

**BEFORE THE BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS,
LANDSCAPE ARCHITECTS, AND REGISTERED INTERIOR DESIGNERS
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT)	
AGAINST:)	
)	
HANI SAYEGH)	
646 MEADOW LAND DRIVE)	
MOORE, OKLAHOMA 73160,)	
)	
and)	Case No. 2017-497
)	
4D ARCHITECTURAL DESIGN &)	
CONSTRUCTION, LLC)	
c/o CYNTHIA A. HOLDEN)	
2202 WESTPARK DRIVE, STE. B)	
NORMAN, OK 73069,)	
)	
<i>Respondents.</i>)	

FINAL AGENCY ORDER

The Oklahoma State Board of Governors of the Licensed Architects, Landscape Architects, and Registered Interior Designers of Oklahoma (“Board”) met on Wednesday, September 1, 2021, at the Oklahoma History Center, 800 Nazih Zuhdi Dr., Oklahoma City, OK 73105 at 9:30 a.m. in a properly noticed meeting under the Oklahoma Open Meeting Act, 25 O.S.2011, §301 *et seq.* At the meeting, a sufficient number of members of the Board to constitute a quorum¹ held a hearing in the above-captioned matter. Russell C. Lissuzzo III of MCAFEE TAFT, P.C. appeared as the Board Prosecutor, and Respondents appeared in person and were represented by Andrew Murphy of Andrew P. Murphy, Attorney at Law PC. The proceeding was brought under the provisions of Article II of the Administrative Procedures

¹ A quorum of the State Board of Governors of Licensed Architects, Landscape Architects, and Registered Interior Designers of Oklahoma is 6 governors. 59 O.S.2011, §46.6.

Act, 75 O.S.2011, §308a *et seq.* All testimony was taken under oath. The meeting was recorded electronically and by court reporter. A permanent record of the hearing will be maintained at the Board's office.

I. SUMMARY OF THE EVIDENCE

The following exhibits were admitted into evidence:

Board Exhibits

Board Ex. No.	Description of Exhibit
1	Second Amended Notice of Complaint and Hearing with Exhibits, dated August 5, 2021.

Respondents' Exhibits

Defendants' Ex. No.	Description of Exhibit
1	City of Yukon Building Permit Application, dated May 25, 2019, and signed by Hani Sayegh
2	Entity Summary Information Webpage for 4D Safe Shelters LLC from the Oklahoma Secretary of State's Website, retrieved on May 17, 2021.

Respondents called the following witness:

HANI SAYEGH – Mr. Sayegh testified his background and experience working as a draftsman for an architecture firm and further explained his relationship with For Heaven's Sake Christian Child Development Center ("FHS"). He provided details about the storm shelter gymnasium ("Project") he was asked to design and build, including the Project's timeline, as well as his interactions with the City of Yukon and Garland Pendergraf who consulted on the Project as an engineer. He also described his association with 4D Architectural Design & Construction LLC ("4DADC") as well as 4D Storm Shelters LLC.

The Board prosecutor did not call any witnesses and relied solely on cross examination of Respondent Sayegh.

II. STATEMENT OF THE CASE AND ISSUE BEFORE THE BOARD

The Board, through its prosecutor, filed a notice of complaint against the Respondents alleging that the Respondents violated the Act and the Board's administrative rules. Specifically, the issues presented to the Board of Governors was whether the Board Prosecutor, in light of the totality of the evidence, demonstrated it was more true than not true that the Respondents violated the Act and the Board's administrative rules by unlawfully committing the following acts relative to the specific Respondent:

1. Respondent 4DADC creating plans for the Project, as described below, despite not possessing a Certificate of Authority to practice architecture in Oklahoma;
2. Respondent 4DADC holding itself out as having the capability to practice architecture in the State of Oklahoma;
3. Respondent Hani Sayegh unlawfully practicing architecture by creating architectural plans for the Project without a license to practice architecture in the State of Oklahoma;
and
4. Respondent Hani Sayegh holding himself out as having the capability of practicing architecture in the State of Oklahoma.

