

SRPL BOARD COMPLAINT NO. 001-2014

Updated April 5, 2017

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, LSRP John Bee, violated provisions of the Site Remediation Reform Act (“SRRA”) (N.J.S.A. 58:10C-1 et seq.) alleged in the complaint and referenced below.

A Notice of Intent to Suspend License and Civil Administrative Penalty Assessment was issued to Mr. Bee on March 11, 2016. Every person has the right to request a hearing within 35 days of receipt of a disciplinary order from the Board. Mr. Bee requested a hearing, therefore, the Notice of Intent to Suspend License and Civil Administrative Penalty Assessment did not become final. In the intervening months, the Board and Mr. Bee engaged in settlement discussions, resulting in a Settlement Agreement that became effective April 5, 2017. The terms of the Settlement Agreement are summarized below under SETTLEMENT.

NATURE OF THE COMPLAINT

The New Jersey Department of Environmental Protection (“Department”) submitted Complaint 001-2014 to the Board on February 10, 2014. According to the complaint, Mr. Bee submitted documents which failed to comply with the Technical Requirements for Site Remediation (N.J.A.C. 7:26E-1 et seq.). The deficiencies in the documents were so serious and numerous they indicate Mr. Bee violated the following provisions of the SRRA:

N.J.S.A. 58:10C-14c. The licensed site remediation professional shall employ the following remediation requirements in providing professional services for the remediation of contaminated sites...

N.J.S.A. 58:10C-16a. A licensed site remediation professional's highest priority in the performance of professional services shall be the protection of public health and safety and the environment.

N.J.S.A. 58:10C-16b. A licensed site remediation professional shall exercise reasonable care and diligence, and shall apply the knowledge and skill ordinarily exercised by licensed site remediation professionals in good standing practicing in the State at the time the services are performed.

N.J.S.A. 58:10C-16i. A licensed site remediation professional shall exercise independent professional judgment, comply with the requirements and procedures set

forth in the provisions of P.L.2009, c.60 (C.58:10C-1 et al.), make a good faith and reasonable effort to identify and obtain the relevant and material facts, data, reports and other information evidencing conditions at a contaminated site for which he is responsible that is in possession of the owner of the property, or that is otherwise available, and identify and obtain whatever additional data and other information as the licensed site remediation professional deems necessary. The licensed site remediation professional shall disclose and explain in any document submitted to the department any facts, data, information, qualifications, or limitations known by the licensed site remediation professional that are not supportive of the conclusions reached in the document.

INVESTIGATION

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

- Mr. Bee was retained in 2010 to perform the remediation of a Site in Newark, NJ that had formerly been the site of a tannery and other industrial operations ('the Site).
- In October 2011 Mr. Bee submitted to the Department a Preliminary Assessment and Site Investigation Report and Draft Response Action Outcome for the Site dated October 15, 2010.
- In October 2011 Mr. Bee submitted to the Department a Case Inventory Document dated November 9, 2009 that identified three Areas of Concern.
- On January 17, 2012, a representative of the Department directed Mr. Bee to withdraw the Preliminary Assessment and Site Investigation Report and Draft Response Action Outcome dated October 15, 2010 due to deficiencies in the documents.
- On February 9, 2012, Mr. Bee withdrew the Preliminary Assessment and Site Investigation Report and the Draft Response Action Outcome dated October 15, 2010.
- In August 2013 Mr. Bee submitted to the Department a Preliminary Assessment and Site Investigation Report that was undated.
- In August 2013 Mr. Bee submitted to the Department a Case Inventory Document that noted fourteen Areas of Concern.
- In September 2013 Mr. Bee submitted to the Department a Response Action Outcome dated September 12, 2013.

- On December 3, 2013, a representative of the Department directed Mr. Bee to withdraw the Response Action Outcome because outstanding investigations required completion.
- On December 8, 2013, Mr. Bee withdrew the Response Action Outcome dated September 12, 2013. The Department also assigned withdrawal status to the Preliminary Assessment and Site Investigation Report submitted in August 2013.

FINDINGS

The Board's findings are as follows:

2010 Preliminary Assessment and Site Investigation Report

With respect to the 2010 Preliminary Assessment and Site Investigation Report, the Board found that Mr. Bee failed to comply with the following Technical Requirements for Site Remediation in effect at the time the document was submitted: N.J.A.C. 7:26E-3.1(b)1 (2010); N.J.A.C. 7:26E-3.1(a) (2010); N.J.A.C. 7:26E-3.11(a) (2010); N.J.A.C. 7:26E-3.4(a) (2010); N.J.A.C. 7:26E-3.13(c) (2010); N.J.A.C. 7:26E-3.13(d) (2010); N.J.A.C. 7:26E-2.2 (2010); N.J.A.C. 7:26E-3.2(a)3 (2010); N.J.A.C. 7:26E-3.13(b) (2010); and N.J.A.C. 7:26E-3.10(a) (2010). These deficiencies were the basis for finding violations of N.J.S.A. 58:10C-14c(2)(a), N.J.S.A. 58:10C-16b, and N.J.S.A. 58:10C-16i.

