

# BUILDING BLOCKS

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## SEALING & STAMPING DESIGN PROFESSIONAL DOCUMENTS IN OHIO

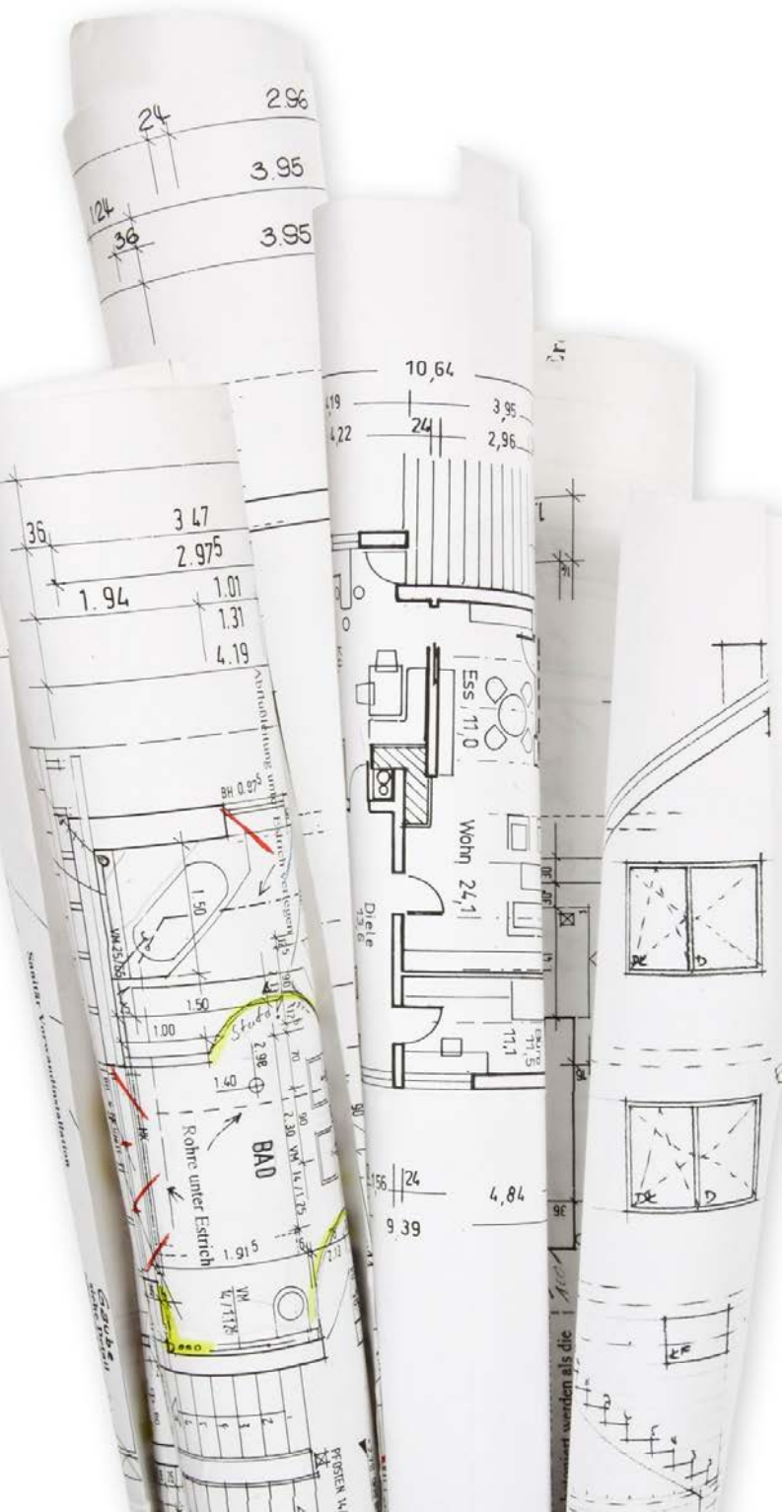
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You are the principal in an architectural and engineering firm. Your trusted and capable staff members prepared the construction documents for a project, and they are ready to submit them for building department review and approval for a permit. You certainly were involved in the contract negotiations with your client for the project, but since then you assigned the project to your lead designer and the construction document department. You were not involved in the preparation of the documents, and barely know anything about the development of the project. Should you as the principal in charge of the firm affix your professional seal and stamp on the construction documents?