III. FINDINGS OF FACT

1. The Second Notice of Complaint and Hearing was officially filed on Respondents through counsel on August 5, 2021. **See Board Ex. 1.**

2. At all relevant times concerning the complaint, Respondent Sayegh did not hold nor has he ever been granted a license to practice architecture in the State of Oklahoma. **See Testimony of Hani Sayegh, Hrg. Tr. 24:22-24².**

3. At all relevant times concerning the complaint, Respondent 4DADC did not hold nor has it ever been granted a Certificate of Authority. **See Testimony of Hani Sayegh, Hrg. Tr. 24:25-25:5.**

4. Respondent Sayegh formed 4DADC in 2014 as a preliminary step to rebuilding his home. **See Testimony of Hani Sayegh, Hrg. Tr. 29:16-19; 58:14.**

5. Respondent Sayegh has completed four years of coursework in architecture at the University of Oklahoma and two years of coursework from an institution in Nigeria. However, he does not hold a degree. **See Testimony of Hani Sayegh, Hrg. Tr. 34:19-25; 40:22-23; and 47:11-18.** And since 2002, Respondent Sayegh as worked in several capacities, including as an architectural designer, project manager, and draftsman. **Id. at 20:14-16.**

6. Respondent Sayegh signed two agreements on behalf of 4D Architectural Design & Construction LLC with FHS on March 22, 2016, to build the Project. **See Board Ex. 1; see also Testimony of Hani Sayegh, Hrg. Tr. 21:5; 44:3-7.** When asked by FHS if he was an architect, Respondent Sayegh confirmed that he was not. **Id. at Tr. 23:5-8, 51:22, and 55:6-7.**

7. During the drafting of the agreements, Respondent Sayegh maintained control over the documents at all times. **See Testimony of Hani Sayegh, Hrg. Tr. 65:6-9.** The

² For clarity, citations to the hearing transcript will cited in the following format: **page number: line number(s).**

contracting process included significant negotiation of the terms and language used. *Id.* at 32:5-13; 64:23-65:5.

8. In the first of two agreements, 4D Architectural Design & Construction LLC is designated as the A&E Firm. **See Board Ex. 1.** According to Respondent Sayegh during the hearing, designating 4DADC as the A&E Firm was a mistake. *Id.* at 40:11-12.

9. The first agreement also states that the A&E Firm, *i.e.*, 4D Architectural Design & Construction LLC, “has the necessary qualifications, experience and abilities to provide architectural and engineering services to the Owner. The A&E Firm is agreeable to providing such services to the Owner on the terms and conditions set out in this Agreement. **See Board Ex. 1.** However, Sayegh disputes the language in the first agreement, arguing that he never said that he was the architecture and engineering team or that he was going to offer those services to FHS. **See Testimony of Hani Sayegh, Hrg. Tr. 27:8-12.**

10. Page 2 of the first agreement contains an embedded floor plan of the Project. **See Board Ex. 1.**

11. Paragraph 2 under the ‘Services Provided’ Section states, “The A&E Firm hereby agrees to provide such services to the Owner . . . a. Architectural and Engineering Service” **See Board Ex. 1.**

12. At the time of signing the agreements, Respondent Sayegh realized that he could not legally refer to his work as “architectural design.” **See Testimony of Hani Sayegh, Hrg. Tr. 20:24-21:2.**

13. Respondent Sayegh admitted to creating plans for the Project. **See Testimony of Hani Sayegh, Hrg. Tr. 13:18-20.** But he also claims that he was a draftsman for licensed engineer,

Garland Pendergraf. *Id.* at 14:3-9. Even more, Respondent Sayegh characterizes his services as a “drafter.” *Id.* at 18:24-19:3.

