

BEFORE THE STATE OF MARYLAND BOARD FOR PROFESSIONAL ENGINEERS

**BOARD FOR PROFESSIONAL
ENGINEERS**

v.

CHI-KANG J. CHEN,
Respondent

Agency Case No.: 31-PE-23

* * * * *

SETTLEMENT AGREEMENT AND CONSENT ORDER

This matter comes before the Maryland Board for Professional Engineers ("Board") as the result of the Board conducting a random audit of Chi-Kang J. Chen's ("Respondent") license renewal application to determine if the Respondent met the Board's license renewal professional development hour ("PDH") requirements. As a result of the random audit and subsequent investigation, the Board initiated a Complaint. To resolve that Complaint, the Board and the Respondent (collectively "Parties") have agreed to enter into this Settlement Agreement and Consent Order ("Consent Order"), and agree and stipulate as follows:

1. At all times relevant to the Complaint, the Board had jurisdiction over the Respondent, who holds a license issued by the Board to practice engineering ("license") under number 05-50425, and the subject matter of this Complaint.
2. The Maryland Professional Engineers Act ("Act"), codified at Md. Code Ann., Business Occupations and Professions Article ("Bus. Occ. & Prof."), §§14-101 to 602, provides at Bus. Occ. & Prof. §14-314(f) that "[t]he Board shall adopt regulations to require a demonstration of continuing professional competency for a licensee as a condition of renewal of a license..."
3. The Board adopted and promulgated such regulations at Code of Maryland Regulations ("COMAR") 09.23.01 to .06, and COMAR 09.23.06.03 sets forth specific requirements as follows:

.03 Requirements

A. A licensee shall complete a minimum of 16 PDH units earned from the participation in and completion of qualifying programs described in Regulation .04 of this chapter as a condition of license renewal in each individual biennial licensing term.

B. A minimum of 1 PDH unit in each individual biennial licensing term shall be earned from the participation in and the completion of qualifying programs with content areas related to the following:

(1) The awareness of ethical concerns and conflicts related to the practice of engineering;

(2) An enhanced familiarity with the code of conduct for professional engineers;

(3) An understanding of standards of practice or care related to the practice of engineering; or

(4) Laws and regulations applicable to the practice of engineering in Maryland.

C. A maximum of 8 PDH units earned in excess of 16 units that are required for a license renewal during the licensing term can be carried forward to apply as credit toward the next individual licensing term.

4. COMAR 09.23.06.08 requires licensees to maintain records to support their continuing professional competency credit claims, and provides as follows:

A. Responsibility to Maintain Records.

(1) The responsibility of maintaining records to be used to support the continuing professional competency credit claim is the responsibility of each licensee.

(2) A licensee shall maintain the records for a period of at least 4 years from the date of completion of the qualifying program.

B. Documentation referred to in §A(2) of this regulation, includes, but is not limited to, the following:

(1) Certificates of participation;

(2) Transcripts, if appropriate;

(3) Reprints of publications;

(4) Proof of presentations;

(5) Title and description of the activity;

(6) Dates and times attended;

(7) Presenter's name; and

(8) Any other information that may be required by the Board.

5. The Respondent's license's most recent prior renewal period began on January 4, 2021 and expired on December 9, 2022. On December 9, 2022, the Respondent applied for license renewal. When submitting the application, the Respondent certified having completed the required PDHs as of the application date as follows: twenty-four and one half (24.5) PDHs earned since the last renewal period. The Board approved the renewal based upon that certification.
6. When the Respondent submitted the license renewal application, the Board initiated a random audit to confirm that the Respondent had completed the PDH requirements. The Board then requested that the Respondent provide documentation for the PDHs that the Respondent had certified completing.
7. In response to the audit, the Respondent provided a summary of courses taken and hours earned to show twenty-four and one half (24.5) PDHs as follows:

TABLE A

Program	Provider	Date	PDHs	Allowed
Accelerated Building People Leaders Learning – Orientation		1/12/21	1	0
Accelerated Building People Leaders Learning – Module A – Building Self-Awareness		1/21/21	3	0
Accelerated Building People Leaders Learning – Module B – Building Teams		1/21/21	3	0
Accelerated Building People Leaders Learning – Personal Brand and Authenticity		1/28/21	1	0
Accelerated Building People Leaders Learning – Coaching A (Pod Call #1)		1/29/21	1	0
Accelerated Building People Leaders Learning – Team Performance and Development Conversations		2/17/21	1	0
Business Insights/Webinar Series		3/2/21	1	0
Accelerated Building People Leaders Learning – Coaching B (Pod Call #2)		3/11/21	1	0
Accelerated Building People Leaders Learning – Module C – Building Organizational Leadership		3/18/21	3	0
MECP – Emotional Intelligence Mar2021		3/31/21	1.5	0
Accelerated Building People Leaders Learning – Coaching C (Pod Call #3)		4/1/21	1	0
Advanced Tools: Financial Management 01Apr		4/1/21	2	0
Accelerated Building People Leaders Learning – Graduation		4/15/21	1	0
Levels of Authority (LOA) – 2021		7/14/21	0.5	0
Code of Conduct Certification		3/1/22	0.5	0
MEP: Leading Hybrid Teams		3/23/22	1	0
Business Partner Compliance Due Diligence		7/14/22	0.5	0
Antitrust and Competition		7/14/22	0.5	0
Lesson: "Are You Ready?" Checklist		12/28/22	1	0
		Total	24.5	0

8. The documentation the Respondent furnished the Board was insufficient and did not comply with COMAR 09.23.06.08(B). For all but two of the courses the Respondent reported having completed (MECP – Emotional Intelligence Mar2021 and “Are You Ready?” Checklist) the documentation submitted lacked the either Respondent’s name, the presenter’s signature, or both. A copy of an email submitted to show completion of MECP – Emotional Intelligence Mar2021 did not identify the number of PDH earned. The Board was not able to determine the content area of the “Are You Ready?” Checklist training. Accordingly, the Respondent was not credited for any of the PDH submitted, and is deficient sixteen (16) PDHs.
9. On or about January 11, 2023, the Board’s Continuing Education Specialist mailed the Respondent a letter indicating that he had failed the audit and had not met the requirements for license renewal. The letter required the Respondent to submit the PDHs earned since his last renewal. The letter further advised that “[s]hould you fail to submit the required PDHs within 30 days; further action can be taken by the Board.”
10. The Board sent the January 11, 2023, letter to the Respondent’s address of record with the Board by both Certified and Regular mail. The United States Postal Service’s (“USPS”) records still shows the Certified mailing “in transit”, but the Regular mailing was not returned to the Board, thereby indicating its delivery. The Respondent did not respond to either mailing.
11. The Respondent agrees and acknowledges that the Respondent violated the Board’s PDH requirements by submitting documentation that was not sufficient to certify completion of the required PDHs as required by COMAR 09.23.06.08(B).
12. The Respondent agrees and acknowledges that in the pertinent part, COMAR 09.23.06.09(C) provides that “[i]licensees who are audited shall provide any additional documentation required by the Board to complete the audit.”
13. The Respondent agrees and acknowledges that the Respondent violated COMAR 09.23.06.09(C) by failing to provide the documentation required by the Board to complete the audit.
14. The Respondent agrees and acknowledges, that by failing to provide the documentation required to complete the audit, he has failed to comply with the Board’s continuing professional competency requirements, in violation of COMAR 09.23.06.09(A).
15. Pursuant to Bus. Occ. & Prof. §14-317(a)(1)(vi), subject to the hearing provisions of §14-319, the Board may reprimand a licensee, suspend a license, or revoke a license if “the applicant or licensee violates any regulation adopted by the Board;...” Pursuant to Bus. Occ. & Prof. §14-317(a)(2)(i) “[i]nstead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding \$5,000 for each violation.”
16. To resolve this matter, the Respondent hereby admits to a finding, and consents to the

Board entering a reflective Order, that the Respondent violated COMAR 09.23.06.09(A) by not complying with the Board's continuing professional competency requirements; (B) for not submitting documentation that was sufficient to certify completion of the required PDHs; and (C) by failing to provide the additional documentation required by the Board to complete the audit, and that requires that the Respondent:

- a. Shall immediately upon executing this Consent Order, pay a civil monetary penalty, made payable to the "Maryland Board for Professional Engineers", in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) by certified check, cashier's check, or money order; and
- b. Shall within thirty (30) days of executing this Consent Order, complete sixteen (16) allowable PDHs, of which one (1) shall be COMAR 09.23.06.03(B) compliant, and all of which will only be applicable to the license term that ended on December 9, 2021; and
- c. Shall within thirty (30) days of executing this Consent Order, provide documentation to the Board, that the Board in its sole discretion finds satisfactory, and that certifies that the Respondent completed the sixteen (16) PDHs required in the above subparagraph; and
- d. Shall not use, or attempt to use, any of the sixteen (16) PDHs completed pursuant hereto towards any future PDH obligations; and
- e. Shall mail or deliver the PDH completion documentation referenced above to:

Attn: Executive Director
Board for Professional Engineers
Maryland Department of Labor
1100 N. Eutaw Street, Fifth Floor
Baltimore, Maryland 21201

17. The Respondent agrees that if the Respondent fails to comply with the terms of this Consent Order, the Respondent's license will immediately and automatically be suspended without a hearing on the suspension, and that the suspension will continue until the Board determines that the Respondent has evidenced compliance with the Consent Order's terms.
18. The Respondent agrees and acknowledges that this Consent Order shall constitute a Final Order of the Board and shall be enforceable as such.
19. By entering this Consent Order, the Respondent, in relation to this matter, expressly waives the right to have charges reduced to writing, to an administrative hearing before the Board or its designee on any charges, to the making of Findings of Fact and Conclusions of Law, to any and all other proceedings before the Board or its designee on this matter, and to any rights to appeal from this Consent Order to any court of competent jurisdiction.

20. The Parties agree that a waiver of any of the rights or duties provided herein must be in writing. Any such waiver constitutes a one-time waiver on a case-by-case basis and not a waiver of this entire Consent Order or the subject provision(s) unless otherwise explicitly stated in writing.
21. Each Party has consulted with, or had the opportunity to consult with, legal counsel and had the opportunity to participate in this Consent Order's drafting. Accordingly, no provision of this Consent Order shall be interpreted for or against any Party hereto by reason that said Party or his or her legal representative drafted all or any part hereof.
22. The Parties intend that this Consent Order represents the final expression of the Parties' intent and agreement between the Parties relating to the subject matter of this Consent Order. The Parties further intend that this Consent Order contains all the terms the Parties agreed to on the subject matter of this Consent Order, and intend for this Consent Order to replace all the Parties' previous discussions, understandings, and agreements relating to the subject matter.
23. The Respondent hereby agrees and acknowledges having read this Consent Order completely, having had the opportunity to consult private counsel prior to entering this Consent Order, and that the Petitioner is entering this Consent Order knowingly, voluntarily, and intelligently.
24. The Parties acknowledge and agree that this Consent Order will serve as the final resolution of Complaint No. 31-PE-23, serve as the Final Order in this matter, be a part of the Respondent's record that is maintained by the Board, and that the Board's records and publications will reflect the terms of the Consent Order.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS ____ DAY OF _____, 20____, BY THE STATE BOARD FOR PROFESSIONAL ENGINEERS HEREBY:

- I. **ORDERED** that the Respondent violated that the Respondent violated COMAR 09.23.06.03(A), (B) and (C); and it is further
- II. **ORDERED** that the Respondent shall immediately upon executing this Consent Order, pay a civil monetary penalty, made payable to the "Maryland Board for Professional Engineers", in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500) by certified check, cashier's check, or money order; and it is further
- III. **ORDERED** that the Respondent shall within thirty (30) days of executing this Consent Order, complete sixteen (16) allowable PDHs, of which one (1) shall be COMAR 09.23.06.03(B) compliant, and all of which will only be applicable to the license term that ended on October 28, 2022; and it is further

- IV. **ORDERED** that the Respondent shall within thirty (30) days of executing this Consent Order, provide documentation to the Board, that the Board in its sole discretion finds satisfactory, and that certifies that the Respondent completed the sixteen (16) PDHs required in the above subparagraph; and it is further
- V. **ORDERED** that the Respondent shall not use, or attempt to use, any of the sixteen (16) PDHs completed pursuant hereto towards any future PDH obligations; and it is further
- VI. **ORDERED** that the Respondent shall mail or deliver the PDH completion documentation ordered herein to: Attn: Executive Director, Board for Professional Engineers, Maryland Department of Labor, 1100 N. Eutaw Street, Fifth Floor, Baltimore, Maryland 21201; and it is further
- VII. **ORDERED** that if the Respondent fails to comply with the terms of this Consent Order, the Respondent's license will immediately and automatically be suspended without a hearing on the suspension, and that the suspension will continue until the Board determines that the Respondent has evidenced compliance with the Consent Order's terms; and it is further
- VIII. **ORDERED** that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further
- IX. **ORDERED** that this document shall constitute a Final Order of the Board, and the Board may consider this Settlement Agreement and Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Settlement Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/or any court; and it is further
- X. **ORDERED** that the Board's records and publications shall reflect that the Respondent and the Board resolved this matter through this Settlement Agreement and Consent Order.

**MARYLAND BOARD FOR
PROFESSIONAL ENGINEERS**

Signature on File

H. C. Harclerode, P.E., Chair

AGREED:

6/17/2023

Date

Signature on File

Chi-Kang J. Chen, Respondent