

BEFORE THE WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

IN RE: Wilhelm Dix

CASE NO. 2004-7

FINAL OPINION AND ORDER

Pursuant to a hearing held before the West Virginia State Board of Registration for Professional Engineers, Edward L. Robinson presiding, on the 21st day of March, 2005, the Board hereby makes the following Findings of Fact and Conclusions of Law:

1. Respondent was served with this Complaint by certified mail dated November 17, 2004. [Exhibit 2]
2. Respondent never responded to the Complaint except for the communication set forth on page 1 of Exhibit 8 and the communications of December 15 and 17, 2004, comprising Exhibit 9.
3. The hearing on Complaint 2004-7 was duly noticed on February 16, 2005. [Exhibit 1]
4. Respondent did not attend the hearing, did not request any continuance of the hearing, and did not provide any information regarding his failure to attend.
5. Respondent's attendance was without good cause.
6. Maria M. Ingrid Howard, via email communication to the Board's Executive Director, Leslie Rosier, dated September 23, 2004, requested verification of her reference from a professional engineer (PE) in preparation for her engineer-in-training (EIT) examination application. [Exhibit 3]

7. Ms. Howard's PE reference was the respondent, Wilhelm D. Dix, who purported to hold the WV PE registration number 14179. [Exhibit 3].
8. The Board's Executive Director, by reply email, informed Ms. Howard that no one by the name of Wilhelm Dix held a WV PE license, and the number provided belonged to another individual. [Exhibit 3]
9. Ms. Howard then informed the Board that both she and Mr. Dix were employed by AH Design / Build Group, LLC (AHD/BG) and that Mr. Dix had been practicing engineering in West Virginia under that license number for at least one year, i.e. since at least September 2003. [Exhibit 3].
10. Based on the information provided by Ms. Howard, the Board conducted an investigation of both Mr. Dix and AHD/BG and subsequently served formal complaints upon both entities.
11. Pursuant to the Board's investigation, Mr. Dix admitted during a telephone conversation of October 4, 2004, that:

- (a) he has never held a West Virginia professional engineering license issued by this Board;
- (b) he made up the license number "off the top of his head"; and
- (c) he copied the seal off the internet and added his name.

[Exhibit 4]

12. Among the engineering work performed in West Virginia, Mr. Dix stamped a report detailing landscaping for Tall Oaks in the Arden District of Berkeley County. [Exhibit 5A]

13. Among the engineering work performed in West Virginia, Mr. Dix stamped a report reviewing a foundation wall crack of a house situated in Berkeley County. [Exhibit 6]
14. The West Virginia stamp on page 1 of Exhibit 5A and on Exhibit 6 utilizes a PE number not assigned to Mr. Dix and knowingly, intentionally and wrongly misrepresents Mr. Dix to be a professional engineer licensed to practice in the State of West Virginia.
15. The Virginia stamp [Exhibits 5, page 3 of Exhibit 5A, page 2 and Exhibit 1 of Exhibit 7] is also a forgery or is otherwise fabricated by Mr. Dix, indicating his pattern and practice of deceit.
16. Inasmuch as Respondent Dix's Virginia stamp is fabricated and he holds no license to practice in Virginia, the Board takes judicial notice of his ineligibility for membership in the Virginia Society of Professional Engineers (Exhibit 5) and finds that same was obtained by fraud, misrepresentation and false pretense.
17. Exhibit 7 includes additional unlawful use of forged Virginia and West Virginia seals misrepresenting Mr. Dix as being licensed to practice engineering in those states and evidencing engineering work illegally performed in the State of West Virginia.
18. Respondent states in Exhibit 9 he is working under the direct supervision of Theodore Burns, P.E. and that AHD/BG is operating pursuant to a Certification of Authorization (COA) No. CO2259-00.
19. Theodore Burns, P.E., did not begin working for AHD/BG until July 26, 2004, almost a year after Respondent's date of hire, evidencing that Respondent did not work under his supervision from his date of hire, September 29, 2003.

20. The COA issued to AHD/BG is dated September 9, 2004, further evidence Respondent's tendency to provide false information to this Board.
21. Upon discovering that Respondent was not a licensed professional engineer as a result of Ms. Howard's inquiries to this Board, Respondent was terminated from his employment with AHD/BG on October 1, 2004.
22. Respondent's practice of engineering in West Virginia is in blatant violation of W. Va. Code § 30-13-2 in that he knowingly and intentionally fabricated a seal and otherwise falsified documents purporting to credential himself as a professional engineer.
23. Respondent's actions constitute misuse of seal.
24. Respondent's actions were likely to and did deceive or defraud the public.

CONCLUSIONS OF LAW

25. The Board is a state entity created by West Virginia Code § 30-13-1 *et seq.* and is empowered to regulate the practice of professional engineering pursuant to West Virginia Code § 30-13-1 *et seq.*
26. West Virginia Code § 30-13-21 authorizes the Board to discipline any person practicing or offering to practice engineering in the State of West Virginia.
27. West Virginia Code § 30-13-22 (c) authorizes the Board to proceed with a hearing without the attendance of respondent.
28. Among its other powers, the Board has the power to levy fines and assess costs. W. Va. Code § 30-13-21(d)(4) and 7 CSR 1-15.

29. Practicing engineering without a license is an action that would subject a person to discipline by the Board, including a civil penalty up to \$5000.00. 7 CSR 1-15.1.
30. Misuse of a seal is an action that would subject a person to discipline by the Board, including a civil penalty up to \$5000.00. . 7 CSR 1-15.1.
31. An action which is likely to deceive or defraud the public is an action which would subject a person to discipline by the Board, including a civil penalty up to \$15,000. . 7 CSR 1-15.1.
32. Each day of continued violation constitutes a separate offense. 7 CSR 1-15.2.
33. Any civil penalty assessed as a result of a hearing must be paid within fifty (50) days of this Order. W. Va. Code § 30-13-22(f).
34. This Final Opinion is a matter of public record.
35. Orders of the Board may be enforced in the Circuit Court of Kanawha County. 7 C.S.R. 2-5.2.

ORDER

On the basis of the foregoing the Board hereby **ORDERS** the following

36. That Respondent Dix pay a civil penalty in the amount of Five Thousand Dollars (\$5000.00) for practicing engineering in West Virginia without a license.
37. That Respondent Dix pay a civil penalty in the amount of Five Thousand Dollars (\$5000.00) for misuse of a seal.
38. That Respondent Dix pay a civil penalty in the amount of Fifteen Thousand Dollars (\$15,000.00) for deceiving and defrauding the public.

39. That Respondent Dix pay administrative costs in the amount of One Thousand Dollars (\$1,000.00).


40. That the required payments be made within fifty (50) days from the date of entry of this Order, with the civil penalties being made payable to the State of West Virginia and the administrative costs to the W. Va. State Board of Registration for Professional Engineers.

41. That a copy of this Final Opinion be served upon Respondent by certified mail within five days after entry by the presiding officer.

42. That a copy of this Final Opinion be forwarded to the office of the Prosecuting Attorney of Kanawha County, West Virginia; to the office of the Prosecuting Attorney serving Virginia Beach City, Virginia, and to the Virginia Department of Professional and Occupational Regulation.

WEST VIRGINIA STATE BOARD OF
REGISTRATION FOR PROFESSIONAL ENGINEERS

By


Edward L. Robinson, P.E.
Board Vice-President and Presiding Officer

Date:

May 16, 2005

Submitted by Debra L. Hamilton, Deputy Attorney General
for the State of West Virginia