14. According to Sayegh, he informed FHS that he was going to research whether an engineer or architect would be required.³ *See Testimony of Hani Sayegh, Hrg. Tr. 22:11-14.* If required, according to Sayegh, he would organize or coordinate the architecture or engineering services. *Id.* at Tr. 26:20-27:6; 54:15-20.

15. Consistent with his contractual obligations to FHS, Respondent Sayegh did prepare plans for the project. *See Testimony of Hani Sayegh, Hrg. Tr. 27:13-15; 38:15-22; 43:23-44:1.* He actually took plans that FHS had developed and redrew them to make the better and clearer. *Id.* at Tr. 37:13-15. Respondent Sayegh agrees to drawing what FHS requested or wanted. *Id.* at Tr. 38:13-14.

16. Respondent created a new limited liability company on March 29, 2019, called 4D Storm Shelters LLC.⁴ *See Defendants’ Ex. 2.*

17. Respondent Sayegh filed a City of Yukon Building Permit Application on May 25, 2016, listing 4D Architectural Design & Construction LLC as the general contractor.⁵ This is inconsistent with Respondent Sayegh’s claim that he had changed the name of his business from 4D Architectural Design & Construction LLC to 4D Storm Shelters LLC.

³ This claim is inconsistent with the language set forth in the first agreement.

⁴ During the proceeding, Respondent Sayegh testified that he renamed 4D Architectural Design & Construction LLC. *See Testimony of Hani Sayegh, Hrg. Tr. 21:2, 10-11.* However, Defendants’ Ex. 2 shows that a new business entity was created rather than the existing entity being renamed.

⁵ Notably, this application was filed nearly two months *after* Respondent Sayegh purportedly changed the name of his business entity from 4D Architectural Design & Construction LLC to 4D Storm Shelters LLC.

18. The title block on the final drawings of the Project was for 4DADC. **See Testimony of Hani Sayegh, Hrg. Tr. 47:3-7; 51:4.**

19. Any conclusion of law below that is more properly characterized as a finding of fact is hereby incorporated as a finding of fact.

III. CONCLUSIONS OF LAW

1. The practice of architecture is regulated under the State Architectural and Registered Interior Designers Act (“Act”), 59 O.S.2011, §46.1 *et seq.*, and by the Board of Governors constituted under the same Act.

2. Although neither of the Respondents are licensed nor have a Certificate of Authority, the Board has jurisdiction to hear and dispose of the underlying complaint under Okla. Stat. tit. 59, §46.18 (Supp. 2014), which authorizes the Board to assess a civil penalty against *any person* for violation of the Act or the Board’s administrative rules (emphasis added). The civil penalty may be no more than one hundred dollars (\$100.00) for each day that said violation continues along with the associated legal costs for prosecuting the case. *Id.* at (A).

3. In determining the penalty, subsection B of §46.18 states the following—

[T]he Board shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the [Act].

4. Under 59 O.S.Supp.2014, §46.3, the “practice of architecture” is defined as follows—

[the] rendering or offering to render certain services, in connection with the design and construction, enlargement or alteration of a building or a group of buildings and the space surrounding such buildings, including buildings which have as their principal purpose human occupancy or habitation. The services referred to include planning, providing preliminary studies, designs, drawings, specifications, investigations and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by other consultants including, as appropriate and without limitation, consulting engineers and landscape architects; provided, that the practice of architecture shall include such other professional services as may be necessary for the rendering of or offering to render architectural services.

5. Under 59 O.S. §46.8a, no person may directly or indirectly engage in the practice of architecture in the State of Oklahoma or use the title “Architect,” “Registered Architect,” “Architectural Designer,” or display or use any words, letters, figures, titles, signs, cards, advertisements, or other symbols or devices indicating or tending to indicate that such a person is an architect or is practicing architecture, unless the person is registered or licensed under the provision of the Act.

6. Under 59 O.S.Supp.2021, §46.9(C), “[a] partnership, firm, association, corporation, limited liability company or limited liability partnership desiring to practice architecture or landscape architecture shall file with the Board an application for a certificate of authority for each office location performing work on Oklahoma projects.”

