

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

IN RE THE MATTER OF:

RICHARD WAYNE MCCOY

Case No. 09-312-B

FINAL ORDER

On December 10, 2009 at 1:00 p.m. the Alabama Board of Licensure for Professional Engineers and Land Surveyors convened for a regularly scheduled Board meeting. The Board Members in attendance at the meeting were: Mr. William C. Ulrich, Jr, Mr. Don T. Arkle, Mr. C. Michael Arnold, Mr. W. Gerald Wilbanks, Mr. Al I. Reisz, Dr. Daniel S. Turner, and Mr. Phillip E. Santora. Also present at the Board Meeting was Mr. William R. Huett, Assistant Executive Director and Investigator for the Board. Mr. Benjamin Albritton, Assistant Attorney General, appeared as counsel for the Board.

This Final Order is presented to the Board upon a Consent Order signed by Mr. Richard Wayne McCoy and dated November 20, 2009. In said Consent Order, Respondent stipulated that he violated the Code of Alabama 1975 § 34-11-11(a) (2), and the Rules of Professional Conduct of the Board's *Administrative Code* § 330-X-13-.02(14) (b) and § 330-X-14-.06(a) (15).

Upon Consideration of the above it is ORDERED that the Consent Order dated November 20, 2009 is adopted by the Board and hereby made a part of this Final Order. It is further ORDERED that Respondent abide by the Final Order in this manner.

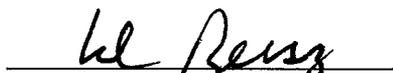
ENTERED this the 11th day of December 2009.


Mr. William C. Ulrich, Jr.


Mr. Don T. Ankle


Mr. C. Michael Arnold

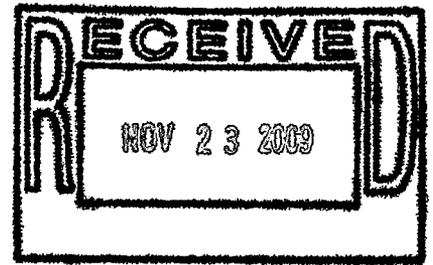

Mr. W. Gerald Wilbanks


Mr. Al. I. Reisz


Dr. Daniel S. Turner


Mr. Phillip E. Santora

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IN RE THE MATTER OF:
RICHARD WAYNE MCCOY

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CONSENT ORDER

Richard Wayne McCoy (hereinafter referred to as "Respondent") hereby stipulates and agrees, subject to approval of the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as the "Board") as follows:

STIPULATED FACTS

Respondent stipulates on September 10, 1982 he obtained a professional engineer license (license number 14026) from the Board and has held that license continuously since that date.

Respondent stipulates he received a letter from the Board dated March 18, 2009 stating he had been selected at random for audit of the continuing professional competency credits he obtained in order to renew his professional engineer license in the State of Alabama for 2009. Said letter requested Respondent respond no later than April 20, 2009.

Respondent stipulates he received a letter dated May 7, 2009 from the Board (via certified and regular mail) advising he had been selected at random for audit of the continuing professional competency credits he obtained in order to renew his professional engineer license in the State of Alabama for 2009. Said letter requested Respondent respond no later than May 26, 2009.

Respondent stipulates on May 14, 2009 the Board received a certified mail return receipt card bearing the signature of "J. Howell" dated May 11, 2009. Respondent further stipulates he failed to respond to the Board's request.

Respondent stipulates on July 29, 2009 a letter was sent (via certified and regular mail) informing Respondent the Board had initiated a complaint regarding his failure to provide documents supporting his earned continuing professional competency credits for his 2009 professional engineer license renewal. Said letter informed Respondent that as of July 29, 2009 his professional engineer license for the State of Alabama had been suspended by the Board until the audit requirements were met, and Respondent was instructed to respond to the letter prior to August 17, 2009.

Respondent stipulates he was contacted by a Board Investigator via telephone on August 20, 2009, and explained he was unaware of the Board's audit and was surprised to learn his license had been suspended for failure to respond. Respondent advised he would contact "Ms. Howell" and call back as soon as possible. Respondent stipulates he failed to contact the Board. Respondent further stipulates a Board Investigator made additional attempts to contact him; however he failed to respond to the Board.

