

**LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD
9643 BROOKLINE AVENUE, SUITE 121
BATON ROUGE, LOUISIANA 70809-1443
(225) 925-6291**

Received
JUL 31 2014
By LAPELS Enforcement

IN THE MATTER OF:)	CASE NO. 2014-1
)	
FRANK K. SMITH)	
)	
RESPONDENT)	
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CONSENT ORDER

The Louisiana Professional Engineering and Land Surveying Board [hereinafter the "Board"], by and through its Executive Director, pursuant to authorization by the Board, and Frank K. Smith [hereinafter "Respondent"] hereby agree to the following:

At all times material hereto, Respondent was licensed in the State of Louisiana as a professional engineer, number PE - 19892, and as a professional land surveyor, number PLS - 4786; however, his licenses have been in an expired status since October 1, 2008. At all times material hereto, Smith Engineering Co., Inc. [hereinafter "Smith Engineering"] was licensed in the State of Louisiana as a professional engineering firm, number EF - 1626; however, its license was in an expired status from October 1, 2009 through February 9, 2014. At all times material hereto, Smith Engineering was also licensed in the State of Louisiana as a professional land surveying firm, number VF - 384; however, its license has been in an expired status since October 1, 2009. At all times material hereto, Respondent was the owner and President of Smith Engineering. Respondent was a supervising professional of Smith Engineering in connection with its professional engineering firm license from June 20, 1991 to February 9, 2014. Respondent has been the supervising professional of Smith Engineering in connection with its professional land surveying firm license since July 3, 1996.

An investigation was opened based upon the Board's receipt of information which suggested that Smith Engineering may have practiced and/or offered to practice engineering and land surveying in Louisiana during which time its licenses were expired. The investigation disclosed that (a) between October 1, 2009 and February 9, 2014 Smith Engineering admittedly offered to provide engineering services in Louisiana and provided engineering services on approximately 393 projects in Louisiana, (b) since October 1, 2009 Smith Engineering has

admittedly offered to provide land surveying services in Louisiana and provided land surveying services on approximately 109 projects in Louisiana, (c) since October 1, 2008 Respondent has admittedly offered to provide engineering services in Louisiana and provided engineering services on approximately 261 projects in Louisiana, which included approximately 171 such projects in Louisiana since August 2009, (d) since October 1, 2008 Respondent has admittedly offered to provide land surveying services in Louisiana and provided land surveying services on approximately 137 projects in Louisiana, which included approximately 114 such projects in Louisiana since August 2009 and (e) during at least a portion of the time between October 1, 2009 and February 9, 2014 Smith Engineering advertised itself in the Shreveport-Bossier City, Louisiana AT&T Real Yellow Pages under the headings "Engineers-Consulting" and "Surveyors-Land".

La. R.S. 37:698(A)(9) and (16) prohibit licensees from practicing and/or offering to practice engineering or land surveying in Louisiana with an expired license. La. R.S. 37:698(A)(12) prohibits licensees from aiding or assisting another person in violating the laws and/or rules of the Board. La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(9), (12) and (16), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding. La. R.S. 37:698(A)(9), (12) and (16) and 37:698(H) were in effect at all times material hereto.

It is undisputed that (a) Smith Engineering's license to practice and/or offer to practice engineering in Louisiana was in an expired status from October 1, 2009 through February 9, 2014 and during this time period Smith Engineering practiced and offered to practice engineering in Louisiana, (b) Smith Engineering's license to practice and/or offer to practice land surveying in Louisiana has been in an expired status since October 1, 2009 and during this time period Smith Engineering practiced and offered to practice land surveying in Louisiana, (c) Respondent aided or assisted Smith Engineering in violating the laws and/or rules of the Board and (d) Respondent's licenses to practice and/or offer to practice engineering and land surveying in Louisiana have been in an expired status since October 1, 2008 and during this time period Respondent practiced and offered to practice engineering and land surveying in Louisiana.

By letter dated June 6, 2014, the Board gave notice to Respondent that it was considering the preferral of charges against Respondent on the grounds that he may have violated (a) La. R.S. 37:698(A)(12), relative to the aiding or assisting of another person in violating the laws and/or rules of the Board and (b) La. R.S. 37:698(A)(9) and (16), relative to practicing and/or offering to practice engineering and land surveying in Louisiana with expired licenses.

