

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

IN RE THE MATTER OF:

Case No. 09-317-C

NATHAN REDWINE

FINAL ORDER

This cause was called for hearing on February 16, 2010 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. Nathan Redwine (hereinafter referred to as "Respondent"). The Board was not present but was represented by Mr. Benjamin Albritton, Board Counsel. Administrative Law Judge 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.

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.

FINDINGS OF FACT

1. Respondent Nathan Redwine is a non-licensee and has at no time been issued a valid license from the Board authorizing him to practice or offer to practice engineering in the State of Alabama.

2. On July 29, 2009, the Board received a Complaint from Mr. William H. Klepac Professional Engineer License Number PE 19348 (the "Complainant"). Relative to information obtained from the State of Louisiana regarding the purported unauthorized use of his Alabama Professional Engineer License Number by Respondent. Mr. Klepac's Complaint was assigned Case No. 09-317-C by the Board.

3. By Notice dated January 4, 2010, Respondent was notified via Certified and First Class Mail of the place, date and time of a public hearing to be held concerning his alleged violations of Ala. Code § 34-11-15(a) (1975 as amended), presenting or attempting to use the certificate of licensure or the seal of another licensed engineer; and Ala. Code §§ 34-11-16(a) 3 and 5. (1975 as amended), presenting or attempting to use the certificate of licensure or the seal of another licensed engineer and falsely impersonating another licensed engineer to practice or offer to practice engineering in the State of Alabama, which were specified in detail in the Board's Charges accompanying the Notice. The Boards Charges stated further that Respondent may have created an Alabama professional engineering stamp containing Professional Engineer License Number 19348 without Complainant's knowledge and may have provided engineering services in Alabama using a professional seal containing Complainant's Professional Engineer License Number. Id.

4. 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 (2007) and sufficiently apprised Respondent of the nature of the charges against him and of the date, time and place of the hearing. Service of the Notice and Board's Charges on Respondent by certified

mail to [REDACTED], was attempted on January 7, 2010, and eventually returned as unclaimed. The copy of the Notice and Board's Charges sent to the same address by First Class Mail was not returned as undeliverable.

5. Respondent did not appear at the hearing. In accordance with Ala. Code § 41-22-12(d) (1975 as amended) of the Alabama Administrative Procedure Act ("AAPA"), based on a determination that Respondent received proper notice of the scheduled hearing, the undersigned Administrative Law Judge proceeded with the hearing in Respondent's absence. Id. Two (2) days following the hearing, on February 18, 2010, Respondent provided a two (2)-page written response via facsimile to the Board office, which would purport to rebut the Board's Charges, as set forth in its January 4, 2010 Notice.

6. The Board solicited testimony from the following individuals at the hearing: Executive Director Regina Dinger; William R. Huett, Assistant Executive Director; and Board Investigator Robert Herbert.

7. On April 8, 2009, Executive Director Regina Dinger received an e-mail from the Louisiana Professional Engineering and Land Surveying Board (the "Louisiana Board") informing her that, pursuant to a cooperative investigation of Respondent by the Louisiana Department of Environmental Quality's ("DEQ") Criminal Investigation Division and the Louisiana Board, professional engineering seals from Texas, License Number 55742, and Alabama, License Number 19348, with an ink pad, were confiscated during a search of Respondent's home. Respondent was arrested by the DEQ's Criminal Investigation Division on April 8, 2009, after he purportedly falsely represented himself as a Professional Engineer in an application submitted to the Louisiana DEQ for a Title V major source air permit.

8. The Board determined that Alabama License Number 19348 belonged to Mr. Klepac, and an investigation was opened regarding this matter and assigned to the Board's Investigator, Robert Herbert. Mr. Klepac filed a formal Complaint with the Board regarding the purported use of his Professional Engineer License Number on or about July 29, 2009.

9. On July 31, 2009, the Board forwarded correspondence to Respondent by First Class Mail to [REDACTED], advising him of the Complaint and requesting a response thereto, including copies of documents associated with engineering services performed in the State of Alabama, to include calculations, work orders, applications, invoices, letterhead and business cards, by August 20, 2009. On September 28, 2009, having received no response, the Board sent the same request again by First Class and Certified Mail and Federal Express to Respondent's address. The Federal Express delivery was initially completed to Respondent's address at [REDACTED] without a delivery signature on September 29, 2009, and redelivered on October 3, 2009, signed for by Mary Redwine; the correspondence sent via Certified Mail was delivered to that same address on October 6, 2009, signed for by Nathan Redwine.

10. Respondent failed to respond to any of the Board's requests for information or to Investigator Herbert's attempt to contact him by telephone on November 24, 2009.

