

# *North Carolina Board of Examiners for Engineers and Surveyors*

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# *Topics of Discussion*

- Overview of Board's Enforcement Activities
- Complaint & Investigative Processes
- Review Committees
- Contemplated Actions
- Settlement Conference Committees
- Hearings
- Appeals

# *Investigations Section*

- Investigate alleged violations of:
  - G. S. 89C (The North Carolina Engineering and Land Surveying Act)
  - G. S. 55B (Professional Corporation Act)
  - NCAC Title 21, Chapter 56 (Board Rules)
  - G. S. 47-30 (Mapping Requirements)
- Regular Program of Enforcement/Education

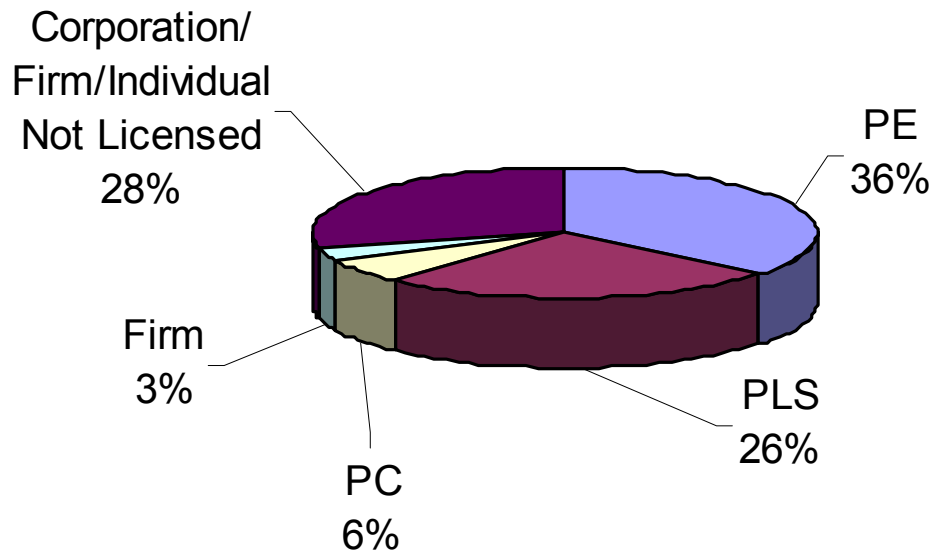
# *Complaints*



- 2000
  - 103
- 2001
  - 111 Cases
- 2002
  - 125 Cases
- 2003
  - 150 Cases
- 2004
  - 109 Cases
- 2005
  - 125 Cases

# Complaints

## Cases Opened Fiscal Year 2005



# Complaints

- Clients
- Adjoining property owners
- Inspection Departments
- Department of Environment and Natural Resources (DENR)
- Department of Insurance (DOI)
- Other State Licensing Boards
  - Board of Architecture
  - Geology Board
  - Home Inspector Licensure Board
- Professional Engineers
- Professional Land Surveyors
- Architects
- Contractors
- Former employees/employers



2004

- 34 PE Cases Closed:
  - 18 Actions
  - 8 Cases closed as unfounded or lack of evidence of a violation of G. S. 89C
  - 4 Cases closed as trivial
  - 4 Cases closed based upon corrective action

# 2004 PE Actions

- Reprimand (2)
- Reprimand & \$250.00 Civil Penalty (1)
- Reprimand & \$500.00 Civil Penalty (1)
- Reprimand & \$1000.00 Civil Penalty (2)
- Reprimand & \$2000.00 Civil Penalty (2)
- Reprimand & Ethics Course (2)
- Reprimand, \$4000.00 Civil Penalty & Ethics Course (1)
- Reprimand, Ethics Course & Restriction of Practice (1)
- Suspension until satisfies CPC requirements (1)
- Suspension [2 years] (1)
- Refuse to Renew License (1)
- Permanent Surrender of License (1)
- Revocation (2)



2004

- 34 Other Engineering Cases Closed:
  - 11 Licensed Firms
    - Case closed as unfounded or lack of evidence of a violation of G. S. 89C (7)
    - Case closed based upon corrective action (2)
    - Reprimand & \$1000.00 Civil Penalty (2)

2004

- 10 Non-licensed individuals [1 Engineering Intern]
  - Referred to District Attorney (not prosecuted) (1)
  - Referred to Attorney General (1)
  - Deny Application to take Principles and Practice of Engineering Examination (1)
  - Board issued cease and desist (2)
  - Closed based upon corrective action (1)
  - Closed as unfounded or lack of evidence of a violation of G. S. 89C (4)



2004

– 13 Non-licensed firms

- Board issued cease and desist (7)\*
- Closed based upon corrective action (5)
- Closed as unfounded or lack of evidence of a violation of G. S. 89C (1)

\* 1 case also included surveying charges

# *2004-Closed PE Cases*

- Source of PE Complaints:
  - PE (6)
  - Public (10)
  - Inspections Department (3)
  - Board of Architecture (2)
  - Board Initiated (12)
  - Government Agency (1)



