

MARYLAND STATE BOARD FOR
PROFESSIONAL ENGINEERS

v.

STEPHEN P. MASLAN

Respondent

* * * * *

* BEFORE THE
* MARYLAND STATE BOARD
* FOR PROFESSIONAL
* ENGINEERS
* COMPLAINT NO.: 14-PE-01

SETTLEMENT AGREEMENT

This matter comes before the Maryland State Board for Professional Engineers (the "Board") based on a complaint opened by the Board against Stephen P. Maslan (the "Respondent"). The parties have agreed to resolve the matter through this Settlement Agreement made by and between the Board and the Respondent.

The Respondent reported disciplinary action against his Missouri and Kansas professional engineer's licenses for signing and sealing documents for the fire protection systems for two projects. The documents contained a significant number of deviations from the applicable codes. As a result, Kansas' professional licensing board put the Respondent's license on probation for 2 years and assessed him fines and costs associated with the investigation and administrative action. Missouri's state licensing board entered into a Consent Order with the Respondent requiring that he comply with the provisions of probation established by Kansas through the Settlement Agreement & Consent Order executed by the Respondent. Additionally, the Missouri Order required that he timely renew his Missouri license before the expiration date of December 31, 2012. The Respondent did not renew his license in Missouri until on or about March 15, 2013. The Missouri licensing board thereafter revoked the Respondent's license for failure to comply with their Consent Order.

Pursuant to Section 14-317(a)(1)(v), Business Occupations and Professions Article, Maryland Annotated Code, ("BOP Art."), the Board may reprimand, suspend, or revoke a license based on the fact that the licensee has had a license to practice engineering in another state revoked or suspended based on conduct for which the Board would take similar action. Pursuant to Section 10-210, State Government Article, Maryland Annotated Code, the Board may resolve a matter through the execution of a settlement agreement.

Wherefore, the parties agree and stipulate to the following in resolution of this matter:

1. The Respondent, Stephen P. Maslan, is a licensed professional engineer in the State under Maryland License No. 15406.

2. The Respondent's license shall be placed on probation for the duration of his Kansas license probation as outlined in the Final Order issued by the Kansas State Board of Technical Professions in Case number 12-06.

3. The Respondent's successful completion of the probation in Maryland is expressly conditioned upon the Respondent satisfying the terms of the probation in Kansas.

4. The imposition of discipline set forth in this Settlement Agreement does not limit the ability of the Board to initiate a complaint, investigate and impose sanctions against the Respondent for matters involving the Respondent and not yet presented to the Board.

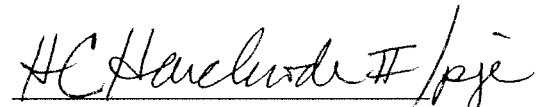
5. The Respondent agrees to abide by Title 14, Sections 14-101 *et seq.*, BOP Art., which governs the conduct and licensure of professional engineers in this State.

6. The Respondent enters this Settlement Agreement with the Board freely, voluntarily, and having had the opportunity to consult with counsel.

7. This Settlement Agreement constitutes the final resolution of this matter, Case No. 14-PE-01.



Stephen P. Maslan, Respondent



H.C. ("Skip") Harclerode II, P.E., Chair
Maryland State Board for Professional
Engineers

11/24/13
Date

BEFORE THE KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

Landon State Office Building
900 S.W. Jackson, Suite 507
Topeka, Kansas

KANSAS STATE BOARD OF)
TECHNICAL PROFESSIONS)
Complainant,)
STEPHEN P. MASLAN,)
Respondent.)

Case No. 12-06

FINAL ORDER

Now on this 17th day of July, 2012, the above-referenced matter comes on for hearing before Richard B. Hayter, P.E., and Forrest E. Erickson, P.E., members of the Kansas Board of Technical Professions (Board) and designated Presiding Officers pursuant to K.S.A. 77-514. Complainant Board appears by and through its attorney, Mark Bennett, of the law firm of BENNETT & HENDRIX, L.L.P, Topeka, Kansas. Respondent appears in person without counsel.

The purpose of the formal hearing is to hear evidence in support of or in opposition to the Complaint filed by the Board to take administrative action against the Respondent if appropriate. The Complaint alleges in Count 1 that the Respondent signed and sealed deficient plans and specifications for the installation of a fire alarm and protection system in the Revolution Church in Salina, Kansas and such actions constituted gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of the technical profession of engineering in violation of K.S.A. 74-7026(a)(2). The Complaint alleges in Count 2 that the Respondent signed and sealed deficient plans and specifications for the installation of a fire alarm and protection system in the Big Lots retail store in Salina, Kansas and such actions constituted gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of the technical profession of engineering in violation of K.S.A. 74-7026(a)(2).

As a preliminary matter, the Presiding Officer acknowledged receipt of a letter dated June 27, 2012, and subsequently marked and admitted as Exhibit 17. Exhibit 17 is a letter from Respondent to the Board asking he be dismissed from the hearing. The Presiding Officer deferred consideration of the request until the evidentiary portion of

the hearing was completed.

