

**BEFORE THE NEW MEXICO BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS**

IN THE MATTER OF

DAVID M. SENN
N.M. License No. 12129,

Case No. 11-PS-09-14-2012

Respondent.

DEFAULT ORDER

THIS MATTER came before the Professional Engineering Committee of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors ("Board") on November 13, 2014 for a decision in the above referenced case. The Committee reviewed and considered the administrative file in this matter, and makes the following finding of fact and conclusions of law, and enters the following order:

Findings of Fact

1. David M. Senn, hereinafter referred to as the "Respondent" is a licensed professional surveyor in New Mexico whose license was issued on July 7, 1993, and expires on December 31, 2017.
2. On September 10, 2014, a Notice of Contemplated Action ("NCA") was issued by the Board.
3. The NCA put Respondent on notice that the Committee had sufficient evidence of violations of the Act that, if not rebutted or explained, would justify enforcement action. *See* NCA p.4.
4. The NCA contained a summary of the evidence against Respondent, including *inter alia*, that Respondent stamped and caused to be filed with the Sierra County Clerk on November 2, 2012 a boundary survey plat that violated the Engineering and Surveying Practice

Act and Board rules governing boundary surveys. *See* NCA, pp. 2-4. Specifically, the NCA noted that the plat in question “does not indicate any monuments found or set at the northeast and southeast corners of Tract 2, see 12-8-2-9(F) NMAC.” NCA, p.4.

5. The NCA contained a notice of Respondent’s right under the ULA, and in particular of the need to submit a written request for a hearing to the Board of Licensure for Professional Engineers and Professional Surveyors within twenty (20) days of receipt of the NCA if he wished to have a hearing. *See* NCA, p. 5.

6. The NCA was served on the Respondent by certified mail, return receipt requested in accordance with the Uniform Licensing Act, NMSA 1978, §§ 61-1-1-33 (the “ULA”) (1957, as amended through 2013), on or about September 12, 2014..

7. The Respondent failed to submit a request for hearing within the time and in the manner required by NMSA 1978, § 61-1-4.

Conclusions of Law

1. The practice of surveying in New Mexico is governed by, *inter alia*, the Engineering and Survey Practice Act and by rules adopted by the Board pursuant to the authority granted it by the Act.

2. At the time of the issuance of the NCA in this matter, Respondent was licensed by the Board to practice surveying in New Mexico.

3. Under the Act, it is the duty of the Board to administer the provisions of the Act. NMSA 1978, § 61-23-10(A) (2005). Matters coming before the Board pertaining exclusively to surveying are referred to the surveying committee of the Board (the “Committee). NMSA 1978, § 61-23-9(A), (C) (2005). The action of the Committee with respect to such matters constitutes the final action of the Board. *Id.*

4. The Act provides that the Board may initiate disciplinary action in conformity with and under the provisions of the ULA. NMSA 1978, 61-23-27.11(F).

5. Under the Act and the ULA, the Board, through the Committee, has jurisdiction over Respondent and the subject matter of this proceeding. Section 61-1-3.2 of the ULA authorizes the Board to initiate disciplinary proceedings and impose a fine of up to one thousand dollars (\$1000) against a person who engages in a profession without a valid license.

6. The Board has complied with all notice and other procedural requirements as set forth in the ULA and the Act.

7. By failing to request a hearing, the Respondent waived his right to a hearing. *See* NMSA 1978, 61-1-4(E).

8. The ULA provides that “if the licensee...does not mail a request for hearing within the time and in the manner required by this section, the board may take action contemplated in the notice [of contemplated action] and such action shall be final and not subject to judicial review.” NMSA 1978, § 61-1-4(E).

ORDER

Based on the findings of fact and conclusions of law, the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors renders this order.

The Board finds that Respondent, David M. Senn, failed to request a hearing on the NCA as described above in the Findings of Fact and Conclusions of Law and, consequently, the Board may take the action contemplated in the NCA. As provided by Section 61-1-4(E) of the ULA, this action is final and is not subject to judicial review.

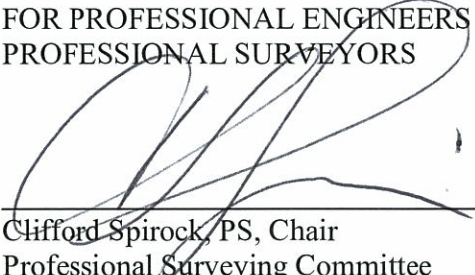
IT IS THEREFORE ORDERED that the license of Respondent David M. Senn shall, within thirty (30) days of receipt of this Order:

- 1) Correct the deficiencies identified in the Notice of Contemplated Action in the plat filed on November 2, 2012 with the Sierra County Clerk, to wit: Boundary Survey Plat of Two Tracts of Land Being a Portion of Lots 13 and 14, Block 2, Thoyt's Addition to Hots Springs, (Tract 1) in Section 4, Township 14 South, Range 4 West, N.M.P.M. in the City of Truth or Consequences, New Mexico; and
- 2) Pay a fine of one hundred dollars (\$100) within sixty (60) days.
- 3) Submit the corrected plat for approval before the Board, and have the plat approved by the Board.

IT IS SO ORDERED.

Dated: 11/03/16

NEW MEXICO BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND
PROFESSIONAL SURVEYORS



Clifford Spirock, PS, Chair
Professional Surveying Committee
Board of Licensure for Professional
Engineering and Professional Surveyors