

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

IN RE THE MATTER OF:

Case No. 09-316-B

RODNEY ROLAND SMITH

FINAL ORDER

This cause was called for hearing on October 29, 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. Rodney Roland Smith (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 August 7, 1988, Respondent was issued a certificate of licensure (certificate number 16776) 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 suspended status as of July 29, 2008, due to Respondent's failure to respond to the Board's audit of professional development requirements.

On October 29, 2008, Respondent submitted an on-line renewal of his Professional Engineer's license for the calendar year 2009. 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 March 18, 2009 that his 2009 license renewal had been randomly selected for audit of continuing professional competency credits he had earned and reported on the 2009 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 April 20, 2009. Respondent failed to respond to the Board's request.

On May 7, 2009, a second notice of audit was sent to Respondent via certified and regular first class mail informing Respondent that failure to respond to the Board's request within sixty (60) days would result in the temporary suspension of his license to practice engineering in the State of Alabama. Respondent failed to respond to the Board's letter.

On July 28, 2009 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)(b). The alleged violation is as follows;

Count I

Charge: Unethical Conduct

Failure to Respond to Board's Audit of Professional Development Requirements

On March 18, 2009, 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 2009. Respondent was to respond to this letter no later than April 20, 2009. On May 7, 2009, the Board sent a letter via regular and certified mail 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 2009. Respondent was to respond to this letter no later than April 20, 2009. The Board never received a response from Respondent. On July 29, 2009 the Board sent a letter to Respondent via certified and regular mail informing him of a Board initiated a complaint for his failure to respond to the Board's request for documentation. The letter also informed Respondent that as of July 23, 2009 his professional engineer license for the State of Alabama was suspended and requested he respond to the letter prior to August 28, 2009. On August 20, 2009 Mr. Robert Herbert, Investigator for the Board, made contact with Respondent via telephone. Respondent informed Mr. Herbert that he would not provide the information requested by the Board because he intended to retire and had not performed any work in the State of Alabama for twenty years. 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(2)(1) and r. 330-X-13-.02(12) (failure to maintain records that can be used to support claimed CE credits). Further, this Hearing Officer concludes that Respondent's stated refusal to respond to the Board's requests for documentation constitutes a violation of Ala. Admin. Code r. 330-X-14-.06(a)(5) (engaging in conduct that discredits or tends to discredit the profession of engineering).
2. Accordingly, it is hereby recommended that Respondent's license to practice the profession of engineering in the state be **revoked** in accordance with the provisions of Ala. Code § 34-11-11 (1975) and Ala. Admin. Code r. 330-X-16-.06.

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.

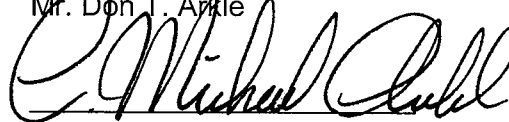
The Board hereby **Orders** as follows:

1. Respondent shall pay to the Board five hundred and fifty-seven dollars and fifty cents (\$557.50) within thirty (30) days of Final Order for cost of the Hearing.
2. Respondent's license to practice engineering in the State of Alabama shall be **revoked** immediately upon date of Final Order.
3. The Hearing and Final Order will be public record.

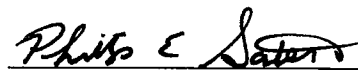
Done this the 11th day of December, 2009



Mr. William C. Ulrich Jr.


Mr. Don T. Arkle


Mr. C. Michael Arnold


Mr. W. Gerald Wilbanks


Mr. Phillip E. Santora


Dr. Daniel S. Turner


Mr. Al. I. Reisz