

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

IN THE MATTER OF: **Joseph (Jody) Lawler**

Respondent

Case No. 11-PS-09-25-13

DEFAULT ORDER

THIS MATTER came before a quorum of the Professional Surveying Committee of the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors (“Board”) on April 9, 2015 for a decision in the above referenced case. The Committee reviewed and considered the administrative file in this matter, makes the following findings of fact and conclusions of law, and enters the following order:

Findings of Fact

1. Joseph (Jody) Lawler, hereafter “Respondent” is not and at no time relevant to this matter has been a licensed professional surveyor in New Mexico.
2. A Notice of Contemplated Action was issued by the Board on March 16, 2015.
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, pp. 1-2.
4. The NCA contained a summary of the evidence against Respondent, including *inter alia*, that Respondent obtained a business license from the City of Las Vegas, New Mexico for All Terrain Surveying Company using an application in which he listed himself as the sole proprietor, that survey plats were filed bearing the name All Terrain Surveying Company, and

that the licensed surveyor who stamped surveys for which Respondent conducted the field work was not a partner in All Terrain Surveying Company.

5. The NCA contained a notice of Respondent's rights under the ULA, and in particular of the need to submit a written request a hearing to the Board of Licensure for Professionals Engineers and Professional Surveyors within twenty (20) days of receipt of the NCA if he wished to have a hearing. *See* NCA, pp. 6-7.

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 March 17, 2015.

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 not licensed by the Board to practice surveying in New Mexico.

2. 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 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 “[i]f the licensee. . . does not mail a request for hearing within the time and in the manner required by this section, the board may take the 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.

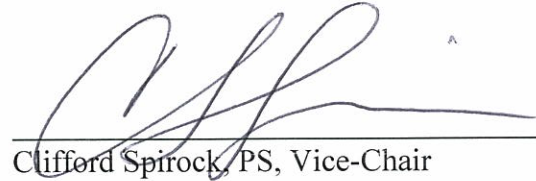
The Board finds that Respondent Joseph (Jody) Lawler failed to request a hearing on the NCA as described above in the Findings of Fact and Conclusions of Law and, consequently, the Board may take the action contemplated in the NCA. As provided by Section 61-1-4(E) of the ULA, this action is final and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

IT IS THEREFORE ORDERED that Respondent Joseph (Jody) Lawler pay a fine of one thousand dollars (\$1000) within thirty (30) days of receipt of this order.

IT IS SO ORDERED.

Dated: October 5, 2015

NEW MEXICO BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND
PROFESSIONAL SURVEYORS

A handwritten signature in blue ink, appearing to read 'CS', is written over a horizontal line.

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