

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

IN RE THE MATTER OF:

Case No. 09-18-B

NORMAN E. CLOSE

FINAL ORDER

This cause was called for hearing on September 28, 2009 at 9:00 a.m. Members of the Investigative Committee of the Alabama Board of Licensure for Professional Engineers and Land Surveyors (hereinafter referred to as "Board") met in the office of the Board for an Administrative Hearing concerning the allegations filed against Mr. Norman E. Close (hereinafter referred to as "Respondent"). The Board was not present but was represented by Mr. Benjamin Albritton, Board Counsel. Governmental Hearing Officer Dana A. Billingsley presided over the Hearing. Also present at the Hearing were Ms. Regina Dinger, Executive Director of the Board, and Mr. William R. Huett, Assistant Executive Director and Investigator for the Board, and Robert Herbert, Investigator for the Board. The Respondent was not present at the hearing.

STATEMENT OF ISSUES

On July 21, 1980, Respondent was issued a certificate of licensure (certificate number 12977) from the Board authorizing him to practice engineering in the State of Alabama and has held that license continuously from that date. At present, Respondent's license is in lapsed status as of December 31, 2008, due to failure to renew.

On December 2, 2007, Respondent submitted an on-line renewal of his Professional Engineer's license for the calendar year 2008. Respondent indicated on his on-line renewal submission that he was renewing his license in active status. Respondent also certified he had

met the continuing professional competency requirement of fifteen (15) hours of professional development.

Respondent was notified by correspondence on July 10, 2008 that his 2008 license renewal had been randomly selected for audit of continuing professional competency credits he had earned and reported on the 2008 license renewal. The Board requested that Respondent provide a log and copies of attendance verification records as required by the Board's Rules and Regulations no later than August 11, 2008.

On August 8, 2008, Respondent contacted Joy Whatley, Board employee via electronic mail and notified her that he had retired from the practice of engineering and that his firm had dissolved and was no longer in business. Respondent stated he wished to have his license placed into retired or inactive status. Respondent was notified via email that same day that because he had renewed his license in active status, he was still required to respond to the Board's request. Respondent failed to respond to the Board's correspondence dated July 10, 2008.

On September 3, 2008, via certified and regular First Class mail Respondent was forwarded a second notice of audit selection. Respondent's receipt of the Board's letter was evidenced by a Certified Mail receipt bearing the signature of Norman Close and dated September 9, 2008.

On October 1, 2008, Respondent contacted Mr. William Huett, Assistant Executive Director of the Board via email in which he reconfirmed his wish to have his license placed in retired status. Respondent further stated he was unable to acquire the documentation required to support his 2008 license renewal.

On December 3, 2008 a complaint was filed by Ms. Regina A. Dinger, Executive Director of the Board of Professional Engineers and Land Surveyors (hereinafter referred to as "Complainant") against Respondent alleging that Respondent had failed to provide documentation to the Board as requested pursuant to a random audit of his continued

professional competency credits. The complaint alleged that Respondent may have violated Code of Alabama 1975 § 34-11-11(a)(2) and *Administrative Code* § 330-X-14-.06(a) 1 & 15 and § 330-X-13-.02(14) and requested that Respondent provide a written response prior to December 18, 2008 concerning his failure to provide the requested documentation in support of the continuing professional competency credits obtained to renew his 2008 license.

Respondent contacted the Board by correspondence dated January 28, 2009 which included a one page computer print out of a calendar indicating a training course conducted by him December 3-7, 2007, flight numbers indicating travel to Europe on the dates indicated and the names of two (2) engineers trained by him. Respondent was later contacted by Mr. Robert Herbert, Investigator for the Board, in an attempt to obtain additional information but Respondent was unable to produce any documentation other than his personal calendar.

The alleged violation is as follows;

Count I

Charge: Unethical Conduct-Failure to Respond to Board's Audit of Professional Development Requirements

On July 10, 2008, the Board sent a letter informing Respondent he had been selected at random for audit of the professional development hours obtained in order to renew his professional engineer license in the State of Alabama for 2008. Respondent was to respond to this letter no later than August 11, 2008. On August 8, 2008, Respondent informed the Board via email that records of his professional development hours for 2007 may not be available. He also advised the Board that his business had dissolved and asked that his license be placed in "retired" or "inactive" status. Joy Whatley, a Board employee responded via email and informed Respondent that since his 2008 license was renewed in "active" status he was required to provide the documents requested by the Board. Respondent failed to submit the requested documents to the Board. On