11. On April 24, 2009, Investigator Maureen Kennedy of the Louisiana DEQ Criminal Investigation Division provided the Board with copies of its documents related to the investigation, search and arrest of Respondent, including the following:

(a) a copy of the Alabama stamp bearing the words "Alabama Registered Professional Engineer No. 19348" and the name "Nathan Redwine" at the bottom. The DEQ report notes that "the stamp had been stained by ink at the time of the discovery indicating prior use. The stamp was also found to be damaged along the edge, as evident on the printed stamp".

(b) a copy of information posted as of February 19, 2008, on the website of AL TEC Environmental Consultants, Inc., 10100 Woolworth Road, Keithville, Louisiana 71037, listing Respondent as "Vice President Nathan C. Redwine, P.E." The biographical information listed portrays Respondent as having received a Bachelor of Science in Civil Engineering and a Masters of Science in Environmental Engineering from Purdue University, with thirty-three (33)

years of experience in providing civil and environmental engineering services for clients in numerous states. Id.

(c) a pictorial listing of employees receiving Asbestos Inspector Refresher Training on February 5, 2008, including Nathan C. Redwine.

(d) a copy of a forged Louisiana State Board of Registration Certificate for Nathan Charles Redwine, issued August 12, 1974, certifying Respondent as a Professional Engineer.

(e) information identifying Douglas Stuart Diehl of Houston, Texas, as the holder of Texas Professional Engineer License Number 55742, for which a stamp was also found in Respondent's possession by the Louisiana DEQ.

(f) a copy of the first page of the Louisiana DEQ's Lead Accreditation Application Form LPF-1 for Nathan C. Redwine, dated August 13, 2007, listing him as a Sr. Professional Engineer for AL TEC Environmental Consultants, Inc. and as a "Registered Professional Engineer and Land Surveyor in the State of Louisiana".

(g) a copy of an Air Permit Application for the Zwolle Facility for Millennium Rail, Inc., certified by the signature of Nathan C. Redwine, Professional Engineer, Louisiana Registration No. 14165, dated October 9, 2006, and the Title V Permit Renewal for D.G. Hunter Power Plant in Alexandria, Louisiana, certified by the signature of Nathan C. Redwine, Professional Engineer, Louisiana Registration No. 14165, dated September 6, 2005.

(h) accreditation affidavits for Nathan C. Redwine as an Asbestos Inspector and Lead Inspector for the Louisiana DEQ for 2007, signed by "Nathan C. Redwine, P.E."

12. Investigator Herbert testified that ALTEC President, Roy Dowling, advised that Respondent may have possessed the Alabama professional engineering stamp bearing Complainant's Alabama Professional Engineer License Number PE 19348 prior to ALTEC's hiring of Respondent in 2001.

13. Respondent acknowledged in his February 18, 2010 correspondence to the Board that he mistakenly signed a Louisiana document as a Professional Engineer but that this action was

"totally unrelated" to Alabama and that he had never performed work as an engineer in Alabama or executed anything as an engineer in Alabama. Respondent further stated that the purported Alabama Engineer Stamp misspelled the name "Alabama" and was not an engineer's stamp and that he was a fireman in Natchitoches, Louisiana. Id.

CONCLUSIONS OF LAW

1. The Alabama Legislature has created the State 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 and land surveying in this state. Ala. Code §§ 34-11-2 (b) and (c) (1975 as amended). It is unlawful for any person to practice or to attempt to practice engineering in this state or to use in connection with his name the term "professional engineer to convey the impression that he is a Professional Engineer unless he has first been duly licensed by this Board. Ala. Code §§ 34-11-2(a) and (b) (1975 as amended).

2. In addition to any other provisions of law, the Board is empowered to enter an order assessing a civil penalty against any non-licensed person for presenting or attempting to use the certificate of licensure or seal of another licensed engineer or falsely impersonating another licensed engineer. Ala. Code §§ 34-11-16(a) 3 and 5 (1975 as amended)); Ala. Admin. Code r. 330-X-14-.06(a) 1 (2007). It is also a violation of Alabama law for any person to hold himself out as qualified to practice engineering in this state, to use the words "professional engineer" in connection with his name without being duly licensed by this Board, presenting or attempting to use as his own the seal of another or falsely impersonating any other licensee. Ala. Code § 34-11-15(a) (1975 as amended).

