

STATE OF ALABAMA BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

IN THE MATTER OF:)

James Glenn Karolyi)
4005 Indian Lake Cir)
Stone Mountain, GA 30083)

Respondent)
_____)



Case No. 2015-48-B

HEARING ORDER

On March 22, 2016 a hearing was convened concerning the allegations filed against Respondent, James Glenn Karolyi. The Board was represented by Mr. Benjamin Albritton, Board Counsel. Administrative Law Judge Dana A. Billingsley presided over the Hearing. Mr. Karolyi did not appear at the hearing.

After hearing the testimony of all the witnesses presented by the Board Investigative Committee and after considering all the evidence presented in the above-referenced case, Administrative Law Judge Dana H. Billingsley proposed the following Findings of Fact, Conclusions of Law, and Conclusion and Recommendation.

PROPOSED FINDINGS OF FACT

1. Respondent James Glenn Karolyi is a licensed Professional Engineer ("PE"), License Number 1 1 134, and was so licensed at all times relevant to the matters stated herein. (Tr. at 6); (BE #B-1).' Respondent's license is currently in lapsed status as of December 31, 2014, due to failure to renew; he has never previously been disciplined by the Board. (Tr. at 6, 12).

2. On December 4, 2014, Respondent submitted an online renewal of his PE license for the calendar year 2015. (Tr. at 9); (BE #B-2, B-18). As a condition of licensure, licensees are required to take annually fifteen (15) hours of continuing education ("CE") or Professional Development Hours ("PDH"), which are to be reported on the renewal application

form developed by the Board. Ala. Admin. Code r. 330-X-13-.02(4)(d)1. and (11) (2015). Respondent's receipt for his online 2015 renewal shows that he selected the option certifying that he had met the continuing professional competency requirement of fifteen (15) hours of professional development, claiming that he earned 9.5 PDH since the last renewal period and carried forward 8.0 hours from 2013. Respondent also marked the box for retired status with an "N" for "No." (BE #B-2, B-18). Licensees may carry forward fifteen (15) PDH into the next renewal period and are required to maintain records supporting the number of credits claimed for a period of four (4) years. Ala. Admin. Code r. 330-X-13-.02(4)(d)1. and (12) (2015).

3. After completion of the renewal process, the Board randomly selects five percent (5%) of its licensees to be audited in order to monitor their compliance with the PDH requirement. (Tr. at 8, 14). See Ala. Admin. Code r. 330-X-13-.02(1 4) (2015).

4. On March 24, 2015, the Board notified Respondent via electronic mail to his last e-mail address of record with the Board that he had been randomly selected for an audit based on his 2015 license renewal application and requested that he provide copies of the documents supporting the professional competency credits he earned in support of that renewal. (Tr. at 16, 18); (BE #B-3). In said correspondence, the Board requested that Respondent provide a log showing a detailed list of the activities claimed and copies of attendance verification records, as required under Ala. Admin. Code r. 2 330-X-13-.02(12) (2015), by April 30, 2015. (BE#B-3).

4. Respondent failed to respond to the Board's correspondence of March 24, 2015. (Tr. at 17-18). The Board then forwarded a second notice of audit selection to Respondent via First Class and Certified Mail, dated May 12, 2015, to Recipient's address of record at 4005 Indian Lake Circle, Stone Mountain Georgia 30083, requesting that Respondent provide the requested documentation by June 18, 2015. (Tr. at 18); (BE #B-4). Respondent's receipt of said letter was evidenced by a Certified Mail receipt bearing the signature of Mary Karolyi, dated May 15, 2015. (Tr. at 18); (BE #B-5).

5. Respondent did provide an e-mail response to the Board Investigator's attempts

to reach him. (Tr. at 14). On June 15, 2015, the Investigator, Mr. Kevin Putnam, provided Respondent with a copy of the information he had supplied to the Board regarding his PDH since 2009, and reminded him of the requirement to demonstrate fifteen (15) PDH during the year 2014 in order to satisfy the audit. (BE #B-6, B-7, B-8).

7. Respondent replied via e-mail on July 6, 2015, stating that he retired from Southern Company Services on February 26, 2015, and, "Since I have not worked on any projects requiring a PE License, I have decided to relinquish my Alabama PE License." (Tr. at 27-28); (BE #B-9). Respondent was advised by Mr. Putnam that relinquishing his license did not absolve him of the responsibility to demonstrate past CE requirements, which failure could result in disciplinary action by the Board. (Tr. At 29); (BE #B-10). Respondent was advised to submit documentation of same to the Board office by July 31, 2015, to which he responded with another copy of his July 6, 2015 e-mail. (Tr. at 30-31); (BE #B-11, B-12).

