

2. Respondent is a shareholder in SFL+A Architects, P.A., a professional corporation organized under the laws of North Carolina. SFL+A is a firm licensed to practice architecture. Its license registration number is 50676, and its license is active.

3. On June 9, 2022, the Board received a complaint from Mr. Gordon Johnson, Architect & President of Gordon Johnson Architecture, and Ms. Katherine Peele, Architect & Chief Practice Officer/Principal in LS3P Architects, alleging Respondent engaged in unprofessional conduct during the designer selection process for the new EE Smith High School in Cumberland County. **Exhibit 4.**

4. The complaint was assigned to the Board's Professional Standards Committee for review and investigation. The Subcommittee members were Walt Teague, Cora Cole-McFadden, and Tim Hillhouse.

5. On July 25, 2022, Respondent's Counsel filed a Response to the Complaint. **Exhibit 5.**

6. After conducting its investigation, the Subcommittee found there was probable cause for a violation of Board statutes and rules. It issued a Letter of Warning on October 6, 2022. **Exhibit 7.**

7. Respondent's counsel wrote to the Subcommittee and objected to the inclusion of SFL+A in the Letter of Warning.

8. On November 21, 2022, the Subcommittee issued a revised, non-disciplinary Letter of Caution to SFL+A in response to Respondent's objection.

9. On November 21, 2022, the Subcommittee issued a revised Letter of Warning to the Respondent. **Exhibit 8.**

10. On December 12, 2022, Respondent filed a Request for Administrative Hearing.

11. The Board issued a Notice of Hearing on January 10, 2022 (**Exhibit 1**), an Amended Notice of Hearing on January 18, 2022 (**Exhibit 2**), and a Second Amended Notice of Hearing on February 17, 2023 (**Exhibit 3**). The Administrative Hearing on this matter was held on March 23 and 24, 2023 pursuant to the Second Amended Notice of Hearing.

12. On March 10, 2023, Counsel for Respondent filed a Motion To Disqualify Board Members and Transfer to the Office of Administrative Hearings.

13. On March 13, 2023, Counsel for Respondent file a Motion To Dismiss and Answer.

14. On March 13, 2023, Counsel for Respondent filed a Motion for Continuance.

15. On March 20, 2023, a hearing was held by video conference before Catherine C. Morrison, President and Presiding Officer of the Board on Respondent's Motion To Dismiss and

Motion For Continuance. After reviewing the written arguments and documents submitted in support of the Motion to Dismiss and the Motion for Continuance, and after hearing arguments of counsel in support of and in opposition to the Motions, President Morrison issued an Order denying the Motion for Continuance and denying the Motion to Dismiss.

16. Respondent did appear at the Administrative Hearing before the Board, and was represented by Counsel, R. Jonathan Charleston.

17. Board staff was represented by Board Counsel, M. Jackson Nichols.

18. Prior to commencement of the Administrative Hearing on March 23, 2023, Respondent withdrew the Motion to Disqualify Board Members.

19. At the Administrative Hearing on March 23, 2023, Respondent renewed his Motion To Dismiss and Motion for Continuance. Respondent further argued its Motion to Transfer the case to the Office of Administrative Hearings. After reviewing the materials submitted in support of the Motions, and after hearing arguments from counsel for both parties, the Board denied the Motion to Dismiss, Motion for Continuance and the Motion to Transfer. Counsel for Respondent requested findings and conclusions. In a separate Order, the Board has issued its Findings and Conclusions related to denial of these Motions.

20. Board Executive Director Cathe Evans was sworn in and testified. Complainants Katherine Peele and Gordon Johnson were sworn in and testified. Respondent Robbie Ferris was sworn in and testified.

