

**State of New Hampshire
Board of Foresters
Concord, New Hampshire 03301**

In the Matter of:
Robert E. Burke, Forester
License No. 00104
(Misconduct Allegations)

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of forestry, the New Hampshire Board of Foresters ("Board") and Robert E. Burke ("Respondent"), a forester licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to 310-A:112, II, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by foresters. Pursuant to RSA 310-A:113, "A hearing shall be held on all written complaints received by the board...unless otherwise agreed to by the parties."
2. The Board first granted Respondent a license to practice forestry in the State of New Hampshire on January 2, 1992. Respondent holds license number 00104. Respondent conducts logging operations throughout New Hampshire and Vermont.
3. On or about July 8, 2014, the Board received a complaint alleging, in part, that Respondent violated RSA 227-J:5, RSA 227-J:6 and RSA 227-J:15 through his forestry practices.

4. In response to this complaint, the Board conducted an investigation and obtained information pertaining to Respondent's actions, omissions, violations, summonses, warnings, and remedial measures.
5. If a disciplinary hearing were to take place, Hearing Counsel would seek to prove that Respondent engaged in professional misconduct by engaging in unprofessional conduct under RSA 310-A:112, II (c) and Fors 501.03 (e)(1) through violations of RSA 227-J:5, RSA 227-J:6, and RSA 227-J:15, by the following facts:
 - A. Respondent is a licensed forester whose various business names include Log Pro Inc., Log Pro Log Yard and Vermont Forestry Associates.
 - B. On or about January 27, 2011, while patrolling in Sugar Hill, a Forest Ranger discovered a timber operation that did not have a posted Intent to Cut. The Forest Ranger subsequently verified that Intent to Cut had not been signed. The Forest Ranger contacted Respondent, who was the forester responsible for the job, and informed him of the violation. A summons was issued to Respondent for cutting wood without a valid Intent to Cut in violation of RSA 227-J:5. Respondent checked the guilty box on the summons.
 - C. On or about the September of 2012, A Forest Ranger received the Report of Wood Cut from the only Log Pro operation in Pittsburg. The numbers did not look correct to the Forest Ranger and upon investigation it was discovered that 17,410 BF of softwood logs were missing. During questioning, Respondent admitted that there was an issue with the volumes. Respondent determined that another 132.03 tons of hardwood pulp was also missing. Thus, a total

value of \$2,464.26 was not paid to the landowner. After his discussions with the Forest Ranger, Respondent did pay the landowner for the subject softwood and the subject hardwood pulp. A summons was issued to Respondent on November 30, 2012 for filing a false Report of Wood Cut and not remunerating the landowner pursuant to the written contract, in violation of RSA 227-J:15. Respondent checked the guilty box on the summons.

- D. On or about July 11, 2013, a Forest Ranger and a DRA representative conducted a site inspection on "J.S." property in Orford, NH, following being alerted to a complaint of a cutting operation being conducted without an Intent to Cut being filed. During the inspection, the inspectors found that wood was cut down, but that the cutting operation was not active at the time. They also found a violation of the operation requirements in wetlands, as one area was crossed without proper crossing device. Two Orders to Cease and Desist and two summonses were issued to Respondent for cutting without a valid Intent to Cut, in violation of RSA 227-J:5, and for operation through a brook without a proper crossing device in place, in violation of RSA 227-J:6. Respondent checked the guilty boxes on the summonses.
- E. On or about October 31 and November 6, 2013, site inspections were conducted during which a Forest Ranger found that a timber harvest had been completed, but that the stream banks were not stabilized where crossings were installed and rutted skid trails were run on both sides of the stream. A summons was issued to Mr. Burke for failing to follow the Best Management

Practices of Forestry ("BMP") for erosion control, in violation of RSA 227-J:6. Respondent indicated that he did not wish to contest the alleged violation.

6. The Board finds that Respondent committed the acts as described above and concludes that such conduct constitutes unprofessional conduct under RSA 310-A:112, II (c) and Fors 501.03 (e)(1) through violations of RSA 227-J:5, RSA 227-J:6, and RSA 227-J:15.

7. Respondent consents to the Board imposing the following discipline, pursuant to RSA 310-A:112 and 310-A:114:

A. Respondent is required to meaningfully participate in six (6) units of CONTINUING EDUCATION in the areas of wetland conservation and/or restoration. These six (6) units shall be in addition to the units required by the Board for renewal of licensure and shall be completed within two (2) years from the effective date of this *Settlement Agreement*. Within fifteen (15) days of completing these units, Respondent shall notify the Board and provide written proof of completion.

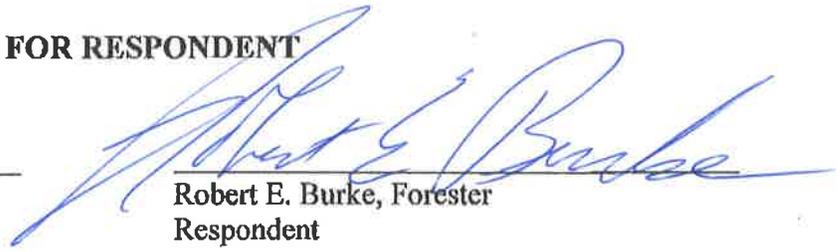
B. Respondent is assessed an ADMINISTRATIVE FINE in the amount of four thousand dollars (\$4,000). Respondent shall pay this fine in full within thirty (30) days of the effective date of this *Settlement Agreement*, as defined further below, by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 121 South Fruit Street, Concord, New Hampshire 03301.

8. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 310-A:112, II (c) and a separate and sufficient basis for further disciplinary action by the Board.
9. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
10. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document and subject to any disclosures that may be required by law.
11. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
12. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
13. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.

14. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this agreement.
15. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
16. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
17. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.
18. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 5-5-15



Robert E. Burke, Forester
Respondent

FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 6-30-15



(Signature)

Louise LaVertu
(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Foresters

/* Brad Simpkins, Board member, recused.