The fact pattern above is based in part upon the National Society of Professional Engineers' (NSPE) Board of Ethical Review Case No. 86-2 Signing and Sealing Plans Not Prepared by Engineer. For a reading of the case, its discussion and conclusion see: <https://www.nspe.org/resources/ethics/ethics-resources/nonmember/board-of-ethical-review-cases>

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## NSPE Code of Ethics Canon II (Applicable Rule)

1. Omitted.
2. Engineers shall perform services only in the areas of their competence.
  - a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
  - b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.



The usage of seals did not take place until the Middle Ages. Originally only eminent individuals such as bishops, monarchs and royal spokespeople to authenticate documents used them. By the 13<sup>th</sup> century, wax seals became more widespread and were being used by monasteries, guilds, aristocrats and eventually common folk. Each seal would be unique to its owner, and would often be used in place of a signature due to widespread illiteracy during the 13<sup>th</sup> century. Wax seals were occasionally stamped directly on a document, but it was more common for them to be stamped separately and then affixed to the bottom of the document with a red ribbon, cord or strip of parchment.

Let's first further set the stage by considering additional applicable codes and standards regarding affixing a stamp and seal on documents, before we ponder your situation at the beginning of this article.

### Sign & Sealing: Ohio Administrative Code 4733-35-07 (Plan stamping for professional engineers and surveyors)

(A) The engineer or surveyor shall not sign and/or seal professional work for which he or she does not have personal professional knowledge and **direct supervisory control** and **responsibility**. This is interpreted by the board to mean that an engineer or surveyor shall not sign and/or seal professional work unless that work was prepared under his/her **supervision and direction**. The engineer or surveyor shall be involved in the project and must be closely involved in the preparation of the work product.

### Ohio Administrative Code 4703-3-01 (Seal requirements for registered architects)

- (A) Each architect shall be authorized to use a seal as hereinafter directed in paragraph (C) of this rule on all documents prepared by the architect or under the architect's **direct supervision** for use in this state for the purpose of properly imprinting the drawings, specifications, and other contract documents ...
- (B) Omitted.
- (C) The architect shall imprint documents only if the architect was the author of such drawings, specifications and other contract documents or was in **responsible charge** of their preparation.
- (D) An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of this paragraph are met:
  - (1) It is a unique identification of the professional;
  - (2) It is verifiable;
  - (3) It is under the professional's **direct and sole control**;

## National Council of Architects Registration Board (NCARB) 2018-2019, RULE OF CONDUCT 5 (Signing and sealing documents)

5.1 An architect shall sign and seal only those technical submissions that were prepared under the architect's **responsible control** except as noted in rule 5.2 and 5.3.

5.2 An architect of record may sign and seal technical submissions not required by law to be prepared by an architect including information supplied by manufacturers, suppliers, installers, contractors, or from the architect of record's consultants, when that information is intended to be incorporated into the architect of record's technical submissions and the architect of record has reviewed such information and can reasonably trust its accuracy.

5.3 An architect of record may sign and seal prototypical building documents prepared by an architect licensed in any U.S. jurisdiction, but only if the architect of record determines that such documents are in compliance with the requirements of the project's jurisdiction and incorporates them into the architect of record's own technical submissions.

### American Institute of Architects (AIA) Canon IV: Obligation to the Profession

Rule 4.102: Members shall not sign or seal drawings ... for which they do not have **responsible control**.

*AIA Commentary: "Responsible control" means the degree of knowledge and supervision ordinarily required by the professional standard of care. With respect to the work of licensed consultants, Members may sign or seal such work if they have reviewed it, coordinated its preparation, or intended to be responsible for its adequacy.*

### Discussion and Conclusion

A seal and stamp has significance unlike the work of other professionals. As an architect, engineer or surveyor you are in a unique position to seal and stamp your work, as no other professional puts their mark on something tangible like you do, such as doctors, accountants or lawyers. (The exception is that a notary of the public uses their seal, but not on their work product.)