8. On August 27, 2015, the Board's Executive Director, Regina Dinger, initiated a Complaint against Respondent and sent notification of the Complaint via First Class and Certified Mail to Respondent's address of record at 4005 Indian Lake Circle, Stone Mountain, Georgia 30083. (Tr. at 20-21); (BE #B-1, B-13). The letter requested that he provide a written response no later than September 17, 2015, concerning his failure to provide the requested documentation in support of the continuing professional competency credits he obtained for his 2015 renewal application and to provide any additional information that could aid in the investigation of the Complaint. (BE #B-13). Respondent's receipt of said letter was evidenced by a Certified Mail receipt bearing Respondent's signature, dated September 4, 2015. (Tr. at 21-22); (BE #B-15).

9. On September 28, 2015, Respondent replied to Investigator Putnam's email communication of September 22, 2015, again stating that he had retired from the Atlanta office of Southern Company Services on February 26, 2015, after forty-one (41) years and had no assigned Alabama projects in 2015. Respondent admitted that his failure "to maintain and

secure the records of my PDH's" constituted a violation of Alabama law; however, he said his former employer had cleaned out his office and discarded everything that was not company property, including his PDH file. (BE #B-14 B-16). Respondent stated that he was seventy-one (71) years old and no longer intended to practice engineering. (BE #B-16). Mr. Putnam reported that he also spoke with Respondent regarding the Board's outstanding Complaint on September 25, 2015 September 29, 2015, and October 2, 2015. (Tr. at 34-35).

10. Respondent's former supervisor, Mr. Mike Chan, informed Investigator Putnam that Respondent might obtain sufficient PDH to satisfy the Board's requirements due to classes he taught for the Southern Company in 2014. (Tr. at 35-36); (BE #B-17). Respondent supplied sufficient documentation to support six and one half (6.5) PDH for 2014; he only earned thirteen (13) PDH for 2013, two (2) hours short of the required annual PDH, so no carry-over credits were available. (Tr. at 41-42); (BE #B-1 9 through B-30).

11. By Notice dated January 26, 2016, sent to Respondent's address of record at 4005 Indian Lake Circle, Stone Mountain, Georgia 30083, Respondent was notified via Certified and First Class Mail of the date and time of a public hearing to be held on March 22, 2016, at 9:00 a.m. at the Board's office in Montgomery, Alabama, concerning his alleged violations of the Board's licensure act and administrative rules, which were specified in detail in the Board's Charges accompanying the Notice. (Tr. at 11-12); (BE #1A). The Board's Charges were signed by the Executive Director on January 26, 2016, and contained a single charge of failure to provide documents that support the PDH he reported on his 2015 license renewal application, pursuant to the Board's audit of professional development requirements. (BE #1A).

12. The Board's Charges alleged that such acts constituted possible violations of Ala. Code § 34-1 1-1 1(a)(2) (1975 as amended), violation of the rules of professional conduct; Ala. Admin. Code r. 330-X-14-.06(a)1. (2015), violation of any provision of the Board's law or its rules; and Ala. Admin. Code r. 330-X-13-.02(14)(a) (2015), regarding the requirement to provide documents supporting PDH credits claimed in response to a renewal audit. (BE #1A).

13. The Notice and Board's Charges complied in all respects with the requirements

of Ala. Code § 41-22-12 (1975 as amended) and Ala. Admin. Code r. 330-X-16-.03 (2015) and sufficiently apprised Respondent of the nature of the charges against him. (BE #1A). Service of the Notice and Board's Charges on Respondent to his address of record by Certified Mail was confirmed by a Certified Mail receipt signed by Mary Karolyi on January 29, 2016. (Tr. at 12); (BE #1A).

14. The Board solicited testimony from the following individuals at the hearing: Executive Director Regina Dinger; William R. Huett, Assistant Executive Director and Chief Investigator; and Board Investigator Kevin Putnam. Respondent did not appear. (Tr. at 3). In accordance with Ala. Code § 41 -22-1 2(d) (1975 as amended) and Ala. Admin. Code r. 330-X-16-,05(3) (2015), having determined that Respondent received proper service of notice of the scheduled hearing, the undersigned proceeded with the hearing in Respondent's absence. (Tr. at 4).