2004

- 50 PLS Cases Closed:
  - 27 Actions
  - 17 Cases closed as unfounded or based upon a lack of evidence of a violation of G. S. 89C
  - 5 Cases closed as trivial
  - 1 Case closed based upon corrective action

# 2004 PLS Actions

- Reprimand (5)
- Reprimand & Institute (2)
- Reprimand & Ethics Course (3)
- Reprimand & \$500.00 Civil Penalty (5)
- Reprimand & \$1500.00 Civil Penalty (1)
- Reprimand & \$2000.00 Civil Penalty (1)
- Reprimand, Institute & \$500.00 Civil Penalty (1)
- Institute, Ethics Course & \$2000.00 Civil Penalty (2)  
[2 cases combined]
- Reprimand, Institute & \$2000.00 Civil Penalty (3)  
[2 cases combined]
- Reprimand, Ethics Course & \$2000.00 Civil Penalty (1)
- Reprimand, Institute & \$1500.00 Civil Penalty (1)
- Reprimand, Ethics Course & \$1000.00 Civil Penalty (1)
- Revocation (1)

2004

- 9 Other Surveying Cases Closed:
  - 3 Licensed Firms
    - Revocation (1)
    - Refuse to renew license (1)
    - Case closed as unfounded or lack of evidence of a violation of G. S. 89C (1)
  - 2 Non-licensed individuals [1 Land Surveyor Intern]
    - Board issued cease and desist (1)
    - Referred to Attorney General (1)
  - 4 Non-licensed firms
    - Board issued cease and desist (3)
    - Closed based upon corrective action (1)

# *2004-Closed PLS Cases*



- Source of PLS Complaints:
  - PLS (5)
  - Public (34)
  - Government Agency (2)
  - Board Initiated (9)

# *Investigative Process*

- Complaint Analysis:
  - Complaint within the Board's jurisdiction?
  - Sufficient detail to determine charges?
  - Sufficient information to identify respondent?
  - Corroborative evidence provided?
- Respondent Notified/Responds
- Field Investigation

# *Review Committees*

- Committee members:
  - Board member licensed in the respective profession
  - Andrew L. Ritter, Executive Director
  - David S. Tuttle, Board Counsel
- Investigators present case information and answer questions.

# *Review Committees*

- Recommendation to the Board (licensee):
  - The charge be dismissed as unfounded or trivial.
  - The charge be dismissed based upon corrective action, when the charge is admitted as true.
  - The charge be presented to the Board for a hearing and determination.
  - The Board give notice to the licensee of contemplated action.
  - Continue investigation.

# *Review Committees*

- Recommendation to the Board (not licensed):
  - The charge be dismissed as unfounded or trivial.
  - The matter be referred to an appropriate agency for necessary legal action.
  - Board issue cease and desist.
  - Board apply for injunction.
  - Consent Agreement.
  - Continue investigation.

# *Contemplated Actions*

- Notice to Licensee:
  - Sufficient evidence for determination.
  - Charges determined.
  - Proposed disciplinary action.
  - Twenty days to accept or request Settlement Conference/Hearing.

# *Settlement Conference Committees*

- A settlement conference is available to a licensee who has received a citation for hearing or notice of contemplated action from the Board.

# *Settlement Conference Committees*

- Committee Members:
  - Board member that served on the Review Committee
  - Public member of the Board
  - Andrew L. Ritter, Executive Director
  - David S. Tuttle, Board Counsel

# *Settlement Conference Committees*

- The purpose of the settlement conference is to allow a licensee to pursue resolution through an informal procedure.
- Licensee may bring attorney.
- No witnesses allowed.
- No members of public allowed.

# *Settlement Conference Committees*

- Executive Director explains procedure.
- Board Counsel summarizes case.
- Respondent and/or attorney makes statement/ask questions.
- Board members respond/ask questions.
- Respondent makes request.
- Committee deliberates and announces recommendation.

# *Settlement Conference Committees*

- Recommendation to the Board:
  - Confirm prior Review Committee recommendation
  - Modify prior recommendation
  - Dismiss case
- Respondent can accept or request hearing.

# Hearings

Every licensee has the opportunity to be heard on any action in which the effect would be:

- to require reexamination for licensing
- to withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee
- to suspend a license
- to revoke a license
- to impose a civil penalty
- to issue a reprimand

# Hearings

- Opening statements.
- Board Counsel presents witnesses.
- Respondent or attorney cross-examines witnesses.
- Board members ask questions.

# Hearings

- Respondent or attorney presents witnesses.
- Board Counsel cross-examines.
- Board members ask questions.
- Closing arguments.

# Hearings

- At the conclusion of a hearing, the Board retires into executive session to reach their decision and make findings of fact.
- Majority vote of the Board.
- Dismiss case, reprimand, levy a civil penalty, reexamination, restrict practice, suspend, refuse to renew, or revoke the licensee's certificate.

# *Appeals*

- A licensee who is aggrieved by a final decision of the Board may appeal for judicial review.
- Appeal to Superior Court.
- Further appeals are to the Court of Appeals and the North Carolina Supreme Court.