September 3, 2008 Ms. Whatley sent Respondent a letter (via certified and regular mail) reminding him of the Board's request and asking that he provide the requested documents prior to September 28, 2008. In an email dated October 1, 2008, Respondent informed Mr. Huett, Board Assistant Executive Director that he would be unable to provide the requested documentation to support the continuing professional competency credits he earned in 2007 and reported on his 2008 license renewal application. On December 3, 2008 a letter was sent via certified and regular mail informing Respondent of a Board initiated complaint for his failure to respond to the Board's request for documentation. On January 30, 2009, Respondent submitted a letter and documentation in the form of a copy of an event calendar in response to the Board's request. It was later determined by the Board that the documentation provided was not sufficient as verification of his earned continuing professional competency credits. The failure to maintain and provide to the Board required documentation verifying earned continuing competency credits is a violation of Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11 (a)(2) and the Rules and Regulations of the Board's *Administrative Code*, § 330-X-13-.02(12) § 330-X-14-.06(a)(1) and (a)(5).

CONCLUSIONS OF LAW

The Board hereby states that Respondent is subject to the provisions of Title 34, Chapter 11, Code of Alabama 1975 § 34-11-11(a)(2), and *Administrative Code* § 330-X-13-.02(12) and § 330-X-14-.06(a)1.

CONCLUSION

After hearing the testimony of all the witnesses presented by the Board and after considering all the evidence presented in the above-referenced case, Governmental Hearing Officer Dana Billingsley made the following recommendation;

1. On the basis of the evidence of record and the testimony presented, it is hereby concluded that Respondent's failure to maintain and produce records in support of the Professional Development Hours for which he certified compliance with the Board's CE requirements on his 2009 license renewal constitutes violations of Ala. Code § 34-11-11(a)(2) (1975) and Ala. Admin. Code r. 330-X-14-.06(a)(1) (violation of the laws and rules and regulations of the Board) and r. 330-X-13-.02(12) (failure to maintain records that can be used to support claimed CE credits).
2. Accordingly, it is hereby recommended that Respondent receive a six (6) month stayed suspension of his Alabama PE license and pay a fine in the amount of \$250.00 for said violations within thirty (30) days of the date of a Final Order issued by the Board.

After deliberation and a review of the Governmental Hearing Officer's recommendations, the Board finds Respondent **Guilty** of the allegations made against him.

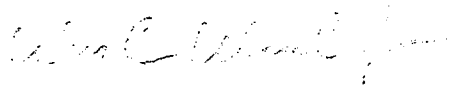
In accordance with the Code of Alabama 1975 § 34-11-11(m) which states the Board has the power to impose any and all disciplinary penalties and the licensee shall be responsible for the cost of such action if found guilty the Board respectfully modifies the Governmental Hearing Officer's proposed recommendation for disciplinary action to include payment of the cost of the hearing relative to this cause.

In accordance with the Code of Alabama 1975 § 34-11-11(a) which states the Board has the power to impose any and all disciplinary penalties the Board respectfully modifies the Governmental Hearing Officer's proposed recommendation for disciplinary action to state the license of the Respondent is suspended until such time as documents are provided to the Board that verify he has obtained fifteen (15) professional development hours for his 2009 professional engineer license renewal.

The Board hereby **Orders** as follows:

1. Respondent shall pay to the Board, a fine of two hundred fifty dollars (\$250.00) within thirty (30) days of Final Order.
2. Respondent shall pay to the Board five hundred and sixty five dollars and (\$565.00) within thirty (30) days of Final Order for cost of the Hearing.
3. Respondent's license is suspended until such time as documents are provided to the Board that verify he has obtained fifteen (15) professional development hours for his 2009 professional engineer license renewal.
4. The Hearing and Final Order will be public record.

Done this the 11th day of December, 2009



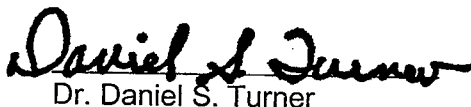
Mr. William C. Ulrich Jr.



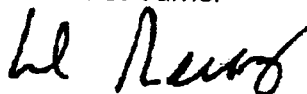
Mr. C. Michael Arnold



Mr. W. Gerald Wilbanks



Dr. Daniel S. Turner



Mr. Al I. Reisz



Mr. Phillip E. Santora