21. On April 26, 2001, Cumberland County Schools issued a Request for Qualifications for Architectural Services (RFQ 173-21023). The project was described as Facility Condition Assessment, Feasibility Study, Planning and Design Services for Renovations to or Replacement of E.E. Smith High School. **Exhibit 4/Exhibit C.**

22. The RFQ provided that all submittals, questions and inquiries should be sent to Donna Fields, Executive Director of Operations for Cumberland County Schools. **Exhibit 4/Exhibit C -last page.**

23. The RFQ provided further that "Under no circumstances shall contacts be made with other Cumberland County Schools personnel or members of the Cumberland County Board of Education regarding this Request for Qualifications or Selection Process." **Exhibit 4/Exhibit C – last page.**

24. On June 30, 2021, Donna Fields sent an email to 6 architectural firms, including Respondent and Gordon Johnson/LS3P, explaining the interview schedule, agenda and scoring sheet. **Exhibit 5/Page marked Board Ex 40.**

25. On August 5, 2021, Donna Fields sent an email to 4 firms, including Respondent and Gordon Johnson/LS3P, advising that they had been selected for a second round of interviews. **Exhibit 5/Page marked Board Ex 47**

26. On August 23, 2021, Donna Fields sent an email announcing that the Cumberland County Schools Firm Selection Committee had completed the selection process for professional services and ranked the design teams as follows:

- Number 1 – Gordon Johnson Architecture & LS3P
- Number 2 – SFL+A Architecture
- Number 3 – DLR Group
- Number 4 – Ratio Design

The email provided further that the school system would enter into contract negotiations with Gordon Johnson Architecture & LS3P once a detailed scope of work was established. **Exhibit 5/Page marked Board Ex 50**

27. Donna Fields' involvement with the project ended with completion of the RFP selection process. The matter was turned over to Joe Desormeaux, an employee of Cumberland County Schools, for negotiation of a contract and presentation to the School Board.

28. Following announcement of the Selection Committee ranking, members of Respondent's team met with R. Marvin Connelly, Superintendent of Cumberland County Schools. **Exhibit 4/ page 1; Exhibit 4/Exhibit B.**

29. Following announcement of the Selection Committee ranking, Respondent sent an email on September 6, 2021 to the members of the Cumberland County School Board. **Exhibit 4/Exhibit B.**

30. In the September 6 email, Respondent thanked Superintendent Connelly taking the time to meet with members of the SFL+A team. He highlighted information about the qualifications of SFL+A and its commitment to Cumberland County, including:

- a. The majority of the Firm's team lives in Cumberland County and pays taxes there.
- b. Of the four finalists, only SFL+A is will do the majority of work with folks that live in Cumberland County.
- c. SFL+A has donated \$350,000 to local charities in Cumberland County and Fayetteville State University.
- d. SFL+ A has established an annual scholarship fund through the Cumberland Community Foundation for students interested in going to college for architecture or related fields.
- e. SFL + A has led the industry in the design of sustainable education projects.
- f. SFL+A is "the only firm that can deliver on the very high expectations of this transformational project."

- g. SFL+ A hopes “you will consider us further for this project, and we would be happy to present our team and qualifications to the entire board....”
Exhibit 4/Exhibit B.

31. The following Exhibits were introduced into evidence:

1. Notice of Hearing (January 10, 2023)
2. Amended Notice of Hearing (January 18, 2023)
3. Second Amended Notice of Hearing (February 17, 2023)
4. June 9, 2022, Complaint
5. July 25, 2022, Response to Complaint
6. April 12, 2010, Letter of Caution (File No. 182)
7. Letter of Warning (October 6, 2022)
8. Letter of Warning (November 21, 2022)
9. Respondent’s Motion to Dismiss and Answer (March 13, 2023)
10. October 11, 2021, Memorandum re Architectural Firm Selection Process
11. October 11, 2021, Email from Gordon Johnson to Joe Desormeaux

32. Stipulations: The parties entered into the following stipulations:

1. At all times relevant to this Hearing, the Cumberland County Board of Education had not entered into a contract with any of the selected firms for architectural services in response to RFQ 173-21023.
2. The Cumberland County Board of Education had not delegated to any other board or committee the authority to enter into a contract for architectural services in response to RFQ 173-21023.
3. In 2006, the Robert N. Shuller/SFL+A Architects Scholarship was created in honor of SFL +A founding partner Robert Shuller. The Scholarship is managed by the Cumberland Community Foundation, Inc. SFL+A is committed to donating \$25,000 to the Robert N. Shuller/SFL+A Scholarship Fund. The last donation by SFL+A was in September 2016.
4. As to SFL+A and Robbie Ferris’ charitable contributions to various organizations in Cumberland County referenced in Mr. Ferris’ email of September 6, 2021, the parties stipulate that the last charitable donation made by either party was to the Kiwanis Club of Fayetteville in August 2018.