Jean Boline, Executive Director of the Kansas Board of Technical Professions; R. Kenneth Bieberly, licensed Architect; Roger Williams, Fire Marshal for the City of Salina, Kansas; and Darryl E. Stein, registered fire protection engineer with Henderson Engineers, Inc. in Lenexa, Kansas were called and sworn in to testify on behalf of the Board. Respondent declined the opportunity to present witnesses on his behalf. There were no further witnesses.

The Board and Respondent were permitted to make closing arguments.

The Presiding Officer deliberated in private, during which the following Findings of Fact, Conclusions of Law, and Decision were made.

FINDINGS OF FACT

1. The Kansas Board of Technical Professions has jurisdiction over Respondent as a licensed engineer holding Kansas license number 9190.
2. Respondent is currently on probation in Kansas Board of Technical Professions Case No. 10-20. He was placed on probation for being disciplined in Missouri for practicing architecture without a license. He is on probation in Kansas in Case No. 10-20 until he successfully completes his 5-year probation in Missouri.
3. On September 19, 2011, a complaint was filed by Roger Williams, Fire Marshal for the City of Salina with the Kansas Board of Technical Professions alleging Stephen P. Maslan was practicing outside the area of his field of practice because the plans he signed and sealed, and that he submitted to the City of Salina for a remodel/expansion permit on 2 projects, were lacking the basic/fundamental information for a fire alarm system.
4. The 2 projects were for the Revolution Church located at 1111 West South Street, Salina, Kansas and the Big Lots retail store located at 2450 South Ninth Street, Salina, Kansas.
5. Darryl Stein, registered fire protection engineer, was hired by the Board to investigate the complaint and testify as an expert witness.
6. Mr. Stein reported to the Board that the City of Salina is under the 2006 International Codes and the National Fire Protection Association 72, National Fire Alarm and Signaling Code, 2010 Edition and requires either a National Institute for Certification in Engineering Technologies (NICET) Level III or a Licensed Professional Engineer to sign and seal drawings for review and approval prior to installation of a fire alarm system.
7. Mr. Stein testified that installation of a fire alarm system would be pursuant to the

plans and specifications signed and sealed by either a NICET Level III or a Licensed Professional Engineer.

8. Mr. Stein established the generally accepted engineering standards and practices for designing plans and specifications for fire alarm systems. He identified 12 deviations from generally accepted engineering standards and practices on the Revolution Church plans and specifications signed and sealed by Respondent. The deviations on these plans and specifications were as follows: the wiring and riser diagram submitted does not match the floor plan; the installation details and mounting requirements are not indicated; the drawings do not indicate monitoring of the fire sprinkler system; full smoke detection appears to be shown for the building, however, the room in the northwest corner of the building, room just west of this space that has the annunciator panel, restrooms and the room near the center of the building are all missing detectors; the smoke detector located in a large room on the west side of the building is over spaced per NFPA 72 requirements; the smoke detector located in what appears to be the sanctuary are over spaced per NFPA 72 requirements to some corners of the room; the air handling unit monitoring or shut down is not mentioned on the submittal, i.e., there is not sufficient information to verify duct detectors are not required for air handling units exceeding 2,000 cfm per the international mechanical code (IMC); only one audible notification appliance is shown on the drawings, i.e., this does not meet the requirements of NFPA 72 requirements for audibility throughout all spaces; the visible notification coverage cannot be confirmed per NFPA 72 requirements for all spaces without room names or uses being shown; product data includes phone jacks, however, none are shown or indicated on the drawings; product data includes door holders, however, these are not shown on the floor plan but only in the legend; three horn/strobes are listed in the product data, but only one is shown on the drawings.
9. Mr. Stein testified that these 12 deviations were a danger to the health, safety, and welfare of the public.
10. The expert testimony regarding the 12 deviations on the Revolution Church plans and specifications signed and sealed by Respondent is found to be credible and uncontroverted.
11. Mr. Stein identified 9 deviations from generally accepted engineering standards and practices on the Big Lots plans and specifications signed and sealed by Respondent. The deviations on these plans and specifications were as follows: the wiring and riser diagram is missing; installation details and mounting requirements are not indicated; notification appliances are missing from the count/cash rooms, lounge space, and hallway near lounge/janitor's area; a pull station is not located near the main entrance/vestibule area or in the sprinkler/electrical room, but at all other exits; air handling unit monitoring or shut-down is not mentioned on the submittal, i.e., there is not sufficient information to verify duct detectors are not required for air handling units

exceeding 2000 cfm per the IMC; monitor modules and an annunciator are submitted with the product data, but not indicated on the drawings; two smoke detectors are included in battery calculations, but only one is shown on the drawings; four monitor modules are included in battery calculations, but none are shown or referenced on the drawing; a total of 21 notification appliances are included in the battery calculations, but only 20 appear to be shown on the drawings.

