SRP COMPLAINT NO. 009-2014

DISPOSITION

Based on its investigation and findings, the Site Remediation Professional Licensing Board ("Board") voted to resolve the complaint with a finding that the subject of the complaint did not violate the provision of the Site Remediation Reform Act ("SRRA") (N.J.S.A. 58:10C-1 et seq.) referenced below.

NATURE OF THE COMPLAINT

Complaint 009-2014 was received by the Board on November 19, 2014. According to the complaint, the LSRP who is the subject of the complaint (hereinafter "LSRP") is employed by a company (hereinafter "Consulting Company, LLC"). The president of Consulting Company, LLC (hereinafter referred to as "IS") is also the officer of the company (hereinafter "BH, LLC") that owns the site for which the LSRP was retained to conduct remediation (hereinafter "site"). Consequently, the complainant asserts that the LSRP is in violation of N.J.S.A. 58:10C-16(y) which states: "A licensed site remediation professional shall not be a salaried employee of the person responsible for conducting the remediation, or any related entities, for which the licensed site remediation professional is providing remediation services".

SYNOPSIS OF THE INVESTIGATION AND FINDINGS

The Board conducted an independent evaluation of the allegations in the complaint. The Board found the following facts:

- LSRP lists his employer as Consulting Company, LLC.
- IS is the founder and president of Consulting Company, LLC.
- According to the deed dated October 24, 2012, the current owner of the site is BH, LLC.
- According to the allegations of the complaint, IS and GD are officers of BH, LLC. However, the LSRP produced an amendment to the operating agreement of BH, LLC which proved IS severed his interest in BH, LLC, and thus his ownership interest in the site prior to the date that LSRP was retained. According to an amendment to the operating agreement of BH, LLC, signed by GD and IS, effective January 8, 2013, "IS has transferred all of his right, title and interest in BH, LLC to GD. … As a result of said transfer, GD is the sole Member of BH, LLC. In addition, GD shall now be the Manager of BH, LLC."

Representatives of the Board spoke with IS on April 20, 2015 to confirm this information. He stated that because he was not able to obtain financing, GD bought him out. He said that GD is a friend, but they are not related. He also stated that he referred LSRP to GD, but by that time he (IS) was no longer an officer of BH, LLC, and therefore no longer had ownership interest in the site.

- LSRP submitted a notification of retention for the site on March 6, 2013. The form indicates he was retained by GD, and GD is the owner and responsible entity. The form indicates he was hired to address specific known contaminated AOCs. All documents submitted by LSRP to the New Jersey Department of Environmental Protection indicated that GD owned the site, and where required, GD signed documents as the owner of the site.

DETERMINATION OF THE BOARD

Based on its investigation and findings, the Board voted to resolve the complaint with a finding that the subject of the complaint did not violate the provisions of the Site Remediation Reform Act referenced above.