33. Based on the testimony of Respondent and the Stipulations in this case, the Respondent's September 6, 2021 email to the Cumberland County School Board referencing previous charitable contributions by his firm, did not constitute an offer to pay a gift, commission, political contribution or other consideration in order to secure work.

34. While a formal decision had not been made by the Cumberland County School Board regarding the award of the project referenced in the RFQ, the RFQ selection process was complete and the firms of Gordon Johnson & LS3P had been selected for the work.

35. Respondent's September 6, 2021 email to the members of the Cumberland County School Board constituted an attempt to supplant another architect on the project after becoming aware that the other had been selected for the employment.

CONCLUSIONS OF LAW

1. Respondent is subject to Chapter 83A of the North Carolina General Statutes and Title 21, Chapter 02 of the North Carolina Administrative Code.

2. Respondent is subject to jurisdiction before the Board.

3. The Board is authorized to hear this matter pursuant to Article 3A, Chapter 150B of the North Carolina General Statutes.

4. Based on the testimony of witnesses, and the exhibits and stipulations admitted into evidence at the Hearing, the Board concludes that Respondent did not willfully violate G.S. 83A-15, as set forth in administrative rule 21 N.C. Admin. Code 02.0203 (8) (d), by offering to pay a gift, commission, political contribution or other consideration in order to secure work.

5. Based on the testimony of witnesses, and the exhibits and stipulations admitted into evidence at the Hearing, the Board concludes that Respondent did willfully violate G.S. 83A-15, as set forth in administrative rule 21 N.C. Admin. Code 02.0203 (8) (g), by attempting to supplant another architect on a project after becoming aware that the other had been selected for the employment.

6. The Board finds that sufficient evidence was presented to demonstrate that Respondents violated the relevant Board regulation cited above.

FINAL AGENCY DECISION

At the hearing on March 23-24, 2023, the Board made the following Final Agency Decision:

- I. Respondent did not violate the Board's administrative rule 21 NCAC 02.0203 (8) (d) and that charge in the Notice of Hearing is dismissed.
- II. Respondent did violate the Board's administrative rule 21 NCAC 02.0203 (8) (g) as set forth in the Notice of Hearing. That portion of the **Letter of Warning** issued on November 21, 2022 (**Exhibit 8**) related to violation of 21 NCAC 02.0203 (8) (g) is affirmed and upheld.
- III. The Board will not assess attorney's fees or costs, as allowed by N.C.G.S. 83A-16 (e).

Under N.C. Gen. Stat. § 150B-45, Respondent has thirty (30) days from the date Respondent receives this Final Agency Decision to file a Petition for Judicial Review. Respondent must file that Petition in the County where Respondent resides or in Wake County. Since this is an administrative appeal, no additional evidence will be taken. A Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.

This Final Agency Decision is issued this the 24 day of March 2022.



Catherine C. Morrison, AIA
Board President
North Carolina Board of Architecture and
Registered Interior Designers
434 Fayetteville Street, Suite 2005
Raleigh, NC 27601

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the undersigned has this date served the foregoing FINAL AGENCY DECISION, pursuant to N.C. Gen. Stat. § 150B-42(a) and Rule 4(j)(1) of the North Carolina Rules of Civil Procedure as follows:

By mailing a copy via Federal Express to the Respondent, postage prepaid, and addressed as follows:

Mr. Robert Ward Ferris
c/o SFL+A Architects, PA
333 Fayetteville Street, Suite 225
Raleigh, N.C. 27601

And by first class mail to the following:

R. Jonathan Charleston
The Charleston Group
201 Hay Street, Suite 200
P.O. Box 1762
Fayetteville, N.C. 28302
Counsel for the Respondent

M. Jackson Nichols
Hedrick Gardner Law Offices
4131 Parklake Avenue, Suite 300
Raleigh, N.C.
*Counsel for the NC Board of Architecture
and Registered Interior Designers*

This the ____ day of April 2023.

R. Frank Gray
Jordan Price Law Offices
1951 Clark Avenue
P.O. Box 10669
Raleigh, N.C. 27605
*Admin. Law Counsel to the Board of
Architecture and Registered Interior
Designers*