

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

In the Matter of :

Royd A. Benjamin, PE #05803
(Disciplinary Matter)

Docket No. 17-04

SETTLEMENT AGREEMENT

NOW COMES the New Hampshire Office of Professional Licensure & Certification, Board of Professional Engineers ("Board") and the Respondent, Royd A. Benjamin, PE # 06560 in Docket Number 17-04 and agree to the following 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 Professional Engineering, the New Hampshire Board of Professional Engineers ("Board") and Royd A. Benjamin ("Benjamin" or "Respondent"), a New Hampshire licensed Professional Engineer, 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. Respondent engaged in unprofessional or dishonorable conduct in violation 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 2016 license renewal; 2) failing to submit proof of compliance for the Board's 2016 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 2016 license renewal in violation of RSA 310-A:22, II (a), and administrative rule Eng 403.01 (a) and (b).
2. Pursuant to RSA 310-A:22 and RSA 310-A:22-a and Board of Professional Engineers Rule Eng 402.01, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by licensed New Hampshire Professional Engineers. Pursuant to Eng 402.02 and RSA 310-A:23 and RSA 332-G:11, the Board may impose disciplinary sanctions for a licensee's violation of the statutes and rules governing licensed Professional Engineers in the State of New Hampshire.
3. The Board first granted Respondent a license to practice as in the State of New Professional Engineer in New Hampshire on August 20, 1986.

4. Mr. Benjamin was requested to provide proof of his continuing education requirements as required in Rule Eng 403.01 in the course of an audit, for the reporting year 2016.
5. In response to said request, the respondent failed to provide proof of the requested documents but rather sent an email dated April 26, 2016 to OPLC stating "I have not produced the required documentation to verify my participation in any of the events listed on my last license renewal. I am prepared to accept whatever disciplinary action the Board chooses to impose on me."
6. Per Professional Engineer Rule Eng 403.07, "the licensee shall retain attendance verification records for a period of at least 4 years. Such documentation shall be made available to the board for random audit and/or verification purposes. Document shall support professional development hours claimed. ***Failure to provide documentation for audit verification shall result in disciplinary action***". Emphasis Added.
7. Accordingly, the Respondent is subject to disciplinary action subject to the foregoing.
8. The Respondent is provided the opportunity to appear before the Board and show cause why any and all rights he may have to practice engineering in New Hampshire should not be suspended, revoked or subject to disciplinary action as a result of failure to provide the continuing education documentation required per Eng 403.01 and 403.07.
9. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against his Professional Engineer's License in this state.
10. Respondent consents to the Board imposing the following discipline, pursuant to RSA 310-A:23, as well as Eng 402.02:
 - A. Respondent agrees that there is sufficient evidence in this case which could warrant the Board of Professional Engineers to impose disciplinary action against him.
 - B. Respondent is assessed an administrative fine in the amount of two thousand dollars (\$2,000.00). Respondent shall pay said fine within thirty (30) days of the effective date of this *Settlement Agreement*, by delivering a credit card, money order, or bank check, made payable to "Treasurer, State of New Hampshire," to the Board's office at 121 South Fruit Street, Concord, N.H. 03301.
 - C. Respondent must complete thirty (30) hours of continuing education that should have been completed for the renewal period/reporting period 2014-2016, and must do so by filing said documentation with OPLC, 121 South Fruit Street, Concord, NH, 03301 within ninety (90) days from the effective date of this *Settlement Agreement*. These continuing education hours may not be used to satisfy the requirements for the 2016-2018 reporting.
 - D. The Board may consider Respondent's compliance with the terms and conditions herein in any subsequent proceeding before the Board regarding Respondent's license.
 - E. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant RSA 310-A:22, and a separate and sufficient basis for further disciplinary action by the Board.
 - F. 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 of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.

- G. This *Settlement Agreement* shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document. The Settlement Agreement shall be removed from the public website one year after the effective date of the Agreement, provided there are no further violations by the respondent of any statutes or rules governing the regulation and licensure of Professional Engineers.
- H. 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.
- I. The Board agrees that in return for Respondent's executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
- J. 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.
- K. 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 *Settlement Agreement*.
- L. 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* has prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
- M. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
- N. 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 right 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, quality 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.
- O. This *Settlement Agreement* shall take effect as an Order of the Board of Professional Engineers on the date it is signed by an authorized representative of the Board.
- P. If the Respondent does not agree to this Settlement Agreement, a Show Cause Hearing shall be scheduled to determine if the Respondent's New Hampshire Engineer's license shall be permanently revoked and whether the respondent shall be subject to any other disciplinary sanctions as set forth in RSA 310-A:23, V and RSA 332-G:11.

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 2016 license renewal by failing to provide proof of compliance

with continuing education requirements of administrative rules Eng 403.01 and by providing false documentation that he had completed said required continuing education requirements.

FOR RESPONDENT

Date: 6/14/17

Royd A. Benjamin
Royd A. Benjamin, Respondent

On this 14th day of June A.D. 2017
personally appeared the person who subscribe to the following instrument and acknowledged the same as her/his voluntary act and deed before me.

Kathryn B. Jerome (sp)
Justice of the Peace/Notary Public

4/17/18
My Commission Expires

FOR THE BOARD OF PROFESSIONAL ENGINEERS

Dated: 7.28, 2017

Linda Capuchino
Linda Capuchino, Division Director
Office of Professional Licensure & Certification
NH Board of Professional Engineers