



# Louisiana Professional Engineering and Land Surveying Board

Order/Ruling Number: \_\_\_\_\_

Subject Reference: \_\_\_\_\_

## Petition for Declaratory Order and Ruling

1. Name of Petitioner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Email: \_\_\_\_\_

2. List all statutes, rules or orders of the Board to which this petition relates:

\_\_\_\_\_  
\_\_\_\_\_.

3. Clearly and concisely state all the facts necessary to show the manner in which the petitioner is aggrieved by the statute, rule or order or by its potential application, or in which the petitioner is uncertain of its effects: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. Clearly and concisely state the declaratory order or ruling requested by the petitioner:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. State whether the petitioner has an application or is involved in a disciplinary or enforcement investigation or proceeding, or in any other matter which is presently pending before or under consideration by the Board. If so, explain in detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

6. State whether the declaratory order or ruling requested by the petitioner relates to, is similar to or is connected with any pending litigation or with any disciplinary or enforcement investigation or proceeding presently pending before or under consideration by the Board. If so, explain in detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Signature of Petitioner: \_\_\_\_\_ Date: \_\_\_\_\_

LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD  
9643 Brookline Avenue, Suite 123  
Baton Rouge, Louisiana 70809

**RULING ON PETITION FOR DECLARATORY ORDER**

**RULING NO. 2014-01**

1.

On January 16, 2014, Norma Jean Mattei, Ph.D., P.E. ("Petitioner") filed with the Louisiana Professional Engineering and Land Surveying Board (the "Board") a petition for declaratory order and ruling pursuant to LAC Title 46:LXI§727.

2.

Petitioner seeks a declaratory order as to whether a professional engineer who is competent to practice structural engineering, but who is not listed by the Board in the discipline of structural engineering, is permitted to refer to himself/herself as a "Structural Engineer" in Louisiana.

3.

La. R.S. 37:693(A)(2) provides as follows:

Professional engineers will be issued licenses by the board as a professional engineer. The board shall list a professional engineer in one or more of the disciplines of engineering approved by the National Council of Examiners for Engineering and Surveying to signify the area in which the engineer has demonstrated competence pursuant to education, experience, and examination. The professional engineer may use a stamp that designates the discipline of engineering in which the board has listed the engineer or a stamp that identifies the licensee as a professional engineer.

4.

La. R.S. 37:698(A) provides, in pertinent part, as follows:

The board shall have the power to take disciplinary action against any licensee . . . found by the board to be guilty of any of the following acts or offenses:

. . .  
(2) Any fraud, deceit, . . . material misrepresentation, gross incompetence, or gross misconduct in the practice of engineering . . .

. . .  
(6) Violation of any provision of this Chapter or any rules or regulations adopted and promulgated by the board.

. . .  
(11) The use of any advertising or solicitation which is false or misleading.

. . .  
(13) Knowingly making or signing false statements, certificates, or affidavits in connection with the practice of engineering . . .

(18) Practicing or offering to practice engineering . . . when not qualified.

. . .

5.

LAC Title 46:LXI§105(A) defines “fraud, deceit or misrepresentation” as:

intentional deception to secure gain, through attempts to deliberately conceal, mislead, or misrepresent the truth with the intent to have others take some action relying thereupon, or any act which provides incorrect, false, or misleading information, upon which others might rely.

6.

LAC Title 46:LXI§105(A) defines “gross incompetence” as:

the practice of engineering . . . by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duty he/she undertakes. (The practice of engineering in an area other than that in which the licensee has been issued a license will not be considered as evidence of gross incompetence, provided the licensee is otherwise qualified by education or experience.) Examples of practice which the board may consider to constitute gross incompetence include but are not limited to:

a. the undertaking of assignments other than those for which the licensee is qualified by education or experience in the specific technical fields involved; or

b. the affixing of the licensee's signature or seal to any engineering . . . plan or document dealing with the subject matter in which the licensee lacks competence by virtue of education or experience.

7.

LAC Title 46:LXI§105(A) defines “gross misconduct”, in pertinent part, as

the practice of engineering . . . by a licensee who performs any acts, causes any omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession[ ] of engineering . . . Gross misconduct as used herein shall also include any act or practice in violation of the board's rules of professional conduct . . . or use of seals.”

8.

LAC Title 46:LXI§1901(A) provides as follows:

The licensure law provides that professional engineers will be issued licenses by the board as a Professional Engineer and that the board shall list a professional engineer in one or more of the disciplines of engineering approved by the National Council of Examiners for Engineering and Surveying (NCEES).

9.

LAC Title 46:LXI§2505 provides, in pertinent part, as follows:

A. Licensees shall perform services only in the area of their competence.

B. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering . . . involved.

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence. . . .

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project.

. . .

10.

LAC Title 46:LXI§2509 provides, in pertinent part, as follows:

A. Licensees shall avoid improper solicitation of professional employment or services.

B. Licensees shall not falsify or permit:

1. misrepresentation of the licensee or any associate's academic or professional qualifications

. . .

11.

LAC Title 46:LXI§2511 provides, in pertinent part, as follows:

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

B. The prohibitions listed in Subsection A include, but are not limited to:

1. the use of statements containing a material misrepresentation of fact;

2. omitting a material fact necessary to keep the statement from being misleading;

3. the use of statements intended or likely to create an unjustified expectation; and

4. the use of statements containing a prediction of future success.

. . .

### **ORDER**

After due consideration of the petition for declaratory order and ruling filed by Petitioner and after discussion by the Board during its meeting on May 19, 2014:

**IT IS THE RULING** of the Board that:

12.

A professional engineer licensed by the Board is permitted to describe his/her structural engineering expertise or experience if that is an area of his/her competence (*e.g.*, "expert in

structural engineering”, “years of structural engineering experience” or some other similar descriptor), even if he/she is not listed by the Board in the discipline of structural engineering.

13.

However, only a professional engineer listed by the Board in the discipline of structural engineering is permitted to refer to himself/herself as a “Structural Engineer” or “S.E.” or to otherwise use the designation “Structural Engineer” or “S.E.” in reference to himself/herself in Louisiana.

**THUS DONE** at Baton Rouge, Louisiana, on the 19th day of May, 2014.

**LOUISIANA PROFESSIONAL ENGINEERING  
AND LAND SURVEYING BOARD**

By:   
M. ERNEST GAMMON, SR., P.L.S., Chairman