

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

IN THE MATTER OF BIN SHEN, P.E.

CASE NO. 2007-214

PRESENT AT THE HEARING:

Board Members:

C.L. Jack Stelly, P.L.S., Chairman
Timothy J. Allen, P.L.S.
James D. Garber, PhD., P.E.
Mark A. Jusselin, P.E. (recused)
James E. Bowie, Jr., PhD., P.E.
Roger D. Danzy, P.E.
Rhaoul A. Guillaume, P.E.
Norma Jean Mattei, PhD., P.E. (recused)
Ali M. Mustapha, P.E. (recused)
Richard L. Savoie, P.E.
Miles B. Williams, 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

FINAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came on for hearing in Baton Rouge, Louisiana on January 12, 2009 at 1:30 p.m. No one appeared at the hearing on behalf of Bin Shen, 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.

Bin Shen, P.E. has been licensed with LAPELS as a professional engineer, number PE-30525, since 2003.

2.

On March 28, 2007, Mr. Shen submitted to LAPELS his Louisiana professional engineer license renewal form, confirming thereon that (a) he had met LAPELS' requirements for continuing professional development ("CPD") for the renewal period of April 1, 2005 to March 31, 2007, (b) if selected for a CPD audit by LAPELS he would be required to submit documentation to validate completion of all CPD requirements and (c) failure to comply with such CPD requirements or false statements made by him could be cause for disciplinary action by LAPELS. See LAPELS' Exhibit 1.

3.

LAPELS staff subsequently selected Mr. Shen for a random audit of his CPD records for the renewal period of April 1, 2005 to March 31, 2007. See LAPELS' Exhibit 2.

4.

On or about August 3, 2007, LAPELS staff sent a letter to Mr. Shen notifying him of his selection for a random audit of his CPD records for the renewal period of April 1, 2005 to March 31, 2007 and instructing him to provide LAPELS with his completed Professional Development Activity Log and all supporting documentation within thirty (30) days. Mr. Shen failed to respond to this letter.

5.

On October 12, 2007, LAPELS staff sent a letter to Mr. Shen by certified mail, return receipt requested, notifying him that he had been deemed not in compliance with LAPELS' CPD requirements (due to his failure to submit the requisite documentation in response to the August 3, 2007 audit notice) and giving him one hundred twenty (120) days to provide proof of compliance, along with payment of a \$200 administrative fee. The letter was received by Mr. Shen on October 17, 2007. See LAPELS' Exhibit 3.

6.

On December 4-5, 2007, Mr. Shen responded by email and advised that he had not earned any of the required CPD hours. See LAPELS' Exhibit 4.

7.

On June 17, 2008, LAPELS staff sent a letter to Mr. Shen by certified mail (return receipt requested) and regular mail, advising him that LAPELS was considering preferring charges against

him involving possible violations of (a) La. R.S. 37:698(A)(1), relative to the making of a false statement in applying for a renewal license, and (b) La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§3105, 3117 and 3119, relative to the failure to comply with LAPELS' CPD requirements. The letter also included a proposed Consent Order and advised Mr. Shen of his right to request an informal conference. The letter and proposed Consent Order were received by Mr. Shen on June 23, 2008. See LAPELS' Exhibit 5.

8.

On July 18, 2008, Mr. Shen responded by letter, but did not request an informal conference and did not accept the proposed Consent Order. See LAPELS' Exhibit 6.

9.

On November 17, 2008, by a unanimous vote LAPELS preferred charges against Mr. Shen for an alleged violations of La. R.S. 37:698(A)(1) (the making of a false statement in applying for a renewal license) and La. R.S. 37:698(A)(6), *to wit* LAC Title 46:LXI§3105, 3117 and 3119 (failure to comply with LAPELS' CPD requirements). LAPELS also directed that a hearing be set to consider the charges against Mr. Shen on January 12, 2009 at 1:30 p.m. at the LAPELS office. A copy of the Notice of Charges and Hearing was sent to Mr. Shen by certified mail (return receipt requested) on December 8, 2008. The letter and Notice of Charges and Hearing were received by Mr. Shen on December 11, 2008. See LAPELS' Exhibit 7.

10.