A reoccurring theme and common denominator from all of the codes and standards stated above is that you should be, in so many words, in "**responsible control**" and have "**direct supervision**" of the preparation of the documents of your projects. In your situation at the beginning of this article, you could have the project manager in your office for the project, if licensed in the state of project location, seal and stamp the documents. That is assuming the project manager was in **responsible control** and had **direct supervision** of the project, and the project otherwise met the criteria set forth above.

If you are questioned, whether you were or not in **responsible control**, a good practice is to document your **direct supervision** of the preparation of the documents. Prepare internal project meeting minutes where you were involved in the project, even though you did not actually hand draw or use a computer to generate the documents. And have the licensed professional engineers or surveyors in your office or outside consultants affix their seal and stamp as well on the documents.

Lastly, be very careful if someone approaches you to seal and stamp their documents, who is not even your client, and merely wants you to review their documents that you did not have **responsible control** over. The bottom line, as a licensed design professional, you have a responsibility to protect the health, safety and welfare of the public, and your clients. That responsibility includes exercising your standard of care so that your project documents are properly prepared under your **responsible control** and **direct supervision**.

**About the Author**

*Eric O. Pempus, FAIA, Esq., NCARB, ORSA has been a risk manager for the last 12 years with experience in architecture, law and professional liability insurance, and a unique and well-rounded background in the construction industry. He has 25 years of experience in the practice of architecture, and as an adjunct professor teaching professional practice courses at the undergraduate and graduate levels for the last 30 years. As a Fellow of the American Institute of Architects and a member of the AIA National Ethics Council, he has demonstrated his impact on architectural profession. He has presented numerous loss prevention and continuing educational programs to design professionals and architectural students in various venues across the United States and Canada.*

*The above comments are based upon DesignPro Insurance Group's experience with Risk Management Loss Prevention activities, and should not be construed to represent a determination of legal issues, but are offered for general guidance with respect to your own risk management and loss prevention. The above comments do not replace your need for you to rely on your counsel for advice and a legal review, since every project and circumstance differs from every other set of facts.*

***Disclaimer:*** *The viewpoints expressed in this article are those of the author(s) and are not necessarily approved by, reflective of or edited by other individual, group, or institution. This article is an expression by the author(s) to generate discussion and interest in this topic.*

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# DON'T MISS ONE OF ERIC'S UPCOMING SPEAKING ENGAGEMENTS!

Mark your calendars for Eric's upcoming Continuing Education Programs:

## **Webinars:**

***“Project Delivery for Engineers”***  
*Cleveland Engineering Society Webinar*  
*April 24, 2019 - 11:30 a.m. – 12:30 p.m.*

## **Conference Seminars:**

***“Cybersecurity: Technology, Risk and the Law”***  
*Half Moon Education Seminars, Middleburg Heights, OH*  
*March 12, 2019 - 8:30 a.m. – 5:00 p.m.*

***“Empowering your Ethics in a Changing Architectural Culture”***  
*Quebec City Conference*  
*Ontario Association of Architects, Quebec, Canada*  
*May 23 and 24, 2019 - 10:30 a.m. – 12:00 p.m.*

***“Engineering Law & Ethics”***  
*Half Moon Education Seminars, Middleburg Heights, OH*  
*May 30, 2019 - 8:30 a.m. – 5:00 p.m.*

***“Practice Management Case Studies: From Disaster to Resolution”***  
*AIA National Conference on Architecture 2019, Las Vegas, NV*  
*June 5, 2019 - 1:00 p.m. – 5:00 p.m. Workshop*



# FUN FACT:

## Ferdinand Cheval

(19 April 1836 – 19 August 1924) was a French postman who spent thirty-three years of his life building **Le Palais idéal** (the "Ideal Palace") in [Hauterives](#). The Palace is regarded as an extraordinary example of [naïve art](#) architecture. Cheval picked up stones during his daily mail round and carried them home to build the *Palais idéal*.<sup>[1]</sup> He spent the first twenty years building the outer walls. At first, he carried the stones in his pockets, then switched to a basket. Eventually, he used a wheelbarrow. He often worked at night, by the light of an oil lamp.



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