

**Transcript of Hearing for Case 17-01
Failure to Report Discipline - PE (Hearing started promptly at 8:33 A.M.)**

A hearing was scheduled and held at 8:33 a.m. in the matter of Case 17-01 Failure to Report Discipline on the part of Stephen P. Maslan.

HEARING TRANSCRIPT

The hearing started at 8:33 a.m. on May 12, 2017; In the matter of Case 17-01 Failure to Report Discipline on the part of Stephen P. Maslan. This hearing is being held pursuant to the legal authority and jurisdiction granted to the South Dakota Board of Technical Professions (Board), under Chapter 1-26 which is the administrative procedures act of the South Dakota Code, Chapter 36-18A of the South Dakota Code, which is the Technical Professions License Law and ARSD 20:38 which are the Administrative Rules of the South Dakota Board of Technical Professions.

The following Board members were present: Chairman Steve Williams, Vice Chairman Steve Peters; Secretary Mike Albertson; Steve Thingelstad; Jeff Nelson; and Dennis Micko. Board member Alissa Matt was not in attendance. Others present were Staff Attorney Graham Oey and staff members, Kathryn Patterson, Tamara Moore and Susan Neuf.

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.

This is a formal administrative hearing, therefore, all testimony presented at this hearing will be sworn and all exhibits must be admitted into the record through the Chair. This hearing is an adversarial proceeding as far as possible. Any party to this hearing has the right to be present and to be represented by legal counsel. Each party will have reasonable opportunity to inspect documentary evidence and present evidence in support of that party's interest and shall have the rights ordinarily afforded parties at hearings. The purpose of this hearing is to determine if Mr. Maslan has violated South Dakota licensing law or administrative rule, and is subject to discipline by the Board. The specific sections of law that are alleged to have been violated are SDCL 36-18A-56 subdivisions (6) and (21), and ARSD 20:38:36:01 subdivisions (1), (11), (12), and (33).

Due to the possible suspension or revocation of a license, the standard of proof in this case is clear and convincing evidence, which is more than preponderance of the evidence and less than beyond a reasonable doubt.

Since the Board has the burden of proof in this case, Staff Attorney Oey will present evidence on behalf of the Board. Afterward, the Board will consider any evidence that Mr. Maslan has submitted.

Kathryn Patterson, Executive Director for the South Dakota Board of Technical Professions, was sworn in as a witness by Chairman Williams. Staff Attorney Oey asked Patterson questions regarding Mr. Maslan, such as his current license status, history of violations, and disciplinary action taken by boards in other jurisdictions.

Staff Attorney Oey offered Exhibit 1 and 2 into the record as certified public documents that are self-authenticating.

Exhibit #1 is a certified copy of the Missouri state Settlement Agreement dated October 22, 2009; Findings of Fact and Conclusions of law for Probation violation in case 13-001, dated February 24, 2014; and Findings of Fact and Conclusions of law for Probation violation case 2008-00279, dated December 8, 2014.

Exhibit #2 is a certified copy of the Kansas state Settlement agreement and Consent order for case number 10-20; Modified Settlement agreement and Consent order for case 10-20; Final order for case number 12-06; and Final order for case number 15-32.

Exhibits 1 and 2 were reviewed individually and received into evidence by Chairman Williams.

Staff Attorney Oey opened up the witness to questions from the Board.

Micko: It is my understanding that we would be taking reciprocal action? Or would we be taking action as a result of Mr. Maslan perjuring himself on his renewal application?

Staff Attorney Oey: Mainly taking reciprocal action based on his violations in other jurisdictions, but also because he failed to report his disciplinary actions. In other US jurisdictions; he violated the terms of his professional services in practicing in areas beyond his competency, failed to comply with the license laws governing professional practice, and failed to approve and seal only documents that conform to accepted standards. He also failed to notify this Board within 30 days of his disciplinary actions.

Chairman Williams: If I understand Exhibit #1 correctly, he's actually had three different instances of doing things in Missouri that are not right?

Kathryn Patterson: They had placed him on probation and he didn't comply with his probation, he went outside the probation, and they came back and took his license for not meeting the terms of his probation.

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

Staff Attorney Oey stated the closing arguments.

The Board considered the evidence and deliberated on this case.

Micko made a motion to permanently revoke the Respondents' license and assess a fine of \$2000. Nelson seconded the motion. Albertson abstained. 5-0 AYE (Micko, Nelson, Peters, Thingelstad, and Williams) taken by roll call. **MOTION PASSED**

Chairman Williams closed the hearing at 9:00 a.m.

After closing the hearing, Chairman Williams called the regular board meeting to order.