

IN THE MATTER OF	*	BEFORE THE
MANOJ KUMAR JHA	*	STATE BOARD FOR
	*	PROFESSIONAL ENGINEERS
	*	Case No. 18-PE-05
* * * * *		

MEMORANDUM AND ORDER

The State Board for Professional Engineers (the "Board") heard this case on May 9, 2019, in Baltimore, Maryland. The hearing date was established in a Notice of Hearing dated March 25, 2019, which was sent to Manoj Kumar Jha (the "Respondent") by regular and certified mail, return receipt requested (the "Notice of Hearing").

The Notice of Hearing notified the Respondent that as required by a Settlement Agreement the Respondent previously entered into with the Board in Complaint No. 14-PE-16 and which was attached to the Notice of Hearing (the "Settlement Agreement"), the Board scheduled a hearing on the Respondent's applications for renewal and/or reinstatement of his license as a professional engineer.

During the hearing, Andrew Brouwer, Assistant Attorney General, appeared on behalf of the State of Maryland. The Respondent failed to appear; however, as permitted by the Code of Maryland Regulations ("COMAR") 09.01.02.09, the hearing proceeded as scheduled in the absence of the

Respondent since, as more particularly described below, (1) the Respondent has been properly served with the Notice of Hearing under COMAR 09.01.02.01; and (2) the Respondent failed to obtain the postponement of the hearing under COMAR 09.01.02.10. Milena Trust, Assistant Attorney General, served as counsel to the Board. The proceedings were electronically recorded.

The following preliminary documents were introduced by the State of Maryland and received into evidence:

1. Exhibit No. B.1 - Renewal Application dated July 5, 2018, submitted by the Respondent.
2. Exhibit No. B.2 - Evidence of the return by the Board's staff of the renewal application filed by the Respondent and an accompanying check for failure to obtain acceptable continuing professional competency credits.
3. Exhibit No. B.3 - Second Renewal Application dated October 18, 2018, submitted by the Respondent.
4. Exhibit No. B.4 - Record of the Respondent's licensing status with the State Board for Professional Engineers, certifying that (a) the Respondent's license expired on May 29, 2014, and (b) he voluntarily surrendered his

license on January 12, 2015, pursuant to the terms of the Settlement Agreement.

5. Exhibit No. B.5 - A copy of a Judgment in a Criminal Case, dated September 9, 2014.
6. Exhibit No. B.6 - A copy of a Superseding Indictment issued by the United States District Court for the District of Maryland against the Respondent, dated August 21, 2013
7. Exhibit No. B.7 - A copy of the Press Release issued by the US Attorney Office for the District of Maryland with regard to the Respondent.
8. Exhibit No. B.8 - A copy of the letter from Joseph Cullingford, the Board's Executive Director, to the Respondent, dated January 11, 2019, requesting certain information as part of the Board's review of the Respondent's license reinstatement application.
9. Exhibit No. B.9. - A copy of the Respondent's response to the January, 11, 2019, letter, dated February 11, 2019.

10. Exhibit No. B.10 - A copy of the Notice of Hearing with a copy of the Settlement Agreement attached to it, March 25, 2019.
11. Exhibit No. B.11 - A copy of the Respondent's Request for Postponement dated April 5, 2019.
12. Exhibit No. B.12 - A copy of the Board's response denying the Respondent's request for failure to show good cause, dated April 17, 2019, sent to the Respondent both regular and certified mail, return receipt requested.
13. Exhibit No. B.13 - A copy of the Respondent's Second Request for Postponement, dated April 29, 2019.
14. Exhibit No. B.14 - A copy of the letter from Joseph Cullingford to the Respondent, dated May 6, 2019, confirming the date of May 9, 2019, for the Hearing.
15. Exhibit No. B.15. - A copy of USPS Tracking Receipt dated May 8, 2019, indicating the delivery of the May 6, 2019, letter from Joseph Cullingford to the Respondent.

DISCUSSION

The hearing on this matter was scheduled before the Board on May 9, 2019, at 11:30 am. The hearing did not start until around 11:45 am, giving the Respondent an additional time to appear. After the hearing started, the Board received testimony from Frazier West, the Board's investigator. After being properly sworn in, Mr. Frazier testified that he personally checked with security guards stationed in the building located at 500 N. Calvert Street, Baltimore, MD, 21202, where the hearing was held. The security guards indicated to Mr. West that they were not asked to check the credentials and issue a visitor's badge to any individual with the Respondent's last name. Mr. Frazier further testified that he checked the lobby of the building and also confirmed with both the Board's Executive Director and the Assistant Executive Director that there were no electronic or telephonic messages from the Respondent with regard to the hearing.

After reviewing the testimony presented by Mr. Frazier, as well as the evidence of receipt by the Respondent of the original Notice of Hearing and the subsequent responses to his requests for postponements, the Board unanimously agreed that the Respondent clearly received, on more than one occasion, the Notice of Hearing,

but chose not to appear. In addition, the Board unanimously voted to deny the Respondent's second request for postponement for failure to show good cause, thereby confirming the May 6, 2019, letter from Joseph Cullingford to the Respondent, with regard to the date of the hearing.

Pursuant to COMAR 09.01.02.13H, an applicant for a license must "(1)"present the case in support of the application; (2) The presenter of evidence may then present the case in opposition to the application; and (3) The applicant may then present rebuttal." Pursuant to COMAR 09.01.02.16B, "[i]n the hearing of a contested case resulting from the denial, or proposed denial, of a license ..., the applicant has the "burden of establishing, by a preponderance of the evidence, the applicant's entitlement to the license..."