12. Mr. Stein testified that these 9 deviations were a danger to the health, safety, and welfare of the public.
13. The expert testimony regarding the 9 deviations on the Big Lots plans and specifications signed and sealed by Respondent is found to be credible and uncontroverted.

CONCLUSIONS OF LAW

The following conclusions of law are based on evidence the Board finds is clear and convincing:

14. K.S.A. 74-7026(a)(2) provides that "the board shall have the power to limit, condition, reprimand or otherwise discipline, suspend or revoke the license of any person who has engaged in any of the following conduct:
...
(2) any gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of any technical profession..."
15. The evidence supports a finding and conclusion that Respondent deviated from generally accepted engineering standards and practices in his design, preparation, and sealing of the plans and specifications for the fire alarm system at the Revolution Church in 12 instances. The high number of deviations as well as the significance of the deviations itself is evidence that constituted gross negligence, incompetency, misconduct, or wanton disregard for the rights of others in violation of K.S.A. 74-7026(a)(2).
16. The evidence supports a finding and conclusion that Respondent deviated from generally accepted engineering standards and practices in his design, preparation, and sealing of the plans and specifications for the fire alarm system at the Big Lots in 9 instances. The high number of deviations as well as the significance of the deviations itself constituted gross negligence, incompetency, misconduct, or wanton disregard for the rights of others in violation of K.S.A. 74-7026(a)(2).
17. The request by Respondent to be dismissed from the hearing is denied. The fact that his plans and specifications were not ultimately used for the 2 projects, nor

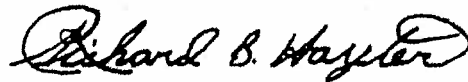
the fact that he did not get paid for the 2 projects is irrelevant and immaterial to the conclusion that there is sufficient evidence to find that Respondent's plans and specifications deviated from generally accepted engineering standards and practices and that such deviation constituted a violation of K.S.A. 74-7026(a)(2).

ORDER

WHEREFORE, it is the finding, decision, and order of the Presiding Officer that Respondent violated K.S.A. 74-7026(a)(2) as alleged in Count 1 and in Count 2 and orders the Respondent to be placed on probation for a period of 2 years pursuant to K.S.A. 74-7026(b). The Presiding Officer orders fees and expenses in the amount of \$5,270.54. The Presiding Officer, having found the first violation to be contained in the Settlement Agreement and Consent Order in Kansas Board of Technical Professions Case No. 10-20, may assess Respondent \$10,000 for the violation found in Count 1 and \$15,000 for the violation found in Count 2 pursuant to K.S.A. 75-7039. The Presiding Officer assesses a fine in the amount of \$10,000 for the violation found in Count 1 and assesses a fine in the amount of \$15,000 for the violation found in Count 2.

The total amount of fees, expenses, and fine is \$25,000; \$5,270.54 in fees and expenses and \$19,729.46 in fines. Such fees, expenses, and fine shall be paid within 2 years of the effective date of this Order.

IT IS SO ORDERED.



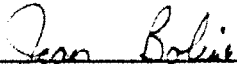
Presiding Officer

NOTICE OF RELIEF FROM THIS FINAL ORDER

This is a Final Order issued pursuant to the Kansas Administrative Procedure Act. It is effective upon the date indicated in the below Certificate of Service unless a stay is granted pursuant to K.S.A. 77-528. Within 15 days after service of the Final Order, any party may file a petition for reconsideration with the Kansas Board of Technical Professions. Such petition must state the specific grounds upon which relief is requested. The agency officer who may receive service of a petition for reconsideration on behalf of the agency is Jean Boline, Executive Director, Kansas Board of Technical Professions, Landon State Office Building, 900 S.W. Jackson, Suite 507, Topeka, Kansas. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Judicial review may be had by filing a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* The agency officer who may receive service of a petition for judicial review on behalf of the agency is Jean Boline, Executive Director, Kansas Board of Technical

Professions, Landon State Office Building, 900 S.W. Jackson, Suite 507, Topeka, Kansas.



Jean Boline, Executive Director
On Behalf of the
Kansas Board of Technical Professions

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 31st day of July, 2012, by depositing the same in the United States Mail, first-class/postage prepaid, addressed to:

Stephen Phillip Maslan
Stephen P. Maslan Company
8011 Paseo
Kansas City, MO 64131

Richard B. Hayter, P.E.
1920 Grandview Drive
Manhattan, KS 66502
Panel Member, Chairman

Forrest E. Erickson, P.E.
5000 Lewis
Shawnee, KS 66226
Panel Member


Mark Bennett
Bennett & Hendrix
5605 S.W. Barrington Court South
Suite 201
Topeka, KS 66614-2480

and a copy placed in inter-office mail addressed to:

Athena Andaya
Kansas Attorney General's Office

Original filed with:

Kansas State Board of Technical Professions
900 SW Jackson Street, Suite 507
Topeka, Kansas 66612-1257



On behalf of the Board