

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

IN THE MATTER OF ROBERT D. LEE CONSULTING ENGINEERS, INC.

CASE NO. 2007-103

AND

IN THE MATTER OF ROBERT D. LEE, P.E.

CASE NO. 2008-80

Present at the Hearing:

Board Members:

Timothy J. Allen, P.L.S., Chairman
James D. Garber, PhD., P.E.
James E. Bowie, Jr., PhD., P.E.
Miles B. Williams, P.E.
Roger D. Danzy, P.E.
Mark A. Jusselin, P.E.

Also Present:

Donna D. Sentell, Executive Secretary
Robert E. Eddleman, Deputy Executive Secretary/Director of Enforcement
Justin G. Owens, Board Investigator
Victoria R. Hatton, Board Investigator
D. Scott Landry, Board Counsel
Celia R. Cangelosi, Prosecuting Attorney
M. Ernest Gammon, Sr., P.L.S.

FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came on for hearing jointly in Baton Rouge, Louisiana on March 24, 2009 at 9:00 a.m. No one appeared at the hearing on behalf of Robert D. Lee Consulting Engineers, Inc. or Robert D. Lee, P.E., and the hearing proceeded as authorized by La. R.S. 37:698(G). After hearing the arguments of counsel and upon due consideration of the testimony and other evidence presented, the Louisiana Professional Engineering and Land Surveying Board ("LAPELS") makes the following Final Findings of Fact and Conclusions of Law.

FINAL FINDINGS OF FACT

1.

Robert D. Lee Consulting Engineers, Inc. has been licensed with LAPELS as a professional engineering firm, number EF-2096, since 1996; however, its license has been in an expired status since October 1, 1999. See LAPELS' Exhibit 1.

2.

Robert D. Lee, P.E. has been licensed with LAPELS as a professional engineer, number PE-26842, since 1996.

3.

At all times, Robert D. Lee, P.E. has been the owner and supervising professional of Robert D. Lee Consulting Engineers, Inc.

4.

In 2006-07, Robert D. Lee Consulting Engineers, Inc. was listed as "Lee Consulting Engineers Inc" in the Baton Rouge, Louisiana telephone directory Yellow Pages ads under the heading "Engineers-Professional-Consulting". The address listed was 6415 Quinn Drive, Baton Rouge, Louisiana and the telephone number listed was 751-9251. See LAPELS' Exhibit 4.

5.

"Lee Consulting Engineers Inc." has never been licensed with LAPELS as a professional engineering firm and it is not listed in the Louisiana Secretary of State's online corporations database.

6.

On June 7, 2007, LAPELS staff sent a letter to "Lee Consulting Engineers, Inc." at 6415 Quinn Drive, Baton Rouge, Louisiana advising it that the firm was not licensed with LAPELS as a professional engineering firm and that it was improperly listed in the Baton Rouge, Louisiana telephone directory Yellow Pages ads. The firm was advised to notify the telephone directory ad agency of the improper ad and to explain to LAPELS the circumstances and proposed corrective action. The firm failed to respond to this letter. See LAPELS' Exhibit 5.

7.

On October 17, 2007, LAPELS staff sent another letter to "Lee Consulting Engineers, Inc." at 6415 Quinn Drive, Baton Rouge, Louisiana and requested a response within fifteen (15) days.

This letter was hand delivered by LAPELS staff to Mr. Lee at that address. Mr. Lee stated that he was unaware Robert D. Lee Consulting Engineers, Inc.'s firm license had expired and that it would be taken care of right away. Neither the firm nor Mr. Lee otherwise responded to the letter and Robert D. Lee Consulting Engineers, Inc.'s firm license was never renewed. See LAPELS' Exhibit 6.

8.

In 2007-08, Robert D. Lee Consulting Engineers, Inc. continued to be listed as "Lee Consulting Engineers Inc" in the Baton Rouge, Louisiana telephone directory Yellow Pages ads under the heading "Engineers-Professional-Consulting". The address listed was 6415 Quinn Drive, Baton Rouge, Louisiana and the telephone number listed was 751-9251. See LAPELS' Exhibit 7.

9.