It is clear from the record presented to the Board that the Respondent had ample notice of the hearing. Yet, the Respondent chose not to appear at the hearing. The Settlement Agreement provided that "should the Respondent apply to the Board for the reinstatement of license, a hearing will be scheduled on the Respondent's application. The purpose of the hearing on the application [was] to give the Respondent the opportunity to evidence his qualifications for licensure ..., and the Respondent [had]

the burden at the hearing of establishing his entitlement to the license." (Exhibit B. 10). Clearly, by not showing up, the Respondent failed to establish by the preponderance of the evidence, that he is qualified to have his license reinstated, and did not comply with the terms of the Settlement Agreement.

The Respondent entered into the Settlement Agreement with the Board in order to avoid a disciplinary action he was facing as a result of the conviction by the United States District Court for the District of Maryland of Wire Fraud, 18 U.S.C §1343; Mail Fraud, 18 U.S.C §1341; Falsification of Records, 18 U.S.C. §1519; and Federal Program Fraud, 18 U.S.C. §666. The facts leading to his Indictment (Exhibit B.6) clearly indicate that the Respondent was single -handedly involved in a scheme to fraudulently obtain research grants from the National Science Foundation and kickbacks from engineering students' stipends. In September, 2014 he was sentenced to three years in prison, followed by three years of supervised release (Exhibit B.5).

Pursuant to Section 14-317(b) of the Business Occupations and Professions Article, Ann. Code of Md., the Board is required to "consider the following facts in the granting, denial, renewal, suspension, or revocation of a

license...when an applicant or licensee is convicted of a felony...:

- (1) The nature of the crime;
- (2) The relationship of the crime to the activities authorized by the licensee;
- (3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to practice engineering;
- (4) The length of time since the conviction;
- (5) The behavior and activities of the applicant or licensee before and after the conviction."

The Respondent's crimes include fraud and falsification of records. He lied that he will be a primary investigator on a project involving awards of the Federal grants available from the National Science Foundation ("NSF") when in fact he contemporaneously served as a full - time member of engineering faculty at Morgan State University. He devised a scheme to defraud and obtain funds from the NSF by making material false and fraudulent pretenses, representations, and promises. For example, not only he lied about his employment status, but he also falsely stated that a third party, KMI Corporation, invested \$100,000 required by certain terms of the grants

into the account of the company, Amar Transportation Research & Consulting, Inc. ("ATRC"), solely owned by the Respondent. The Respondent knew that KMI Corporation did not have the funds to make such investment, and the checks that the Respondent wrote himself on the KMI account were never deposited into the ARTC account or cashed. This was yet another intentional lie to get the matching funds from the NSF.

The Respondent also misrepresented the involvement of the University of Maryland in conducting research on the project, falsified personnel records, and told some students at Morgan State University who received stipend payments that they had to return a portion of the stipend funds to him, offering various false and misleading reasons. Between receiving Federal grants, returned stipends and unused grants' funds, the Respondent misappropriated approximately \$100,000 for his personal use by making payments on his mortgage, personal credit card and authorizing salary payments to his wife who performed no NSF-related work.

The Respondent was a mastermind of the elaborate scheme involving engineering highway project, among others, while he was licensed as a Maryland professional engineer and a full-time professor at Morgan State University.

Clearly, there is a direct relationship between the crimes that the Respondent committed and the practice of engineering.

The Board also considered, as required by the statute, the relevance of his conviction to the practice of engineering. The Respondent devised and was involved in a myriad of fraudulent activities, all involving various aspects of engineering and science. Maryland consumers are entitled to have faith and trust in professional engineers licensed by the Board. Instead, the Respondent exhibited nothing but abominable fraudulent behavior on a grand scale for which he was convicted. Clearly, the Respondent does not possess required fitness and qualifications to be a Maryland professional engineer.

The Respondent was sentenced to 3 years in prison in 2014. He is still on a supervised release ordered by the Federal Court. There has been only a little over a year since he was released from prison. The Board does not consider that sufficient length of time has passed since the Respondent's release from jail, particularly in light of the fact that the Respondent is still on the supervised release and has to comply with certain conditions imposed by the Court.

Lastly, the Board considered the behavior and activities of the Respondent after the conviction. In all communications with the Board the Respondent showed no remorse - he did not even show up for his own licensing hearing! He kept trying to postpone and delay the hearing, offering no valid reasons and showing no good cause. His behavior after the conviction indicates to the Board that the Respondent simply does not care about being a professional engineer and places no value on such license.

The Board also considered the impact of §1-209 of the Criminal Procedure Art, Ann. Code of Md., which prohibits the Department (and the Board) to deny "an occupational license ... solely on the basis that the applicant has previously been convicted of a crime, unless the [Board] determines that ...there is a direct relationship between the applicant's previous conviction and the specific occupations license sought..." The Respondent used his license as a professional engineer to defraud the NSF, Morgan State University, and the University students. He committed multiple Federal offenses using that license to enrich himself. The Respondent was a licensee with decades of experience, and certainly could distinguish right from wrong. Yet, he chose to deceive Maryland consumers who have a legitimate right to trust licensed professionals.

The Respondent bore the burden of convincing the Board by preponderance of evidence that he is qualified to have a license as a professional engineer. The Respondent did not meet that burden. Moreover, he did not even show up for the hearing before the Board, which indicates to the Board that the Respondent places very little value to his professional engineer's license.

CONCLUSIONS OF LAW

1. Based upon the foregoing Discussion, it is a unanimous decision of the Board that the Respondent's applications for renewal and/or reinstatement of his professional engineer's license are hereby **DENIED**.

2. The records of the Board shall reflect this Memorandum and Order.

SO ORDERED this 9th day of May, 2019, by the State Board for Professional Engineers.

BY: 

Dr. Steven Arndt, P.E.
Chairman