

**BEFORE THE OKLAHOMA STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

STATE OF OKLAHOMA ex rel. OKLAHOMA)
STATE BOARD OF LICENSURE FOR)
PROFESSIONAL ENGINEERS AND LAND)
SURVEYORS,)

Complainant,)

vs.)

Case No. 2022-016

Name: Aaron Demaray Tainter)
Certificate of Licensure No.: TL 943)
Address: 2350 Valley View Lane, Suite 600)
Dallas, TX 75234)

Respondent.)

CONSENT ORDER

COMES NOW the Complainant, Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors (the "Board") and the Respondent, Aaron Demaray Tainter, ("Tainter").

FINDINGS OF FACT

For the purposes of the entry of this Consent Order, the following facts are hereby stipulated to by the parties and adopted by the Board:

1. On July 10, 1992, Bridgefarmer & Associates, Inc., the ("Firm"), was granted Oklahoma Certificate of Authorization No. 1835 to offer and perform engineering services in the State of Oklahoma.

2. On April 22, 2021, the Firm executed a *Standard Form of Agreement Between Engineer and Consultant for Consulting Services* with Poe & Associates, Inc. for the "preparation of a complete set of plans, specifications, and engineering estimate (PS&E) complete with

professional stamp for the rail system improvements and transload facility at the Iron Horse Industrial Park.”

3. On December 30, 2021, the Board received an Oklahoma Temporary License (T.L.) application from Tainter. The T.L. application states that the project to be engaged in if the license is granted is: “rail system improvements and transload facility at the Iron Horse Industrial Park”.

4. In Tainter’s T.L. application, he certified that he would apply for permanent Professional Engineer (P.E.) licensure in Oklahoma within thirty (30) days of the issuance of the Temporary License, as required by OAC § 245:15-3-10 et seq.

5. On December 30, 2021, the Board issued T.L. 943 to Tainter to offer and/or practice engineering in the State of Oklahoma on a temporary basis partially based on his certification that his permanent P.E. application would be submitted to the Board within thirty (30) days.

6. On January 14, 2022, Board Staff received Tainter’s NCEES Record and advised him via email that he is also required to submit an Oklahoma P.E. comity application form.

7. On February 15, 2022, Board Staff contacted Tainter via email, informing him that the Board had not received his permanent P.E. application within thirty (30) days as required by OAC § 245:15-3-10 et seq. and certified by Tainter in his Temporary License application.

8. On March 14, 2022, Board Staff opened an investigation and contacted Tainter via email, certified mail, and regular mail to request several pieces of information, including: “explanation for your failure to submit your permanent P.E. application within the required thirty-day time period... copy of the complete design file for the Project, including all design drawings (complete or incomplete), calculations, sketches, communications, etc.”

9. On April 12, 2022, the Board received an incomplete P.E. application from Tainter. Board Staff contacted Tainter via email on April 14 to advise him of the additional item required to complete the P.E. application.

10. Application is presently incomplete due to Respondent's recent failure of the Oklahoma Law and Engineering Exam.

11. As of the date of filing, Tainter has failed to provide an Oklahoma Law and Engineering Exam answer sheet earning a passing score to the Board.

COUNT I

The Allegations contained in the Statement of Allegations/Charges Against Respondent above are incorporated herein by reference.

12. Tainter failed to submit a complete permanent P.E. application to the Board within the thirty (30) days of the date of issuance of the temporary license which required properly completed forms and fees in violation of 59 O.S. § 475.22(2)(a) and OAC § 245:15-3-10(a)(1).

13. Tainter is, therefore, is guilty of violating the provisions of 59 O.S. §475.22(2)(a) and OAC § 245:15-3-10(a)(1) by failing to submit a complete permanent professional engineer application to the Board within thirty (30) days of the date of the issuance of the temporary license with all required properly completed forms and fees and is, therefore, subject to and should be assessed the Administrative Penalties set forth in 59 O.S. § 475.20(B) and OAC § 245:15-23-3 and 18.

CONCLUSIONS OF LAW

14. The Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors has jurisdiction of this case pursuant to:

a. Statutes Regulating Professional Engineering and Land Surveying, 59 O.S. § 475.1
et seq.

b. The Rules of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors, OAC § 245:15, *et seq.*

15. Respondent was properly notified of the charges, and acknowledged its right to counsel.

16. Respondent has made no objection to the timeliness of the notice or to the specificity of the statement of charges.

17. The Findings of Fact stipulated to by Respondent constitute violations of the Statutes Regulating Professional Engineering and Land Surveying and the Rules of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors, pertaining to the professional practice of engineering upon which the Board may take disciplinary action against Respondent.