In 2008, the Louisiana Secretary of State's online corporations database listed the domicile address of Robert D. Lee Consulting Engineers, Inc. as 6415 Quinn Drive, Suite A, Baton Rouge, Louisiana 70817. Mr. Lee was listed as the firm's registered agent and director. See LAPELS' Exhibit 8.

10.

On August 6, 2008, LAPELS staff sent a letter to Robert D. Lee Consulting Engineers, Inc., advising it that LAPELS was considering preferring charges against it involving a possible violation of La. R.S. 37:698(A)(9) and (16), which prohibit the practicing and/or offering to practice engineering in the State of Louisiana with an expired license. This letter was hand delivered by LAPELS staff to Mr. Lee at the firm's new address at 10620 Timberlake Drive, Baton Rouge, Louisiana 70810. LAPELS also attempted to resolve the matter informally, by including with the letter a proposed Consent Order and a notification to the firm of its right to request an informal conference. Mr. Lee stated that he would take care of it right away. However, Robert D. Lee Consulting Engineers, Inc. never responded to the letter and its firm license was never renewed. See LAPELS' Exhibit 10.

11.

On August 11, 2008, LAPELS staff sent a letter to Mr. Lee, advising him that LAPELS was considering preferring charges against him involving a possible violation of La. R.S. 37:698(A)(12), which prohibits the aiding or assisting of another person in violating LAPELS' laws

and/or rules. This letter was hand delivered by LAPELS staff to Mr. Lee at his new address at 10620 Timberlake Drive, Baton Rouge, Louisiana 70810. LAPELS also attempted to resolve the matter informally, by including with the letter a proposed Consent Order and a notification to Mr. Lee of his right to request an informal conference. Mr. Lee stated that he would take care of it right away. However, Mr. Lee never responded to the letter and his firm's license was never renewed. See LAPELS' Exhibit 9.

12.

At the time the above letters were hand delivered to the offices of Robert D. Lee Consulting Engineers, Inc. and Mr. Lee in August, 2008, LAPELS staff observed approximately ten to twelve sets of design drawings on the table which contained the firm's logo block.

13.

Mr. Lee confirmed to LAPELS staff that (a) the "Lee Consulting Engineers Inc." listed in the Baton Rouge, Louisiana telephone directory Yellow Pages ads is the same firm as Robert D. Lee Consulting Engineers, Inc. and (b) the telephone directory company had simply shortened the firm name to "Lee Consulting Engineers Inc."

14.

Robert D. Lee Consulting Engineers, Inc. and Mr. Lee did not request informal conferences or accept their proposed Consent Orders.

15.

On January 12, 2009, by a unanimous vote LAPELS preferred charges against Robert D. Lee Consulting Engineers, Inc., involving an alleged violation of La. R.S. 37:698(A)(9) and (16) (which prohibit the practicing and/or offering to practice engineering in the State of Louisiana with an expired license), and against Mr. Lee, involving an alleged violation of La. R.S. 37:698(A)(12) (which prohibits the aiding or assisting of another person in violating LAPELS' laws and/or rules). LAPELS also directed that a joint hearing be set to consider the charges against both Robert D. Lee Consulting Engineers, Inc. and Mr. Lee on March 24, 2009 at 9:00 a.m. at the LAPELS office. A copy of each Notice of Charges and Hearing was sent to Robert D. Lee Consulting Engineers, Inc. and Mr. Lee, respectively, on January 23, 2009, by hand delivery at 10620 Timberlake Drive, Baton Rouge, Louisiana 70810. Neither Robert D. Lee Consulting Engineers, Inc. nor Mr. Lee ever responded to either Notice of Charges and Hearing. See LAPELS' Exhibits 11 and 12.

16.

In 2008-09, Robert D. Lee Consulting Engineers, Inc. continued to be listed as “Lee Consulting Engineers Inc” and “Lee Consulting Engineers” in the Baton Rouge, Louisiana telephone directory Yellow Pages ads under the heading “Engineers-Professional-Consulting”. The address listed for “Lee Consulting Engineers Inc” was 10620 Timberlake Avenue, Baton Rouge, Louisiana and the telephone number listed was 757-2026. The address listed for “Lee Consulting Engineers” was simply “Baton Rouge” and the telephone number listed was 751-9251. See LAPELS’ Exhibit 13.

17.

