or conclusion of law proposed by a party *or* the presiding officer. Md. Code Ann., State Gov't § 10-218(8) (emphasis added). The ALJ, as the presiding officer, proposed his own finding of fact and conclusion of law, satisfying the statute.

The Board, however, finds the ALJ erred in proposing that the Respondent only be subject to \$5,000 penalties for sections 3-601 and 3-602 and \$2,500 penalties for violating sections 3-603 and 3-604 of the Act. The Board instead orders a \$5,000 penalty for each violation, totaling \$20,000.

Both the Board and the ALJ are required to consider the following factors when assessing a penalty:

- (i) the seriousness of the violation;
- (ii) the harm caused by the violation;
- (iii) the good faith of the violator;
- (iv) any history of previous violations by the violator; and
- (v) any other relevant factors.

Md. Code Ann., Bus. Occ. & Prof. § 3-605(b)(2).

The ALJ decreased the penalties for Respondent's representations to the public regarding his license and his firm from the \$5,000 maximum to \$2,500 for each violation due to Respondent having no prior violations of the Act.

In his proposed order, the ALJ correctly outlines the harm caused by Respondent to

architects generally, SCB, the young, aspiring architects, Respondent's bad faith, and the incredible lengths Respondent took to hide his bad acts. Respondent's cavalier attitude to licensure is appalling to the Board.

The lack of a history of previous violations, in the Board's opinion, does not merit a reduction from the maximum penalty this Board can order on Respondent. The Board views each violation as severe cannot abide such blatant and unabashed disregard for its Act and insists on the maximum penalty for each violation. The seriousness of Respondent's violation and the harm caused by the violations, combined with Respondent's lack of good faith - evidenced by his fraudulent credentials, forged emails, and attempts to have a witness lie on his behalf - greatly outweighs any impact Respondent's lack of history of previous violations should have in the calculus of Respondent's penalty. The Board must increase each penalty to the statutorily allowed maximum of \$5,000.00 each.

Having considered the evidence contained in the record and the ALJ's Proposed Decision, it is this 6th day of December 2024, **ORDERED:**

- A. That the Findings of Fact of the Administrative Law Judge are **ADOPTED**;
- B. That the Conclusions of Law of the Administrative Law Judge are **AMENDED**;
- C. That the Proposed Decision and Recommended Order of the Administrative Law Judge is **AMENDED**;
- D. That the Respondent violated sections 3-601, 3-602, 3-603, and 3-604 of the Business Occupations Professions Article;
- E. That the Respondent be fined the maximum of \$5,000 for each of the four violations of the Maryland Architects Act, for a total of \$20,000.00, in accordance with section 3-605(b) of the Business Occupations and Professions Article;

- F. That the records and publications of the Maryland State Board of Architects shall reflect this decision; and
- G. A judicial review of this Final Order may be sought in the Circuit Court for the Maryland County in which the Appellant resides or has his/her principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30 days after the mailing of this Order.

(Signature on file) 12/09/2024

Cynthia E. Shonaiya, Chair
Maryland State Board of Architects