

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

IN THE MATTER OF:)	
)	CASE NO. 96 - 06
J. David Gibbs, PE & LS 08419)	
223 West Main Street)	STATEMENT OF
Manchester, IA 52057)	CHARGES
RESPONDENT)	

COMES NOW, the Complainant, Patricia M. Peters, and states:

- 1) She is the Executive Secretary of the Engineering and Land Surveying Examining Board and files this complaint solely in her official capacity.
- 2) The Board has jurisdiction in this matter pursuant to Iowa Code Chapter 17A and 272C (1995).
- 3) On September 9, 1977, J. David Gibbs, the Respondent, was issued Iowa professional engineering license number 08419 by the Board. On January 10, 1991, the Respondent was issued Iowa land surveying license number 08419 by the Board
- 4) License number 08419 is currently in good standing until December 31, 1996.

Count I

The Respondent is charged with unethical conduct or practice harmful to the public in violation of Iowa Code section 542B.21(3)(1995) and 193C IAC4.2(3), 4.3, and 4.8(4) when he solicited work for his own firm from his employer's clients while still employed by another engineering and land surveying firm.

The Circumstances

1. Respondent was employed by Tri-State Engineers (Tri-State) from March 1984 until Friday, July 14, 1995.
2. On Monday, July 17, 1995, Respondent's own company, Gibbs Engineering & Surveying (Gibbs Engineering) opened for business.
3. In the following three circumstances, Respondent failed to observe the provisions of the National Society of Professional Engineers Code of Ethics, Section III.4, which the Board considers in establishing standards of conduct pursuant to 193C IAC 4.3:

III. Professional Obligations

4. Engineers shall not disclose confidential information concerning the business affairs or technical processes of any present or former client or employer without his consent.

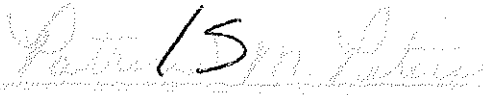
a. Engineers in the employ of others shall not without the consent of all interested parties enter promotional efforts or negotiations for work or make arrangements for other employment as a principal or to practice in connection with a specific project for which the Engineer has gained particular and specialized knowledge.

a. Prior to leaving Tri-State, Respondent in July 1995 on at least one occasion canceled an appointment between Tri-State and a client without telling Tri-State and tried to obtain the work for Gibbs Engineering.

b. Prior to leaving Tri-State, Respondent solicited engineering and land surveying work in the name of Gibbs Engineering from Tri-State's clients.

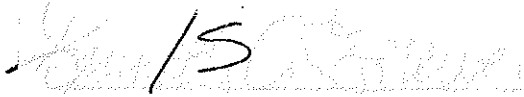
c. During and after his employment with Tri-State, Respondent contacted Tri-State clients and indicated that he would be interested in continuing work on the client's project as Gibbs Engineering.

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


Patricia M. Peters, Executive Secretary
Iowa Engineering and Land Surveying
Examining Board
Complainant

FINDING OF PROBABLE CAUSE

On October 17, 1996, the Iowa Engineering and Land Surveying Examining Board found probable cause to file this Statement of Charges and to order a hearing be set in this case.


Chair, Iowa Engineering and Land
Surveying Examining Board

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

IN THE MATTER OF:)	
)	CASE NO. 96-06
J. DAVID GIBBS, PE & LS)	
#08419)	SETTLEMENT AGREEMENT AND
223 West Main Street)	CONSENT ORDER
Manchester, IA 52057)	
)	
RESPONDENT)	

The Iowa Engineering and Land Surveying Examining Board (Board) and J. David Gibbs (Respondent) enter into this Settlement Agreement and Consent Order (Agreement), pursuant to Iowa Code section 17A.10 (1995) and 193C IAC 4.10:

1. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 542B, and 272C (1995).

2. Respondent is a licensed professional engineer and land surveyor in Iowa.

~~October~~³
~~November~~ 17, 1996, A Statement of Charges was filed against the Respondent on November 17, 1996, charging a violation of Iowa Code section 542B.21(3) (1995) and 193C IAC 4.8(4) based on alleged unethical conduct and practice harmful to the public.

4. Respondent has a right to a hearing on the charges, but waives his right to hearing and all attendant rights by freely and voluntarily entering into this Agreement.

5. Respondent agrees the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

6. This Agreement shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations. In addition, the Board shall advise the National Council for Examiners of Engineering and Surveying of the disposition of this matter.

7. This Agreement and the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code chapter 22.

8. Failure to comply with the provisions of this Agreement shall be considered prima facie evidence of a violation of Iowa Code section 542B.21(3) (1995) and 193C IAC 4.2, and shall be grounds for disciplinary action pursuant to Iowa Code section 272C.3(2)(a) (1995). However, no action may be taken against Respondent for violations of these provisions without a hearing as provided in Iowa Code section 542B.22.

9. This Agreement is subject to approval of the Board:

(a) If the Board fails to approve this Agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

IT IS THEREFORE ORDERED that Respondent is reprimanded.

AGREED AND ACCEPTED:

The Respondent

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


J. David Gibbs

Date

11/7/96


By: Kenneth Brewer, Chair

Date

11-27-96