

Transcript of Hearing for Case 15-06
Audit - Failure to Comply with PDH requirements - LS. (Hearing starts promptly at 8:35 A.M.)

A hearing was scheduled and held at 8:35am in the matter of Case 15-06 Audit - Failure to Comply with PDH Requirements on the part of Daniel Eugene Wobbe.

HEARING TRANSCRIPT

Hearing started at 8:35 a.m. on July 15, 2016; In the matter of Case 15-06 Audit - Failure to Comply with PDH Requirements on the part of Daniel Eugene Wobbe. This hearing is being held pursuant to the legal authority and jurisdiction granted to the South Dakota Board of Technical Professions (Board), under SDCL chapter's 36-18A and 1-26.

The following Board members were present: Chairman Steve Williams, Vice Chairman Steve Peters; Steve Thingelstad; Jeff Nelson; Dennis Micko; and Drake Olson. Others present were Staff Attorney Aaron Arnold and staff members, Kathryn Patterson, Tamara Moore and Susan Neuf.

The purpose of this hearing determine whether the licensee has violated South Dakota laws or administrative rules, thus resulting in discipline taken against him by the Board

The licensee failed to appear at the scheduled time of the hearing, no legal representative attended on the licensee's behalf, and no notice of intent to attend or request to change the scheduled hearing was received from the licensee.

The specific sections of South Dakota law alleged to have been violated by the licensee are: SDCL 36-18A-40; SDCL 36-18A-56 (1)(2)(5)(7)(13); SDCL 36-18A-61; SDCL 36-18A-65; and administrative rules 20:38:29:01; 20:38:35:01; 20:38:35:09; 20:38:35:10 and 20:38:36:01. Due to the possible denial, suspension or revocation of a license the standard of proof in this case is clear and convincing evidence, which is more than the preponderance of the evidence but less than beyond a reasonable doubt. Since the Board has the burden of proof in this case, Staff Attorney Arnold will present the evidence on behalf of the Board. Afterward, the Board will consider any evidence that the licensee has submitted.

Patterson was sworn in as a witness by Staff Attorney Aaron Arnold and gave testimony to the facts presented by the Board.

Exhibits A-E were reviewed individually and admitted into evidence by Chairman Williams after each exhibit was reviewed.

Exhibit A: Copy of Individual Licensee Renewal Form 1/31/2014 along with attached PDH log. Admitted into evidence by Chairman Williams at 8:40 a.m..

Exhibit B: Copy of letter dated April 9, 2014 notifying Daniel Eugene Wobbe of random audit selection. Admitted into evidence by Chairman Williams at 8:43 a.m..

Exhibit C: Copy of letter dated June 4, 2014 notifying Daniel Eugene Wobbe of the Boards denial of his audit - Admitted into evidence by Chairman Williams at 8:45 a.m..

Exhibit D: Copy of certificate for a course on Structural Deformation Surveying and a copy of discount PDH.com webpage where he ordered the course. Admitted into evidence by Chairman Williams at 8:47 a.m..

Exhibit E: Copy of letter dated October 2, 2014 notifying Daniel Eugene Wobbe of the Boards disqualification of the course listed in Exhibit D, because the subject matter of the course was not in the practice area of Land Surveying as practiced in South Dakota. Admitted into evidence by Chairman Williams at 8:50 a.m..

Staff Attorney Arnold opens up the witness to questions from the Board.

Olson asked how many times the board has sent certified letters to the licensee that has been returned unsigned. Patterson responded that three separate certified letters have been sent and were returned unsigned. The first letter was sent on September 15, 2015 and the last was sent May 19, 2016.

Thingelstad asked if Mr. Wobbe was or is licensed elsewhere. Patterson responded that he lives in Oregon and is licensed there.

Micko asked what Mr. Wobbe's current licensure status is with the board. Patterson responded that Mr. Wobbe is currently in a lapsed status as he did not renew on his expiration date of January 31, 2016.

Nelson asked if the one continuing education hour that was approved during the audit was the one received from WHPacific. Patterson responded that the one hour that was approved was the one from WHPacific.

Chairman Williams asked if there were any more questions for Patterson. Receiving no further responses, Chairman Williams dismisses Patterson as a witness.

Staff Attorney Arnold stated the closing arguments.

Chairman Williams closed the hearing at 8:59 a.m.

The Board considered the evidence and deliberated on this case.

Motion: By Peters, seconded by Thingelstad that Staff Attorney Aaron Arnold prepare Findings of Fact and Conclusions of Law consistent with the evidence presented during the hearing, and it is the decision of the Board that license #11148 of Daniel Eugene Wobbe be revoked and not allowed to reapply for licensure for a period of 10 years.

Action: 6-0 AYE (Micko, Nelson, Olson, Peters, Thingelstad, and Williams).