Respondent stipulates on November 5, 2009 the Board sent (via certified mail and FedEx) a letter and copy of Board's charges, formally charging him with failure to respond to the Board's Audit of Professional Development Requirements pursuant to Title 34, Chapter 11, Code of Alabama 1975 and the Rules and Regulations of the Board's *Administrative Code*.

Respondent stipulates he contacted the Board office by telephone on November 9, 2009 and explained he usually obtained professional development hours through an organization that did not provide supporting documents; but that he had now obtained sixteen professional development hours and would submit them to the Board for review. On November 12, 2009 the Board received an email with attachments which included a letter to the Board, a copy of a letter addressed to the Illinois Board of Licensure and a certificate indicating Respondent earned sixteen professional development hours on November 6, 2009.

STIPULATED CONCLUSIONS OF LAW

Respondent, in his capacity as a licensed professional engineer in the State of Alabama,

admits in such capacity that he is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11 and the jurisdiction of the Board.

Respondent stipulates his conduct as set forth in the foregoing “Stipulated Facts” constitutes violations of Title 34 Chapter 11, Code of Alabama 1975, §34-11-11(a)(2), and the Board’s *Administrative Code* § 330-X-13-.02(14)(b) and § 330-X-14-.06(a)(15).

Respondent stipulates his conduct set forth in the “Stipulated Facts” is a violation of those rules and statues set forth above, and he is subject to disciplinary action under Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

STIPULATED DISPOSITION

1. Respondent shall not in the future violate the provisions of Title 34, Chapter 11, Code of Alabama 1975, or the Rules and Regulations of the *Administrative Code* and the Rules of Professional Conduct promulgated together.

2. Respondent understands this Consent Order and subsequent Final Order will become a matter of public record.

3. Respondent understands he shall pay to the Board a fine of two hundred dollars (\$200.00) within thirty days from the date of the Final Order.

4. Respondent agrees his continuing professional competency credits shall be subject to audit twice within next seven (7) years.

5. Respondent agrees failure to submit payment of specified penalty within six months of date of Final Order shall cause Respondent’s license to practice engineering in the State of Alabama to be **revoked** (pending ratification of the Board). This matter will then be presented to the Board for ratification at its next regularly scheduled meeting. Respondent understands he has the right to appear at that meeting and present any facts or extenuating circumstances to the Board.

6. Respondent understands that as of November 16, 2009 his professional engineer license status has been returned to “active” based on the fact that documents verifying sixteen

professional development hours earned by him where received by the Board on November 12, 2009.

7. Respondent agrees this Consent Order is subject to the approval of the Board and has no force and effect until a Final Order based upon it is rendered by the Board.

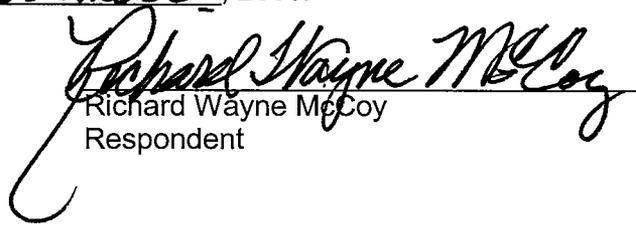
8. Respondent agrees any violation of the terms of this Consent Order may result in the Board filing additional charges in accordance with Title 34, Chapter 11 Code of Alabama 1975.

9. Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board Members, Board Staff and Board Counsel. Respondent understands this discussion will take place at the Board's regularly scheduled meeting on December 10-11, 2009 in Montgomery, Alabama. Respondent understands he has the right to be present when this matter is discussed but hereby waives that right.

10. Respondent for the purpose of avoiding further administrative action with respect to this cause executes this Consent Order. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

11. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to otherwise challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the Final Order of the Board incorporating said Consent Order.

SIGNED this the 20th day of November, 2009.


Richard Wayne McCoy
Respondent

APPROVED:

Benjamin H. Albritton
Assistant Attorney General