

**STATE BOARD  
FOR PROFESSIONAL ENGINEERS**

v.

**MICHAEL J. WERNER**

**Respondent**

\* **Before the**  
\* **State Board for Professional**  
\* **Engineers**

\* **Agency Case Nos.: 16-PE-31 and**  
• **17-PE-27**

\* \* \* \* \*

**SETTLEMENT AGREEMENT AND CONSENT ORDER**

This matter comes before the State Board for Professional Engineers (the "Board") as the result of two complaints filed against the Respondent, Michael J. Werner. Based on an investigation of the complaints, the Board determined that administrative action was appropriate. Prior to charges being issued and an administrative hearing on the charges, the Board and the Respondent agreed to enter into this Consent Order to fully and expeditiously resolve the issue presented by the referenced complaints. The Board and Respondent herewith agree and stipulate to the following:

1. The Respondent is currently licensed by the Board as a professional engineer, License No. 05-23380 and was licensed at all times relevant to the complaints at issue. At all times relevant to the complaints, the Board had jurisdiction over the Respondent and the subject matter of the complaints.
2. In the complaints filed against the Respondent, it was alleged that the Respondent signed and sealed engineering documents that had been completed by, Matthew Forgen of M.A.F. & Associates, LLC ("M.A.F."), who was not a licensed professional engineer.
3. In response to the complaints, the Respondent stated that Mr. Forgen had been previously employed by the Respondent's engineering firm and that the Respondent was

familiar with Mr. Forgen's experience and work product having trained and supervised him for over 18 years during his tenure at the firm. The Respondent acknowledged that he signed and sealed the calculations and engineering documents that were created by Mr. Forgen.

4. The provisions of the Maryland Professional Engineers Act, §§ 14-101 *et seq.*, Business Occupations and Professions Article, Maryland Annotated Code (the "Act") require that any person engaging in the provision of engineering services hold a license issued by the Board. Section 14-303(b) provides for three exceptions to the licensing requirement; (1) if the person works for the federal government; (2) if the person is an officer or employee of a corporation of a manufacturing or industrial work; and (3) if the person is an employee or subordinate of a licensed professional engineer. Per the statute, § 14-303(b), the third exception applies only to the person "while the employee or other subordinate works under the responsible charge of the licensee or other authorized individual."

5. The Respondent acknowledges that Mr. Forgen was no longer an employee or subordinate of the Respondent's firm at the time he created the documents at issue in the complaints. The Respondent acted as a subcontractor for Mr. Forgen and M.A.F. when providing supervision, review, and ultimately sealing Mr. Forgen's calculations and plans.

6. The Board's regulations contained in COMAR 09.23.03.10 require that the title-block for engineering documents signed and sealed by a licensed professional engineer contain the identity of the licensed engineering entity. The documents drafted by Mr. Forgen and at issue in these complaints only identify M.A.F. as the firm involved in the

development of the documents. M.A.F. however is not a licensed or permitted by the Board and is not permitted to provide or to offer to provide or represent that it may provide engineering services. Although the documents contain the Respondent's signature and seal, they include M.A.F.'s information and do not reflect a licensed or permitted engineering entity as part of the title-block as required by the regulations.

7. In the interest of resolving these matters with the Board, the Respondent agrees to the entry of a finding by the Board that he has violated the Board's regulations contained in the Code of Maryland Regulations ("COMAR") at 09.23.03.09A.

8. The Respondent agrees to pay a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500.000) in connection with the violation. The penalty will be paid over a twenty-four (24) month period in equal installments of Three Hundred Dollars (\$305.00) every three months, with the first installment due within thirty (30) days of the date the Respondent signs this Settlement Agreement and Consent Order, and make payment every three months thereafter, and a final payment of \$100.00, until the penalty of \$2,500.00 is fully paid. Respondent further agrees to take an additional three (3) hours of continuing education (CPCs) in the area of professional engineering ethics within thirty (30) days of the date of this Agreement and to provide the Board with documentation of the additional CPCs. The additional credits may not be used towards the CPCs required for the next renewal period.

9. The Respondent represents that he will not sign or seal engineering documents for persons not licensed by the Board and not subordinates or employees of his engineering firm, unless those persons are otherwise exempt from the licensing requirements of the Board.

10. The Respondent waives the right to the issuance of a statement of charges and a formal hearing where he would have the opportunity to present a defense to charges of a violation of the Act or regulations.
11. The Respondent agrees to abide by the provisions of the Act and the Board's sealing requirements (contained in COMAR 09.23.03.09A) and title-block regulations (contained in COMAR 09.23.03.10).
12. The Respondent enters into this Consent Order willingly and voluntarily and having had the opportunity to consult with private counsel regarding the terms.
13. The Respondent and the Board understand that this Consent Order will serve as the final resolution of the matter and that this Consent Order will be a part of the Respondent's licensing record maintained by the Board.

**WHEREFORE**, based on these stipulations and agreements, it is hereby this

18<sup>th</sup> day of June, 2018, ORDERED by the State Board for  
**Professional Engineers:**

- I. That the Respondent violated the provisions of COMAR 09.23.03.09A;
- II. That the Respondent shall pay a fine of Two Thousand Five Hundred Dollars (\$2,500.00) in connection with these matters. The payments are to be made over a twenty-four (24) month period, in \$300 installments beginning with the first payment of \$300.00 due within thirty (30) days of the date the Respondent signs this Settlement Agreement and Consent Order, and that installments of \$300.00 will be made by the Respondent every three months thereafter, with a final payment of \$100.00, until such time as the penalty of \$2,500.00 is fully paid to the Board;

- III. That the Respondent will complete an additional three (3) hours of CPC in the area of professional engineering ethics within thirty (30) days of the date of this Order and provide documentation of his completion of the CPCs;
- IV. That should the Respondent fail to comply with the terms of this Consent Order, the Respondent's license will, upon written notice to the Respondent, be suspended by the Board, without a hearing prior to the suspension and that the suspension will continue until such time as the Respondent evidences to the Board his compliance with the terms of this Consent Order; and,
- V. That the records of the Board shall reflect that this matter was resolved by the Respondent and the Board by Consent Order.

Signature on File

Signature on File

\_\_\_\_\_  
Michael J. Werner, Respondent

6/18/18  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman, State Board for  
Professional Engineers

9/2/18  
\_\_\_\_\_  
Date