PROPOSED CONCLUSIONS OF LAW

1. The Alabama Legislature created the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors for the purpose of safeguarding life, health and property and promoting the public welfare with regard to the practice of engineering within the state. Ala. Code § 34-11 -2(b) (1975 as amended). To ensure these mandates are met, the Board requires licensees to demonstrate continuing professional competency to maintain, improve or expand their skills and knowledge of the practice of professional engineering as a condition for license renewal. Ala. Admin. Code r. 330-X-13-.02(1), (2) (2015).

2. Ala. Admin. Code r. 330-X-13-.02(12) (2015) requires a licensee to maintain records supporting the CE credits claimed. Records required include, but are not limited to, information detailing the type of activity claimed, sponsoring organization location, duration, speaker or instructor, credits earned and evidence of attendance. The rule provides that these records must be maintained for a period of four (4) years and must be furnished by the licensee upon the Board's request for audit verification purposes.

3. The Board is empowered to reprimand, censure, fine or place on probation any

licensed PE or to suspend, refuse to renew or revoke the certificate of any licensee for violation of any provision of Alabama law regulating the practice of engineering or for any violation of the administrative rules prescribed by the Board. Ala. Code § 34-1-1-1(a)(2) (1975 as amended). See also Ala. Admin. Code r. 330-X-14-.06(a)1. (2015).

4. Respondent's license remained in active status until December 31, 2014 and he remains answerable to the Board for the certifications he made on December 4, 2014, when renewing his PE license.

5. The evidence of record supports a finding that Respondent failed to provide sufficient documentation to support the number of Professional Development Hours listed on his 2015 license renewal application, in violation of Ala. Code § 34-11-11(a)(2) (1975 as amended) and Ala. Admin. Code r. 330-X-14-.06(a)1. and 330-X-13-.02(14)(a) (2015), as specified in the Board's Charges of January 26, 2016. (BE #1A). In particular, the evidence supports a finding that Respondent was able to verify only six and one-half (6.5) of the fifteen (15) required PDH for 2014, and thirteen (13) of the fifteen (15) required PDH for 2013.

CONCLUSION AND RECOMMENDATION

1. It is incumbent upon a licensee to be familiar with the requirements under Alabama law and the Board's own rules and regulations governing the practice of the profession of engineering, including the licensee's responsibility to timely provide, upon request, records that can be used to support claimed Professional Development Hours. See Ala. Admin. Code r. 330-X-13-.02(12) and (14)(a) (2015).

2. As shown above, on the basis of the evidence of record and the testimony presented, it is hereby concluded that Respondent's failure to produce records in support of the Professional Development Hours for which he certified compliance with the Board's CE requirements on his 2015 license renewal application constitutes violations of Ala. Code § 34-11-11(a)(2) (1975 as amended) (violation of the rules of professional conduct); Ala. Admin. Code r. 330-X-14-.06(a)1. (2015) (violation of the laws or rules and regulations of the Board); and Ala. Admin. Code r. 330-X-13-.02(14)(a) (2015) (failure to provide documents in support of

Professional Development Hours in response to a renewal audit).

3. Accordingly, it is hereby recommended that Respondent receive a written reprimand and pay a fine in the amount of \$250.00 for said violations, together with the cost to the Board of these proceedings, in accordance with Ala. Code § 34-1 1-1 6(g) (1975 as amended) and Ala. Admin. Code r. 330-X-16-.06(1) (2015), within thirty (30) days of the date of a Final Order issued by the Board.

ORDER

The **BOARD**, after deliberation and review, agrees with and adopts as final the Findings of Facts, Conclusion of Law, and Conclusion proposed by Administrative Law Judge, Dana H. Billingsley, and finds the Respondent **GUILTY** of the allegations made against him. The Board modifies the disciplinary recommendation of the Administrative Law Judge and **ORDERS** the following:

1. Respondent's license is suspended until he provides documents that show completion of the required professional development hours.
2. Respondent shall pay a fine to the Board via a check or money order made payable to the PE/PLS Fund in the amount of \$250 (Two hundred and fifty dollars) within thirty (30) days of the date of this Order.
3. Respondent shall submit a check or money order made payable to the PE/PLS Fund in the amount of \$1,596.25 (One thousand five hundred ninety-six dollars and twenty-five cents) as payment for the cost of hearing within thirty (30) days of date of this Order.

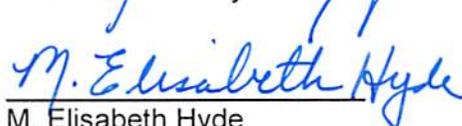
ENTERED into on June 1, 2016



Marc S. Barter



A. Frazier Christy



M. Elisabeth Hyde

DID NOT ATTEND

Charles P. Willis

RECUSED

Richard G. Grace



Nathan G. Johnson