CONSENT

Aaron Demaray Tainter, by affixing its signature hereto, acknowledges that:

18. Respondent has been specifically advised to seek the advice of counsel prior to signing this Consent Order, and

19. Respondent understands this Consent Order is subject to the approval of the Board and has no force and effect until a final decision based upon it is rendered by the Board.

20. Respondent acknowledges that it has the following rights, among others:

- a. The right to a formal fact finding hearing before the Board;
- b. The right to reasonable notice of said hearing;
- c. The right to compel the testimony of witnesses;

- d. The right to cross-examine witnesses against themselves;
- e. The right to obtain judicial review of the Board's decisions; and,
- f. The right to counsel.

21. Respondent waives all such rights to a formal hearing as set forth above in paragraph twenty (20).

22. Respondent understands in order to make a decision relative to approving this Consent Order discussions must take place between Board members, Board Staff and Board Counsel. These discussions may include the Board's review of any and all previously enumerated exhibits or referenced project materials. Respondent understands that this discussion will take place at the Board's next regularly scheduled meeting in Oklahoma City, Oklahoma. Respondent understands it has the right to be present when this matter is discussed, but hereby waives that right.

23. Should the Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of the Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in or resolution of these proceedings. Likewise, if this Consent Order is not accepted, the Board shall not take into consideration the contents of this Order as evidence of an admission.

24. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review or to other challenge or contest the validity of the Consent Order, the stipulated facts, conclusions of law and imposition of administrative action contained herein, and the final decision of the Board incorporating said Consent Order.

25. This Consent Order contains the entire agreement between the parties. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

26. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Consent Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

27. This Consent Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understanding, discussions, negotiations, and commitments (written or oral). This Consent Order may not be altered, amended, modified, supplemented or otherwise changed except by a writing executed by an authorized representative of each of the parties.

28. Respondent consents to the entry of this Consent Order.

ORDER


In accordance with the foregoing findings of facts and conclusions of law, and the agreement and consent of the Respondent, it is hereby ordered as follows:

29. Tainter should be and hereby is found guilty of the charges set forth in Count I of the Formal Notice of Charges, because he failed to submit a complete permanent P.E. application to the Board within the thirty (30) days of the date of issuance of the temporary license which required properly completed forms and fees in violation of 59 O.S. § 475.22(2)(a) and OAC § 245:15-3-10(a)(1).

30. In accordance with 59 O.S. § 475.20(B) and OAC §§ 245:15-23-3 and 18, Tainter hereby assessed an administrative penalty in the total amount of One Thousand Two Hundred Dollars (\$1,200.00) as and for the violations set forth in Count I above, which shall be paid within thirty (30) days from the date of the entry of this Consent Order.

DISCLOSURE

Pursuant to the Oklahoma Open Records Act, 51 O.S. § 24-A.1 through 24-A.21, the signed original of this Consent Order shall remain in the custody of the Board as a public record and shall be made available for public inspection, publication, and copying upon request.


Name: Aaron Demaray Tainter

Date: 5/24/2022

CERTIFICATION OF BOARD ATTORNEY

I believe this Consent Order to be in the best interests of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors and the State of Oklahoma for the violations as alleged in the Formal Notice of Charges.

Dated this _____ day of June, 2022.

Robert A. Manchester, IV OBA #19518
4308 North Meridian
Oklahoma City, OK 73112
(405) 525-6710
(405) 528-5366 (Fax)
Attorney for Oklahoma State Board of
Licensure for Professional Engineers
and Land Surveyors

ORDER OF THE BOARD

NOW on this _____ day of June, 2022, Respondent has admitted voluntarily, with knowledge of its rights under law, the allegation contained in Count I of the Formal Notice of Charges. It further appears that the foregoing Consent Order is just and equitable in order to safeguard life, health, and property, and to promote the public welfare in the State of Oklahoma.

IT IS THEREFORE ORDERED that the Respondent's stipulation to the violation contained in Count I of the Formal Notice of Charges are accepted and the above Consent Order incorporated herein shall be the order of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

Dated this _____ day of June, 2022.

OKLAHOMA STATE BOARD OF
LICENSURE FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

By: _____
Chuck Darr, P.E., Chair