Wishing to dispense with the need for further disciplinary action and to conclude the instant proceeding without further delay and expense, for the purpose of this proceeding only, Respondent and the Board do hereby enter into this Consent Order, in which Respondent of his own free will consents to the issuance of a Consent Order by the Board, wherein Respondent agrees to (a) pay a fine of eight thousand five hundred (\$8,500.00) dollars, (b) pay administrative costs of five hundred eighty-two and 62/100 (\$582.62) dollars, (c) successfully complete the Board's online Louisiana Laws and Rules Quiz, (d) successfully complete the Board's online Louisiana Professionalism and Ethics Quiz, (e) immediately cease and desist the practicing of and/or offering to practice engineering and land surveying in Louisiana until such time as his expired Louisiana professional engineer license and his expired Louisiana professional land surveyor license are renewed by the Board, (f) ensure that Smith Engineering immediately ceases and desists the practicing of and/or offering to practice land surveying in Louisiana until such time as its expired Louisiana professional land surveying firm license is renewed by the Board and (g) the publication of this Consent Order on the Board's website and a summary of this matter in the Board's official journal, the *Louisiana Engineer and Surveyor Journal*, and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name.

Respondent admits to violations of the referenced laws and/or rules regarding the aiding or assisting of another person in violating the laws and/or rules of the Board and the practicing of and/or offering to practice engineering and land surveying in Louisiana with expired licenses. Respondent acknowledges awareness of said laws and/or rules and states that he will comply with all applicable laws and rules henceforth. Respondent has been advised of his right to appeal; and he states affirmatively that he has been afforded all administrative remedies due him under the law. Respondent further acknowledges awareness of the fact that the signed original of this Consent

Order will remain in the custody of the Board as a public record and will be made available for public inspection and copying upon request.

Therefore, in consideration of the foregoing and by signing this Consent Order, Respondent does hereby waive his right to a hearing before the Board, to the presenting of evidence and witnesses on its behalf, to Findings of Fact and Conclusions of Law in this case, and to judicial review of this Consent Order.

Respondent hereby represents (a) that he fully understands the meaning and intent of this Consent Order, including but not limited to its final and binding effect, (b) that he has voluntarily entered into this Consent Order and that no other promise or agreement of any kind has been made to or with him by any person whatsoever to cause the execution of this instrument and (c) that the sanctions set forth in this Consent Order do not prevent the Board from taking further disciplinary or enforcement action against Respondent on matters not specifically addressed in this Consent Order.

WHEREFORE, the Louisiana Professional Engineering and Land Surveying Board and Respondent agree that:

1. Respondent shall pay a fine of eight thousand five hundred (\$8,500.00) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and
2. Respondent shall pay administrative costs of five hundred eighty-two and 62/100 (\$582.62) dollars, which shall be tendered to the Board by certified check payable to the Board, due upon the signing of this Consent Order; and
3. Respondent shall successfully complete the Board's online Louisiana Laws and Rules Quiz with a score of 90% or higher and return it to the Board within sixty (60) days of the effective date of this Consent Order; and
4. Respondent shall successfully complete the Board's online Louisiana Professionalism and Ethics Quiz with a score of 90% or higher and return it to the Board within sixty (60) days of the effective date of this Consent Order; and
5. Respondent shall immediately cease and desist the practicing of and/or offering to practice engineering and land surveying in Louisiana until such time as his expired Louisiana

professional engineer license and his expired Louisiana professional land surveyor license are renewed by the Board; and

6. Respondent shall ensure that Smith Engineering immediately ceases and desists the practicing of and/or offering to practice land surveying in Louisiana until such time as its expired Louisiana professional land surveying firm license is renewed by the Board; and

7. This Consent Order shall be published on the Board's website and a summary of this matter shall be printed in the official journal of the Board, the *Louisiana Engineer and Surveyor Journal*, and reported to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name; and

8. This Consent Order shall not become effective unless and until it is accepted and signed by and on behalf of the Board. Should the Board not accept and sign this Consent Order, it is agreed that presentation of this matter to the Board shall not prejudice the Board or any of its members, staff, attorneys or representatives from further participation, consideration, or resolution of any further proceedings herein.

LOUISIANA PROFESSIONAL ENGINEERING
AND LAND SURVEYING BOARD

DATE: Sept 15, 2014

BY: Donna D. Sentell
DONNA D. SENTELL, Executive Director

DATE: 7/28/14

Frank K. Smith
FRANK K. SMITH, Respondent

Witnesses to the signature of
Frank K. Smith

Scott K. Smith
Print Name: SCOTT K SMITH

Brian K. Smith
Print Name: BRIAN K SMITH