The actual costs incurred by LAPELS in connection with both of these cases through March 20, 2009 (which is prior to the date of the hearing) amounted to \$3,382.39. See LAPELS’ Exhibits 14 and 15.

18.

Upon the motion of the Board’s prosecuting attorney, these matters were heard jointly.

FINAL CONCLUSIONS OF LAW

1.

LAPELS has jurisdiction over these matters because (a) Robert D. Lee Consulting Engineers, Inc. is licensed by LAPELS as a professional engineering firm, (b) Mr. Brown is licensed by LAPELS as a professional engineer and (c) Robert D. Lee Consulting Engineers, Inc. and Mr. Lee maintained an office and conducted business in Louisiana.

2.

La. R.S. 37:682(12) has at all relevant times provided, in pertinent part, as follows:

§682. Definitions

The following words and phrases when used in this Chapter shall have the following meaning, unless the context clearly requires otherwise:

(12)(a) "Practice of engineering" shall mean responsible professional service which may include consultation, investigation, evaluation, planning, designing, or inspection of construction in connection with any public or private utilities, structures, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(b) A person shall be construed to practice or offer to practice engineering: who practices in any discipline of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who represents himself as able to perform; or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering. The practice of engineering shall not include the work ordinarily performed by a person who himself operates or maintains machinery or equipment.

. . .

3.

LAC Title 46:LXI§2301(B)(1) has at all relevant times provided, in pertinent part, as follows:

§2301. General

. . .

B. A firm must be licensed with the board before it may provide or offer to provide professional services in the state of Louisiana.

1. A firm which has in its title the word *engineering* . . . or any derivative thereof shall be construed to be offering to provide professional services and therefore must be licensed with the board before doing business in the state of Louisiana, unless it has in its title modifying or explanatory words which would, in their ordinary meaning, negate the inference of the professional practice of engineering . . .

. . .

4.

La. R.S. 37:698(A) has at all relevant times provided, in pertinent part, as follows:

§698. Disciplinary proceedings against licensees and certificate holders; procedure

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

. . .

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

. . .

(9) Using a seal or stamp or engaging in any other act constituting the practice of engineering or land surveying, or violating any order or terms of probation imposed by the board, at a time when his license or certificate is suspended or revoked, or at a time when his license or certificate has been expired for more than ninety days, or at a time when he is in retired or inactive status as a board licensee.

. . . .

(12) Aiding or assisting another person in violating any provision of this Chapter or any rule or regulation adopted and promulgated by the board.

. . . .

(16) Using or attempting to use an expired, inactive, retired, or revoked license or certificate.

. . . .

5.

Louisiana law gives LAPELS authority to take disciplinary action against Robert D. Lee Consulting Engineers, Inc. and Mr. Lee based on the facts in these cases.

6.

Pursuant to La. R.S. 37:698(A), (B) and (J), the disciplinary action which LAPELS can take against any person found by LAPELS to be guilty of any of the acts or offenses listed in La. R.S. 37:698(A) includes, but is not limited to, reprimand, probation, suspension, revocation, fine (in an amount not to exceed \$5,000 per violation) and all reasonable costs.

7.

By virtue of Robert D. Lee Consulting Engineers, Inc. listing itself as "Lee Consulting Engineers Inc" in the Baton Rouge, Louisiana telephone directory Yellow Pages ads under the heading "Engineers-Professional-Consulting" and performing engineering services out of its office in Baton Rouge, Louisiana, it practiced and offered to practice engineering in Louisiana. La. R.S. 37:682(12). La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§2301(B)(1).

8.

Since Robert D. Lee Consulting Engineers, Inc. practiced and offered to practice engineering in Louisiana after its firm license expired on October 1, 1999, it violated La. R.S. 37:698(A)(9) and (16).

9.

Since Mr. Brown was the owner and supervising professional of Robert D. Lee Consulting Engineers, Inc. and acted by and on behalf of the firm in connection with the firm practicing and offering to practice engineering in Louisiana after the firm's license expired on October 1, 1999, he violated La. R.S. 37:698(A)(12).

10.

A Final Decision and Order will issue this date assessing appropriate disciplinary action against Robert D. Lee Consulting Engineers, Inc. and Mr. Lee.