3. The record supports a finding that Respondent had sufficient notice of the place, date and time of the hearing held in this matter and of the charges against him, as evidenced by the delivery of the Notice and Board's Charges dated January 4, 2010, by First Class Mail to the

same address at which Respondent signed for and received Federal Express and Certified Mail delivery of Board correspondence on October 3 and 6, 2009. See Ala. Code § 34-11- 11 (h) (1975 as amended) (" ... a copy of the charges, together with the notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the individual licensee ... at least 30 days before the date fixed for hearing "); ALA.CODE § 34-11-16(c) (1975 as amended) ("Before issuing an order under this section [regarding non-licensees], the board shall provide the person written notice and the opportunity to request, within 30 days of notice by the board, a hearing on the record."). Further, the timing of Respondent's facsimile of February 18, 2010, two (2) days after the hearing, would suggest that Respondent was aware of the proceedings and was attempting to respond.

4. Although Respondent categorically denied acting as a Professional Engineer or representing himself as same within the four corners of the State of Alabama, he did not address whether he had ever represented himself as a licensed Alabama Professional Engineer in Louisiana or in any other state. Respondent mistakenly presumes that his admission to signing Louisiana documents as a Professional Engineer has no bearing on the charges brought against him by this Board.

5. There is no witness and no documentary evidence conclusively tying respondent to the use of the Alabama professional engineering stamp bearing Mr. Klepac's Professional Engineer License Number - no one in this proceeding witnessed Respondent's use of the stamp, and no one has produced a document authored by Respondent bearing the stamp? However, when considered together with the indisputable evidence that Respondent masqueraded as a Professional Engineer for over thirty-three (33) years in Louisiana (and perhaps elsewhere), Respondent's possession of the stamp, which includes a specific license number belonging to another licensed individual in Alabama, supports a conclusion that, at the very least, Respondent is guilty of falsely impersonating another licensed Alabama Professional

Engineer, regardless of whether the Board can demonstrate that the stamp was ever actually used. No rationale justifies possession of such a stamp outside of having a legitimate entitlement to it, and the testimony of the Board's Investigator regarding his interview with ALTEC President, Roy Dowling, who recalled seeing the Alabama stamp in Respondent's possession as early as 2001, also supports such a conclusion.

6. Merriam Webster's Online Dictionary defines "impersonate" as "to assume or act the character of". <http://www.merriam-webster.com/dictionary/v>. Even if Respondent never acted as Professional Engineer License Number PE 19348, he clearly assumed that identity by placing his name below that license number on the face of the stamp. He was not entitled to do so.

CONCLUSION AND RECOMMENDATION

Accordingly, it is hereby recommended that Respondent be ordered to cease and desist any and all acts constituting the impersonation of Alabama Professional Engineer License Number PE 19348, including the use of the professional engineering stamp bearing said license number for the purpose of practicing or offering to practice professional engineering in this state, be assessed a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2 ,500.00) for each violation, for a total of Five Thousand Dollars (\$5,000.00), and pay the costs to the Board for these proceedings, in accordance with the provisions of Ala. Code §§ 34-11-16(b) and (g) (1975 as amended) and Ala. Admin. Code r. 330-X-16-.06 (1) (2007).

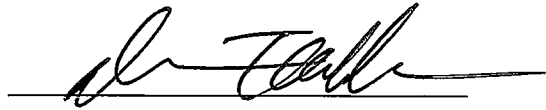
THE BOARD, after deliberation and review, agrees with and adopts as final these Findings of Facts, Conclusions of Law, and Conclusion and Recommendation proposed by Administrative Law Judge, Dana H. Billingsley. The Board hereby finds Respondent **GUILTY** of the allegations made against him and issues the following **Order**:

1. Respondent shall cease and desist any and all acts constituting the impersonation of Alabama Professional Engineer License Number PE 19348, including the use of the professional engineering stamp bearing said license number for the purpose of practicing or offering to practice professional engineering in this state,
2. Respondent shall pay a \$5,000.00 civil penalty to the State of Alabama General Fund
3. Respondent shall pay \$1,550.98 to the Board for the cost of the hearing.

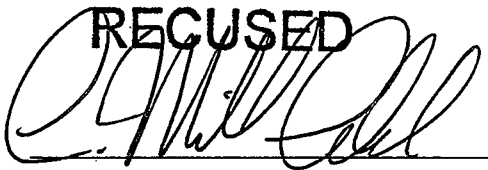
Done this the 26th day of March 26, 2010



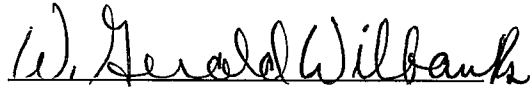
Mr. William C. Ulrich, Jr.



Mr. Don T. Arkle

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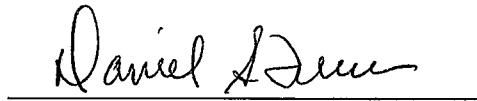
Mr. C. Michael Arnold



Mr. W. Gerald Wilbanks



Mr. Al I. Reisz



Dr. Daniel S. Tuner



Mr. Phillip E. Santora