

**BEFORE THE ARKANSAS BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

Case #2008-44, in the matter of Kenneth Bradley Moore and ASTEC, Inc:

CONSENT AGREEMENT AND ORDER

The Arkansas Board of Registration for Professional Engineers and Land Surveyors (hereinafter "the Board") and Kenneth Bradley Moore (non-registrant, hereinafter "Moore"), and ASTEC, Inc (non-registrant, hereinafter "ASTEC") agree as follows in full settlement of the charges in this disciplinary matter.

FINDINGS OF FACT

1. On or about September 30, 2008, ASTEC, a Tennessee corporation and a manufacturer of asphalt plants, entered into a contract for the sale of an asphalt plant to be delivered to Arkansas.
2. While the contract makes clear that the purchaser is responsible for any engineering review or "plan stamping," the contract provides that ASTEC will provide certain concrete pier designs and other post-negotiation engineering analysis and design in connection with the configuration and erection of the asphalt plant.
3. At the direction of his employer, ASTEC, on or about September 25, 2008, Moore, who is a structural engineer, applied with the Board for registration as a professional engineer by comity. The application submitted by Moore caused the Board to be concerned that Moore may have offered to practice engineering in Arkansas before becoming a registrant of the Board, and that ASTEC may have offered to provide engineering services in Arkansas without having a valid Certificate of Authorization. As a result, on November 19, 2008, the Board issued a complaint.

[Begin page 2 of 3]

4. On December 10, 2008, Moore submitted an answer to the complaint, in which he explained that he had not been retained to provide engineering services for any project in Arkansas, that his employer, ASTEC, is an equipment manufacturer rather than an engineering firm, and that he works on equipment design “. . . very much like an engineer in Detroit working on [an] automobile design.” Moore further explained that, since the equipment at issue will require concrete foundations, he sought registration in Arkansas and applied for registration “before any foundation plans are completed or submitted for approval and before any site-work is begun.”

CONCLUSIONS OF LAW

1. Neither Moore nor ASTEC has engaged in the unauthorized practice of engineering in Arkansas.
2. The actions of Moore described above, which were performed at the direction of his employer, ASTEC, do not constitute a violation of ACA §17-30-102.
3. While not a willful violation, the conduct of ASTEC, as set forth above in the Findings of Fact, constitutes one count of offering engineering services without a valid Certificate of Authorization, in violation of ACA §17-30-303.

CONSENT AGREEMENT

In the interest of a prompt and speedy settlement, consistent with the public interest and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of these matters presently before the Board.

[End page 2 of 3]

[Begin page 3 of 3]

1. ASTEC has been afforded an opportunity to obtain legal counsel and has chosen to proceed with the understanding that it is admitting the facts and conduct described above in the Findings of Fact.

2. In lieu of a formal hearing on these issues, ASTEC agrees to issue of the following Order and waives all rights to a hearing, appeal or judicial review relating to the Order.

3. ASTEC understands that all investigative materials prepared or received by the Board concerning these allegations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

ORDER

In view of the Findings of Fact, Conclusions of Law, and the Consent Agreement above, it is ordered that ASTEC pay a civil penalty of \$500 to the Board within fifty (50) days of the date this Order is served.

The complaint against Moore individually is dismissed with prejudice by the Board, and Moore's pending application for registration will proceed for consideration.

AGREED TO BY:

Malcolm Swanson
On behalf of ASTEC

Sworn to and subscribed before me this 24 day of April, 2009



Tammy R. Lewis
Notary Public

My commission expires: 11/10/2012

AGREED TO AND ORDERED BY:

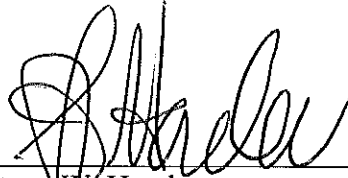
Bill Ruch
Board President

[End page 3 of 3]

CERTIFICATE OF SERVICE

I, Steve W. Haralson, Executive Director of the Arkansas State Board of Registration for Professional Engineers and Land Surveyors, do hereby certify that I have served a copy of the foregoing order by mailing copies of same, by first class mail and certified mail, with return receipt requested and postage prepaid, on this 23rd day of June, 2009, to:

Mr. Cyril Hollingsworth
 Dover Dixon Horne, PLLC
 425 West Capitol, Suite 3700
 Little Rock, AR 72201-3465



Steve W. Haralson
 Executive Director

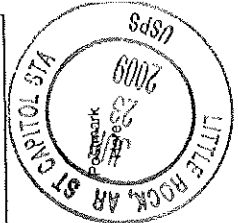
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 Total Postage & Fees \$ 5.54

Sent To: Moore/Hollingsworth
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

PS Form 3830, January 2009 See Reverse for Instructions

7002 0510 0001 8878 4975



SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
 Mr. Cyril Hollingsworth
 Dover Dixon Horne, PLLC
 425 West Capitol, Suite 3700
 Little Rock, AR 72201-3465

2. Article Number (transfer from services label) 7002 0510 0001 8878 4975

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below.

RECD JUN 23 2009

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
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4. Restricted Delivery? (Extra Fee) Yes No