2010 Draft Response Action Outcome

With respect to the 2010 Response Action Outcome, the Board found that Mr. Bee failed to comply with the Technical Requirements for Site Remediation in effect at the time the 2010 Draft RAO was submitted, specifically, N.J.A.C. 7:26E-3.10(a) (2010), as well as the Administrative Requirements for the Remediation of Contaminated Sites, specifically, N.J.A.C. 7:26C-6.2(g) (2010). These deficiencies were the basis for finding violations of N.J.S.A. 58:10C-14c(2)(a) and N.J.S.A. 58:10C-16b.

2013 Preliminary Assessment and Site Investigation Report

With respect to the 2013 Preliminary Assessment and Site Investigation Report, the Board found that Mr. Bee failed to comply with the following Technical Requirements for Site Remediation in effect at the time the 2013 PASI was submitted: N.J.A.C. 7:26E-3.1(c) (2012); N.J.A.C. 7:26E-3.1(a)(2012); N.J.A.C. 7:26E-3.2(a) (2012); N.J.A.C. 7:26E-3.13(a) (2012); N.J.A.C. 7:26E-1.6(b)8 (2012); and N.J.A.C. 7:26E-1.6(a)4 (2012). These deficiencies were the basis for finding violations of N.J.S.A. 58:10C-14c(2)(a), N.J.S.A. 58:10C-16b and N.J.S.A. 58:10C-16i.

2013 Response Action Outcome

With respect to the 2013 Response Action Outcome, the Board found that Mr. Bee violated N.J.S.A. 58:10C-16a, N.J.S.A. 58:10C-16b and N.J.S.A. 58:10C-16i.

DETERMINATION OF THE BOARD

2010 Preliminary Assessment and Site Investigation Report

\$1,000.00 for violation of N.J.S.A. 58:10C-16b

\$1,000.00 for violation of N.J.S.A. 58:10C-16i

2010 Draft Remedial Action Outcome

\$1,000.00 for violation of N.J.S.A. 58:10C-16b

2013 Preliminary Assessment and Site Investigation Report

\$1,000.00 for violation of N.J.S.A. 58:10C-16b

\$1,000.00 for violation of N.J.S.A. 58:10C-16i

2013 Remedial Action Outcome

\$5,000.00 for violation of N.J.S.A. 58:10C-16a

\$1,000.00 for violation of N.J.S.A. 58:10C-16b

\$1,000.00 for violation of N.J.S.A. 58:10C-16i

Total Penalty: \$12,000.00

In addition to the above penalties, the Board decided to suspend Mr. Bee's LSRP license for a period of 12 months, during which time Mr. Bee would be required to obtain an additional 24 Continuing Education Credits, at least 12 of which would be Regulatory Credits.

SETTLEMENT

On March 11, 2016, the Board issued a Notice of Intent to Suspend License and Civil Administrative Penalty Assessment that contained the above terms. Mr. Bee exercised his right to request an administrative hearing. Prior to the hearing, Mr. Bee entered into a Settlement Agreement with the Board on April 5, 2017. The Settlement Agreement provides the following:

- a. Mr. Bee's license shall be suspended for a period of six months commencing on April 5, 2017. Mr. Bee shall take all actions necessary to

comply with the regulatory requirements concerning license suspension as set forth in N.J.A.C. 7:26I-2.13.

- b. Mr. Bee shall complete one or more continuing education programs to earn a minimum of twelve Continuing Education Credits (hereinafter "CECs") no later than April 5, 2018. Of the twelve CECs, a minimum of six must be approved as Regulatory CECs. The twelve CECs shall be in addition to, and shall not count towards, the thirty-six CECs required to be completed during Mr. Bee's current three-year license term to qualify for license renewal.
- c. Upon reinstatement of his license, Mr. Bee shall participate in periodic evaluations of documents that he submits to the Department. The evaluations shall be conducted by the Board during the first two years after reinstatement of Mr. Bee's license. The Board shall notify Mr. Bee of the date and time of the evaluation. The Board, in its sole discretion, shall choose the documents to be evaluated which shall include, but not be limited to, four technical documents from among the documents submitted to the Department by Mr. Bee. If the Board has not reviewed the requisite four technical documents within the first two years after Mr. Bee's license is reinstated, the evaluation period shall be extended for an additional two years until four technical documents have been reviewed by the Board.
- d. If after the evaluation of four technical documents, the Board finds that Mr. Bee has consistently failed to meet the standards and requirements for performance of an LSRP as set forth in SRRA and the Site Remediation Professional Licensing Board Rules, N.J.A.C. 7:26I-1 et seq., the Board may revoke Mr. Bee's license pursuant to N.J.A.C. 7:26I-2.14.
- e. Mr. Bee shall reimburse the Board's costs for conducting the evaluations of document submittals by Mr. Bee which shall include, but not be limited to, four technical documents, at a rate of \$105.48/hour, but the Board's costs shall not exceed \$500 per document.
- f. By the date of April 26, 2017, Mr. Bee shall pay the sum of \$5000.00 as full satisfaction of the penalties contained within the Notice.
- g. Within ten days of the receipt of the \$5000.00 payment, the Board shall withdraw, with prejudice, the Notice of Intent to Suspend License and Civil Administrative Penalty Assessment.
- h. By the date of April 26, 2017, Mr. Bee shall withdraw, with prejudice, the Request for an Adjudicatory Hearing.