BEFORE THE ARIZONA STATE BOARD OF TECHNICAL REGISTRATION IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:) Case No(s). P18-070 & P19-031
Peter Takach P.E. (CIVIL) #44085 Respondent.))) FINDINGS OF FACT,) CONCLUSIONS OF LAW) AND ORDER)

On May 25, 2021, this matter came before the Arizona Board of Technical Registration ("Board") for Formal Hearing and the imposition of disciplinary action pursuant to A.R.S. §32-128(A). Respondent appeared at the meeting with legal counsel, Julianne Wheeler. Assistant Attorney General Sunita Krishna was present to provide the Board with independent legal advice. Assistant Attorney General Scott Donald appeared on behalf of the State and requested that the Board adopt the Findings of Fact and Conclusions of Law as written in the Complaint and Notice of Hearing ("Complaint"). Mr. Donald also asked that the Board lift the stay of revocation on Respondent's license, thereby revoking his license, and include in their final Order that Respondent pay the Board's investigative costs and attorney's fees. Ms. Wheeler asked the Board to either dismiss the matter or issue an Order that did not include revocation of Respondent's license.

At the hearing, the State presented testimony from Erin Correll, the Board's senior investigator and from Melvin Slaysman who holds a PE Civil (#10294) and Structural (11110) license, both of whom testified that Respondent's conduct violated his Consent Agreement and Order of Discipline ("Order"). Respondent disputed some of the Factual Allegations and testified on his own behalf. The State presented exhibits 1-8, which were admitted into evidence. Respondent did not present any exhibits.

After hearing the parties' arguments, hearing witness testimony and discussing the matter, and based upon the preponderance of the evidence presented to them, the Board voted to adopt the Factual Allegations in the Complaint as Findings of Fact, with a modification to Findings of Fact paragraph 8(b); "Respondent submitted revised drawings to the City..." was modified to read "Respondent's revised drawings were submitted to the City..." Further, the Board voted to adopt the Alleged Violations in the Complaint as Conclusions of Law.

The Board, after due consideration of the issues before it, issued the following Order:

FINDINGS OF FACT

- 1. On May 22, 2018, the Board initiated an investigation into whether Respondent practiced structural engineering and architecture without appropriate registration for himself or his firm, and without the necessary education, technical knowledge, or experience in 2015 for a project in Phoenix, Arizona. At the hearing, Respondent stipulated to this finding of fact as being true.
- 2. On July 28, 2020, the Board accepted a signed Consent Agreement and Order of Discipline ("Order") for violations of the Board's statutes and rules by Respondent and his firm. The Order became effective that same day. The factual allegations included findings that an Enforcement Advisory Committee ("EAC") of the Board reviewed the investigation materials and found, in part, allegations substantiated to the highest level of severity that:
 - ... Respondent does not possess the technical knowledge to practice structural engineering. ... the structural plans contain serious deficiencies. ... plans were poorly done . . . falling well below what is expected of a licensed structural engineer Respondent is a severe risk to the public by practicing structural engineering and architecture. ... the plans appear to have been drawn by Carl Dominguez but .. . there is no evidence that Mr. Dominguez was employed by Respondent. .. .it is clear that Respondent stamped plans not prepared by himself or a bona fide employee.

At the hearing, Respondent stipulated to this finding of fact as being true.

- 3. A condition of the Order is that Respondent's registration is under a stayed revocation for a period of two years from the effective date of the Order. Pursuant to the terms of the stay: "[t]he failure of Respondent to meet any of the requirements of this Order shall result in a lifting of the stay of revocation ... " At the hearing, Respondent stipulated to this finding of fact as being true.
- 4. Term 2 of the Order required that Respondent cease performing structural engineering work "unless licensed by the Board specifically to perform structural engineering work." At the hearing, Respondent stipulated to this finding of fact as being true.
- 5. On August 17, 2020, Board staff received a complaint about Respondent submitted by the City of Phoenix ("City") Deputy Director/ Building Official. Specifically, the complaint alleged:
 - a. On August 3, 2020, the City sent third review comments to Respondent for a project located in Phoenix, AZ;
 - Respondent's revised drawings were submitted to the City on August 6, 2020
 addressing comments from August 3, 2020;
 - These revised drawings appeared to be sealed and backdated July 27, 2020;
 and
 - d. "The structural drawings and calculations ... are incomplete and contain numerous errors".
- 6. Review of plans provided by the City indicated Respondent backdated his seal, and that the plans were signed and sealed after the effective date of the Order. At the hearing, Respondent stipulated to this finding of fact as being true.
- 7. On October 27, 2020, Respondent and counsel confirmed in an open meeting of the Board that Respondent signed and sealed the drawings after the effective date of the Order.

CONCLUSIONS OF LAW

8. The Board possesses jurisdiction over the subject matter hereof and over Respondent pursuant to A.R.S. § 32-101, et seq.

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- A.R.S. § 32-128(C) provides, in part, that "[t]he board may take disciplinary action against the holder of a certificate or registration under this chapter who is charged with ...
 (4) [v]iolation of this chapter or board rules."
- 10. Pursuant to A.R.S. § 32-I 28(A), the board may take disciplinary actions in combination or alternatively, including, but not limited to, revocation of a certificate or registration, suspension of a certificate or registration, and imposition of an administrative penalty.
- 11. Pursuant to A.R.S. § 32-150, "[f]ailure to comply with any final order of the board ... is cause for suspension or revocation of a license."
- 12. Pursuant to A.R.S. § 32-I28(H), "[o]n its determination that any person has violated this chapter or a rule adopted pursuant to this chapter, the board may assess the person with its reasonable costs and expenses, including attorney fees, incurred in conducting the investigation and administrative hearing."
- 13. The conduct and circumstances in the Factual Allegations above constitute a violation of A.R.S. § 32-128(C)(4)(Violation of this chapter or board rules) by Respondent due to a violation of A.R.S. § 32-150(Failure to comply with any final order of the board...).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues the following Order:

1. **REVOCATION OF REGISTRATION.** As of the effective date of this Order, Respondent's Professional Civil Engineer Registration No. 44085 issued by the Board shall be revoked.

Right to Petition for Rehearing or Review

Respondent is hereby notified that he has the right to file a motion for rehearing or review. Pursuant to A.R.S. § 41-1092.09(B) and A.A.C. R4-30-126(A) the motion for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. Service of this Order is defined as five (5) calendar days after mailing. A.A.C. R4-30-126(A).

1	The motion for rehearing or review must set forth legally sufficient reasons for granting a							
2	rehearing or review. A.A.C. R4-30-126(C). If a petition for rehearing or review is not filed, the							
3	Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.							
4	Respondent is further advised that the filing of a motion for rehearing or review is required to							
5	preserve any rights of appeal to Superior Court.							
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15	ORIGINAL filed this 2 day of June, 2021, with:							
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17	Arizona State Board of Technical Registration 1110 W. Washington, Ste. 240							
18	Phoenix, AZ 85007							
19	COPY mailed via Certified Mail No. 9214890194344600082257							
20	First Class mail this 2 day of June, 2021, to:							
21								
22	Julianne C. Wheeler Wheeler Law Group							
23	3104 E. Camelback Rd. #2900 Phoenix, AZ 85016							
24	jcw@wheelerlawgroup.law							
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1	COPY of the foregoing e-mailed this	2	_day of _	June	, 2021, to:
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5	Sunita Krishna Sunita.krishna@azag.gov				
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