Baton Rouge, Louisiana, this 20th day of July, 2009.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

By: 
TIMOTHY J. ALLEN, P.L.S., Chairman

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

IN THE MATTER OF ROBERT D. LEE CONSULTING ENGINEERS, INC.

CASE NO. 2007-103

AND

IN THE MATTER OF ROBERT D. LEE, P.E.

CASE NO. 2008-80

FINAL DECISION AND ORDER

The Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order were issued and forwarded to Robert D. Lee Consulting Engineers, Inc., Robert D. Lee, P.E. and the prosecuting attorney (Celia R. Cangelosi) on July 7, 2009. No exceptions or briefs were filed or oral argument requested by Robert D. Lee Consulting Engineers, Inc., Mr. Lee or the prosecuting attorney. After due consideration of the Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order,

IT IS ORDERED THAT:

1.

The Louisiana Professional Engineering and Land Surveying Board ("LAPELS") adopts its Proposed Findings of Fact and Conclusions of Law as final in this case, and the same is incorporated herein by reference as if set forth *in extenso*.

2.

The charges against Robert D. Lee Consulting Engineers, Inc. under La. R.S. 37:698(A)(9) and (16) are hereby sustained.

3.

The charges against Robert D. Lee, P.E. under La. R.S. 37:698(A)(12) are hereby sustained.

4.

Robert D. Lee Consulting Engineers, Inc. is hereby assessed a fine in the amount of Five Thousand and No/100 (\$5,000.00) Dollars.

5.

Mr. Lee is hereby assessed a fine in the amount of Two Thousand and No/100 (\$2,000.00) Dollars.

6.

Robert D. Lee Consulting Engineers, Inc. is also hereby assessed the actual costs incurred by LAPELS in connection with Case No. 2007-103 in the amount of Two Thousand Three Hundred Seventy-Five and 82/100 (\$2,375.82) Dollars.

7.

Mr. Lee is also hereby assessed the actual costs incurred by LAPELS in connection with Case No. 2008-80 in the amount of Two Thousand Three Hundred Seventy-Five and 82/100 (\$2,375.82) Dollars.

8.

Robert D. Lee Consulting Engineers, Inc. shall pay to LAPELS all past unpaid renewal fees in the amount of three hundred sixty (\$360.00) dollars.

9.

Robert D. Lee Consulting Engineers, Inc. shall immediately cease and desist the practicing and/or offering to practice engineering in Louisiana with an expired license.

10.

Robert D. Lee shall have Robert D. Lee Consulting Engineers, Inc. immediately cease and desist the practicing and/or offering to practice engineering in Louisiana with an expired license.

11.

If Robert D. Lee Consulting Engineers, Inc. submits an application to renew its expired license, its supervising professional shall successfully complete and return to LAPELS with such submission the LAPELS online Louisiana Laws and Rules Examination with a score of ninety (90%) percent or higher.

12.

Mr. Lee shall successfully complete and submit to LAPELS its online Louisiana Laws and Rules Examination with a score of ninety (90%) percent or higher within sixty (60) days of this Final Decision and Order becoming final.

13.

Mr. Lee shall successfully complete and submit to LAPELS its online Louisiana Professionalism and Ethics Examination with a score of ninety (90%) percent or higher within sixty (60) days of this Final Decision and Order becoming final.

14.

Mr. Lee shall submit to LAPELS an up-to-date, complete Professional Development Activity Log and all supporting documentation for his most recent complete renewal cycle within fifteen (15) days of this Final Decision and Order becoming final.

15.

Robert D. Lee Consulting Engineers, Inc.'s Louisiana professional engineering firm license, number EF-2096, is hereby suspended until it fully complies with all of the provisions of this Final Decision and Order.

16.

Mr. Lee's Louisiana professional engineer license, number PE-26842, is hereby suspended until he fully complies with all of the provisions of this Final Decision and Order.

17.

The Final Findings of Fact and Conclusions of Law and Final Decision and Order shall be published on the LAPELS website, and a summary of these cases shall be published in the official journal of LAPELS and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Robert D. Lee Consulting Engineers, Inc. and Mr. Lee by name.

18.

This vote of LAPELS was unanimous.

THUS DONE at Baton Rouge, Louisiana, this 20th day of July, 2009.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

By: 
TIMOTHY J. ALLEN, P.L.S., Chairman