7. A licensed architect may practice architecture through a business entity registered with the Oklahoma Office of Secretary of State if such business entity has first been granted a certificate of authority by the Board. *Id.* at §46.9(A)(4).

8. Under OKLA. ADMIN. CODE §55:10-5-1(a), prima facie evidence shall—

[B]e construed or attempting to construe to practice, perform or offer architecture, landscape architecture or services as interior design within the meaning and intent of the Act by display or verbal claim, sign, advertisement, contract, card or other printed, engraved, or written instrument or device, or by electronic means bearing an individual's or entities name or in any other way represent to be licensed or registered under the Act. Prima facie evidence is also defined as an individual or Entity representing as able to contract, offer, perform services or use the restricted titles defined under the Act as requiring a License, Registration, Certificate of Authority or a Certificate of Title.

9. Considering all the evidence presented and testimony offered, it is more probably true than not true that Respondents violated the Act by committing the following acts relative to each Respondent:

- a. Contrary to Oklahoma law, Respondent 4D Architectural Design & Construction LLC did create plans for the Project, as described above, despite not possessing a Certificate of Authority to practice architecture in Oklahoma;
- b. Contrary to Oklahoma law, Respondent 4D Architectural Design & Construction LLC did hold itself out as having the capability to practice architecture in the State of Oklahoma;
- c. Contrary to Oklahoma law, Respondent Hani Sayegh did unlawfully practice architecture by creating architectural plans for the Project without possessing a license to practice architecture in the State of Oklahoma; and
- d. Contrary to Oklahoma law, Respondent Hani Sayegh holding himself out as having the capability of practicing architecture in the State of Oklahoma.

10. Any finding of fact above that is more properly characterized as a conclusion of law is hereby incorporated as a conclusion of law.

IV. ORDER

It is therefore **ADJUDGED, DECREED, and ORDERED** that Respondents have, contrary to the Act and the Board's administrative rules, created architecture plans despite not possessing a required certificate of authority; held itself [4D Architectural Design & Construction LLC] out as possessing the capability to practice architecture; unlawfully created architecture plans without possessing a license to practice architecture in the State of

Oklahoma; and held himself [Hani Sayegh] out to be a licensed architect allowed to practice architecture despite not being licensed in the State of Oklahoma.

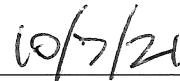
It is **FURTHER ORDERED** that Respondent is hereby assessed a civil penalty of FIVE THOUSAND DOLLARS (\$5,000.00) having weighed all factors under 59 O.S.2011, §46.18(B).

IT IS SO ORDERED.

On September 1, 2021, a sufficient number of members to constitute a quorum of the Oklahoma State Board of Governors of Licensed Architects, Landscape Architects, and Registered Interior Designers voted 6-0 to find Respondent guilty of unlawfully affixing his architect seal to renderings of which he did not possess responsible control over and impose a civil penalty of FIVE THOUSAND PERSON (\$5,000.00). Pursuant to OKLA. ADMIN. CODE §55:10-15-20, this Order shall be effective ten (10) days from the date that the Order is signed below.



SCOTT HOWARD
Board Chair & Presiding Officer



Date

CERTIFICATE OF MAILING

I hereby certify that on the ____ day of October 2021, the above and foregoing *Final Agency Order* was sent by U.S. first-class mail, postage prepaid, to the following:

Mr. Michael D. McClintock
Mr. Russell C. Lissuzzo III
MCAFEETAF, P.C.
Two Leadership Square, 8th Floor
211 N. Robinson
Oklahoma City, OK 73102

Mr. Andrew Murphy
ANDREW P. MURPHY,
ATTORNEY AT LAW PC
3601 N. Classen Blvd. #106
Oklahoma City, OK 73118

PROSECUTORS FOR THE BOARD OF
GOVERNORS

COUNSEL FOR RESPONDENT

LESLIE HANSKA
Executive Director