

Before the  
N.H. Board of Professional Engineers  
Concord, N.H. 03301

In the Matter of :

Richard A. Volkin, PE #3360  
(Disciplinary Matter)

Docket No. 15-01

**FINAL DECISION AND ORDER**

Before the New Hampshire Joint Board of Licensure & Certification, Board of Professional Engineers ("Board") is an adjudicatory/disciplinary proceeding in the Matter of Richard A. Volkin, PE #3360 ("Respondent" or "Mr. Volkin") in Docket Number 15-01.

**BACKGROUND INFORMATION**

The proceeding was commenced by an Order to Show Cause issued January 26, 2015 by the Board of ("the Board"), to determine whether Richard A. Volkin, PE #3360, ("Mr. Volkin or the Respondent") engaged in unprofessional or dishonorable conduct violative of RSA 310-A:22, and RSA 310-A:23, by: 1) failing to comply with the continuing education requirements of Eng 403.01 for his 2014 license renewal; 2) failing to submit proof of compliance for the Board's 2014 continuing education audit required per administrative rule Eng 403.07 (c); misrepresented that he complied with the continuing education requirements of 30 continuing education hours required pursuant to Eng 403.01 (a) and (b) on his 2014 license renewal in violation of RSA 310-A:22, II (a), and administrative rule Eng 403.01 (a) and (b).

A Show Cause hearing was held on Friday, March 27, 2015 at the Board office. Mr. Volkin failed to appear at the hearing. An Order to Show Cause was sent to Mr. Volkin at the Board's last on-file address for Mr. Volkin via US Mail return receipt requested dated January 26, 2015. The Show Cause Order was signed for by Mr. Volkin on January 31, 2015. Due to Mr. Volkin's failure to attend the hearing; the hearing was held in absentia. Testimony was received

at the hearing from Donna Lobdell, Program Specialist, NH Joint Board. Ms. Lobdell is the Joint Board staff member that is responsible for overseeing the audit of continuing education compliance on behalf of the Board.

Board members present were<sup>1</sup>

Thomas Bowen, P.E., Chairperson, Presiding Officer  
Charles Ackroyd, P.E., Vice-Chairperson  
Alex Azodi, P.E., Secretary  
Ronald Cook, Esquire, Public Member

The following exhibits were introduced into evidence and accepted into the record:

1. A letter dated May 20, 2014 to Mr. Volkin indicating he was chosen for random audit and requesting compliance by July 1, 2014.
2. A second letter dated July 9, 2014 to Mr. Volkin indicating that he failed to respond to the random audit and requesting compliance by July 25, 2014.
3. A third letter dated August 5, 2014 to Mr. Volkin indicating that he failed to respond to the Board's first two letters requesting compliance with the Board's random audit and requesting compliance by August 24, 2014.
4. A certified mail receipt for the Board' August 5, 2014 to Mr. Volkin signed for by Michelle Alpert on August 8, 2014.
5. Email correspondence dated September 16, 2014 from Board investigator Ren Horne to Mr. Volkin regarding Mr. Volkin's failure to respond to the Board's 2014 random continuing education audit.
6. A letter dated September 18, 2014 from Mr. Volkin explaining why Mr. Volkin failed to respond to the Board's continuing education audit and requesting a 30 day extension on the Board's deadline to produce documentation.
7. E-mail correspondence from Board staff member Donna Lobdell to Mr. Volking granting his request for a 30 day extension of the Board's deadline.
8. E-mail correspondence dated October 28, 2014 from Board investigator Ren Horne to Mr. Volkin reminding Mr. Volkin of the October 31, 2014 deadline to produce continuing education documentation.
9. A letter from Board investigator Ren Horne to Mr. Volkin indicating that he missed the October 31, 2014 deadline to produce continuing education documentation.

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<sup>1</sup> The same Board members also deliberated and voted on this Final Decision and Order.

10. A certified mail receipt for the Board investigator's letter to Mr. Volkin signed for by Michelle Alpert on November 10, 2014.

11. An unsigned voluntary surrender of license form.

#### FINDINGS OF FACT

1. The Respondent was granted a license as a Professional Engineer in the State of New Hampshire on May 14, 1974 and said license is current through June 30, 2016.
2. The Respondent indicated that he complied with the continuing education requirements of Eng 403.01 (b) on his 2014 license renewal.
3. Mr. Volkin was notified by letter on May 20, 2014 that he was chosen by random audit to participate in the Board's 2014 audit of licensees for compliance with continuing education requirements per administrative rule 403.01. Mr. Volkin was instructed to provide proof to the Board of 30 Professional Hours claimed on his last renewal by July 1, 2014. Mr. Volkin did not respond to the request for documentation of continuing education required per Eng 403.07 (c).
4. On July 9, 2014 Mr. Volkin was sent a second letter regarding his failure to respond to the continuing education audit and a response was due by July 25, 2014. Mr. Volkin failed to respond to the second request dated July 9, 2014 for documentation of continuing education required per Eng 403.01. The July 9, 2014 letter informed Mr. Volkin that failure to respond to and provide the requested documentation by the deadline may result in disciplinary proceedings.
5. On August 5, 2014 Mr. Volkin was sent a third letter by US Mail return receipt requested, signed for on August 8, 2014, regarding his failure to respond to the continuing education audit and a response was due by August 24, 2014. Mr. Volkin failed to respond to the third request dated August 5, 2014 for documentation of continuing education required per Eng 403.01. The August 5, 2014 letter informed Mr. Volkin that failure to respond to and provide the requested documentation by the deadline may result in disciplinary proceedings.