The actual costs incurred by LAPELS in connection with this case through January 9, 2009 (which is prior to the date of the hearing) amounted to \$1,643.53. See LAPELS' Exhibits 8 and 9.

FINAL CONCLUSIONS OF LAW

1.

LAPELS has jurisdiction over this matter because Mr. Shen is licensed by LAPELS as a professional engineer and he renewed his license in 2007.

2.

La. R.S. 37:698(A)(1) and (6) have at all relevant times provided 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:

. . . .
(1) Any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license or certificate, or in taking any examination, or in applying for any renewal license or certificate provided for in this Chapter.

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

. . . .
3.

LAC Title 46:LXI§3105, 3117 and 3119 have at all relevant times provided, in pertinent part, as follows:

§3105. Requirements

A. During each biennial licensure renewal period, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities.

1. At least one PDH shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. A minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

. . . .
§3117. Audit and Review of Records

A. The board may request, at any time, that a licensee provide proof of compliance with all CPD requirements.

B. Additionally, the board will conduct random audits of biennial renewals of up to 30 percent of all board licensees.

. . . .
D. Should the licensee fail to provide proof of compliance, or if discrepancies or deficiencies are discovered as the result of any of the reviews provided for in §3117.A-C, the licensee will be deemed not in compliance.

§3119. Failure to Comply

A. When a licensee is deemed not in compliance with the CPD requirements of the board, the licensee will be so notified and will be given 120 days to satisfy the board requirements. The licensee must provide documented evidence of compliance accompanied by payment of an administrative fee of \$200. Failure to comply will subject the licensee to disciplinary action as provided in the licensure law.

4.

Louisiana law gives LAPELS authority to take disciplinary action against Mr. Shen based on the facts in this case.

5.

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.

6.

Since Mr. Shen made a false statement in applying for his renewal license, failed to submit proof of CPD compliance in response to the audit of his CPD records and failed to pay the administrative fee, he violated La. R.S. 37:698(A)(1) and 37:698(A)(6), *to wit* LAC Title 46:LXI§3105, 3117 and 3119.

7.

A Final Decision and Order will issue this date assessing appropriate disciplinary action against Mr. Shen.

Baton Rouge, Louisiana, this 13th day of May, 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
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IN THE MATTER OF BIN SHEN, P.E.

CASE NO. 2007-214

FINAL DECISION AND ORDER

The Proposed Findings of Fact and Conclusions of Law and Proposed Decision and Order were issued and forwarded to Bin Shen, P.E. and the prosecuting attorney (Celia R. Cangelosi) on March 4, 2009. No exceptions or briefs were filed or oral argument requested by Mr. Shen 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 Bin Shen, P.E. under La. R.S. 37:698(A)(1) and 37:698(A)(6), *to wit* LAC Title 46:LXI§3105, 3117 and 3119, are hereby sustained.

3.

Mr. Shen is hereby assessed a fine in the amount of Five Hundred and No/100 (\$500.00) Dollars.

4.

Mr. Shen is also hereby assessed an administrative fee in the amount of Two Hundred and No/100 (\$200.00) Dollars.

5.

Mr. Shen is also hereby assessed the actual costs incurred by LAPELS in connection with this case through the hearing in the amount of Two Thousand Five Hundred Twenty-Six and 53/100 (\$2,526.53) Dollars.

6.

Mr. Shen 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.

7.

Within sixty (60) days of this Final Decision and Order becoming final, Mr. Shen shall satisfy all CPD requirements which he should have completed for the renewal period of April 1, 2005 to March 31, 2007 and submit to LAPELS an up-to-date, complete Professional Development Activity Log and all supporting documentation.

8.

Mr. Shen's Louisiana professional engineer license, number PE-30525, is hereby suspended until he fully complies with all of the provisions of this Final Decision and Order.

9.

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 this case shall be published in the official journal of LAPELS and reported to the National Council of Examiners for Engineering and Surveying (NCEES) and the licensing boards in any other jurisdictions in which Mr. Shen may be licensed, identifying Mr. Shen by name.

10.

This vote of LAPELS was unanimous, with board members Mark A. Jusselin, P.E., Norma Jean Mattei, PhD., P.E. and Ali M. Mustapha, P.E. recused.

THUS DONE at Baton Rouge, Louisiana, this 13th day of May, 2009.

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD**

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