6. On September 16, 2014 Board investigator Ren Horne e-mailed Mr. Volkin at his on-file e-mail address to follow up on the three letters requesting documentation. Mr. Volkin responded by letter dated September 18, 2014 indicating that he required a 30 day extension of the deadline for the continuing education audit. Mr. Volkin's request for an extension of the Board's deadline until October 31, 2014 was granted.

7. On October 28, 2014 Board investigator Ren Horne reminded Mr. Volkin by e-mail of the October 31, 2014 deadline. Mr. Volkin failed to provide the required continuing education documentation by the Board's October 31, 2014 deadline.

8. On November 5, 2014 the Board sent Mr. Volkin a fourth and final letter, via US Mail return receipt requested, signed for on November 10, 2014 regarding his failure to respond to the Board's previous requests to provide documentation for the Board's 2014 continuing education audit. The Board's final letter informed Mr. Volkin that failure to respond to and provide the requested documentation by the deadline will result in disciplinary proceedings.

7. Mr. Volkin failed to respond to the Board's repeated written requests for documentation of continuing education dated May 20, 2014, July 9, 2014, August 5, 2014 and November 5, 2014 as well as requests sent via e-mail on September 16, 2014 and October 28, 2014.

8. A Show Cause Order was issued on January 26, 2015 by the New Hampshire Board of Professional Engineers sent via US mail return receipt requested, signed for by Mr. Volkin on January 31, 2014 in which the Respondent was afforded the opportunity to appear before the Board on March 27, 2015 and show cause why any and all rights he may have to practice Professional Engineering in New Hampshire should not be suspended or subject to disciplinary action.

9. A Show Cause hearing was held on Friday, March 27, 2015 at the Board office. Mr. Volkin was absent from the hearing therefore the hearing was held in absentia.

#### CONCLUSIONS OF LAW

- I. The license renewal process relies heavily on accurate and honest self-reporting of continuing education by licensees. The Respondent violated the terms of the continuing education requirements for his 2014 license renewal by failing to provide proof of compliance with continuing education requirements of administrative rules Eng 403.01
- II. The Respondent indicated that he complied with the continuing education requirements of 30 Continuing Professional Competency Hours pursuant to Eng 403.01(b), on his 2014 license renewal. The Respondent failed to provide proof for the 2014 random audit of licensees that he complied with the continuing education requirements set forth in administrative rule Eng 403.01 which is in violation of RSA 310-A:22, II (a), the practice of fraud and deceit in procuring or attempting to procure or renew a license; and
- III. The Respondent failed to respond to the Board's repeated requests for information regarding his compliance with continuing education requirements in violation of Eng 501.03 (e), (3) which requires licensees to cooperate with investigations and requests for information from the Board and the Board's representatives.

The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 310-A:22, II (a) and administrative rule Eng 403.01 and Eng 501.03 (e).

THEREFORE, IT IS ORDERED, pursuant to RSA 310-A:23, V (b) and Eng 402.02 (a) and (d) the Board imposes the following sanctions:

The license to practice Professional Engineering in the State of New Hampshire of Richard Volkin is hereby suspended pursuant to RSA 310-A:23, V (b) until such time as the following conditions are met:

1. The Respondent shall provide proof satisfactory to the Board of compliance with the continuing education requirements of his 2014 license renewal; and
2. The Respondent shall provide a satisfactory explanation to the Board of his failure to cooperate with the Board's 2014 audit of continuing education.

If the Respondent does not satisfy the conditions outlined above within one year of the date of this Order his license to practice Professional Engineering in the State of New Hampshire shall be permanently revoked pursuant to RSA 310-A:23, V, (c).

- A. The order shall become a permanent document in the Respondent's file which is maintained by the Board as a public document.
- B. The Order shall take effect on the date it is signed by an authorized representative of the Board.
- C. A motion for rehearing, reconsideration, or clarification shall be filed within 30 days of the effective date of the Order. The motion shall be in accordance with RSA 310-A:23-IV and Eng 213. Filing a motion for rehearing or reconsideration shall be a prerequisite to appealing the Order.

Dated: March 31, 2015

BY ORDER OF THE BOARD

  
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Louise Lavertu  
Executive Director